

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 19

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment and ) NOTICE OF PUBLIC HEARING ON  
repeal of rules in ARM Title 10, ) PROPOSED AMENDMENT AND  
chapter 57 pertaining to K-12 ) REPEAL  
educator/specialist licensing )

TO: All Concerned Persons

1. On November 3, 2014, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Office of Public Instruction conference room at 1300 11th Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Board of Public Education 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 Board of Public Education no later than 5:00 p.m. on October 21, 2014, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. Statement of Reasonable Necessity: ARM 10.57.101 requires the Board of Public Education to comprehensively review educator licensure rules at least every five years to ensure that the rules are meeting the needs of the state, reflect current practice, are more comprehensible, and are consistent with law and related chapters of ARM Title 10.

The proposed amendments and repeal better reflect current and best practices, clarify procedure, and are coordinated with ARM Title 10, chapter 58 and other relevant rules and law. Subchapter 6 more clearly details an educator's due process rights when appealing a denial of licensure or facing potential action against a license by the Board.

With input from members of the Montana Council of Deans, the Certification and Standards and Practices Advisory Council, professional education organizations and associations, and licensing professionals, the Board of Public Education has determined it is reasonable and necessary to amend and repeal rules relating to chapter 57, educator licensure to effectuate the requirements of 20-4-102, MCA.

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

10.57.101 REVIEW OF POLICY (1) By authority of Article X of the Montana Constitution and 20-4-102, MCA, the Board of Public Education exercises general

supervision over the public school system and such other public educational institutions as may be assigned by law. By authority of 20-4-102, MCA, the Board of Public Education adopts ~~policies~~ rules for the issuance of ~~teacher~~ educator licenses which are administered by the Superintendent of Public Instruction.

(2) The board ~~regularly~~ shall consider recommendations for revision of the ~~policies~~ rules at any time it deems necessary. ~~Notwithstanding any changes made in any five-year period, every~~ Every five years the board shall ~~have made~~ conduct a comprehensive review of ~~its~~ licensure ~~policies~~ rules to ~~insure~~ ensure that such ~~policies~~ rules are meeting the needs of the state.

AUTH: 20-4-102, MCA

IMP: 20-4-102, MCA

10.57.102 DEFINITIONS The following definitions apply to this chapter.

(1) "Acceptable evidence" means ~~current~~ relevant official transcripts, ~~portfolio~~ university recommendation, certificates of completion, and ~~such other data~~ documentation as may be ~~deemed necessary~~ required by the Board of Public Education or the Superintendent of Public Instruction.

(2) ~~"Accredited" refers to program approval (accreditation) by the National Council for the Accreditation of Teacher Education (NCATE) or accreditation by a state board of education or a state agency. In circumstances where the accrediting body is a state board of education or a state agency, the Montana Board of Public Education has the discretion to determine whether such accreditation ensures that the standards are substantially equivalent or greater than the standards required in Montana.~~

(3) (2) "Accredited professional educator preparation program" means:

(a) an educator preparation program accredited by the National Council for the Accreditation of Teacher Education (NCATE) or the Council for the Accreditation of Educator Preparation (CAEP); or

(b) an educator preparation program at a regionally accredited college or university approved (or accredited) by a state board of education or a state agency. In circumstances where the accrediting body is a state board of education or a state agency, the Montana Board of Public Education has the discretion to determine whether such accreditation ensures that the standards are substantially equivalent or greater than the standards required in Montana. The Superintendent of Public Instruction has discretion to deny licensure consistent with these rules if the standards are not substantially equivalent to or greater than the standards required in Montana, subject to approval by the Board of Public Education upon appeal of the denial.

(4) (3) "Accredited specialist program" means:

(a) for school psychologists, a program for the preparation of specialists accredited by a the National professional accrediting body Association of School Psychologists (NASP); or and

(b) for school counselors, a program for the preparation of specialists approved or accredited by:

(i) the Council for the Accreditation of Counseling and Related Education Programs (CACREP); or

~~(ii) a state board of public education or a state agency. In circumstances where the accrediting body is a state board of education or a state agency, the Montana Board of Public Education has the discretion to determine whether such accreditation ensures that the standards are substantially equivalent or greater than the standards required in Montana. The Superintendent of Public Instruction has discretion to deny licensure consistent with these rules if the standards are not substantially equivalent to or greater than the standards required in Montana, subject to approval by the Board of Public Education upon appeal of the denial.~~

~~(5) "Appropriate endorsements" are those subject fields such as English, mathematics, science, social studies, etc. identified by the Board of Public Education.~~

~~(6) (4) "Appropriate grade level(s)" means early childhood, elementary, middle, secondary, or other levels as defined by the Board of Public Education.~~

~~(7) remains the same but is renumbered (5).~~

~~(8) (6) "Certification" means licensure of an educator/specialist, as issued by the state of Montana, based on completion of a teacher, administrator, or specialist program of an accredited college/ or university. Certification includes grade level(s), endorsement(s), and classification.~~

~~(9) (7) "College credit" means credit received for completion of a course from a regionally accredited college or university. College credits are counted as one quarter credit being equal to 10 clock hours, or one semester credit being equal to 15 clock hours. One semester credit is equivalent to one and one-half quarter credits and one quarter credit is equivalent to two-thirds semester credit.~~

~~(10) "Dual credit only postsecondary faculty" means:~~

~~(a) Qualified faculty employed by a regionally accredited postsecondary institution who:~~

~~(i) meet all qualifications for faculty set forth by the Montana Board of Regents or the regional accreditation organization, and the employing institution; and~~

~~(ii) have entered into a contractual employment relationship with the employing institution to assume formal teaching responsibilities for the course offered for dual credit.~~

~~(b) The regionally accredited postsecondary institution shall have hired the applicant through a process that includes all of the following:~~

~~(i) reference checks;~~

~~(ii) verification of the educational attainment level and experience appropriate and required for the discipline and the institution; and~~

~~(iii) compliance with the prevailing institution, system, and state policies, regulations, and laws.~~

~~(c) In addition to any postsecondary teaching assignments, an individual licensed as a dual credit only postsecondary faculty pursuant to ARM 10.57.437 and 10.57.438 is limited to teaching dual credit courses in their endorsed area to Montana high school students.~~

~~(11) "Elementary endorsement" means the holder is authorized to teach in grades kindergarten through eight.~~

~~(12) (8) "Endorsement" means an official indication on a license of the grade level(s), subject area(s), and/or specialized specialist program area(s) as listed in~~



Subchapter 4 for which the holder of the license licensee is authorized to practice in Montana accredited schools. Grade levels are:

- (a) age 3 - grade 3 (early childhood);
- (b) K-8 (elementary);
- (c) 4-8 (middle grades);
- (d) 5-12 (secondary, content-specific);
- (e) K-12 (content-specific); and
- (f) P-12 (special education and school psychologist).

~~(13) (9) "Lapsed license" means that a license is considered lapsed if:~~

~~(a) the holder licensee has not earned the required number of renewal units during the term of the license (units earned through August 31 immediately following the expiration date of a license also shall be considered for renewal); or~~

~~(b) the holder licensee has earned the required number of renewal units during the term of the license but has not renewed the license by June 30 following the year of expiration.~~

~~(14) (10) "License" or "licensure" means a certificate issued or applied for under 20-4-101, et seq., MCA.~~

~~(15) "Minimal educator licensure requirements" means:~~

~~(a) a bachelor's degree from a regionally accredited institution of higher education;~~

~~(b) six semester credits in any coursework under a department of education from an accredited education preparation program either in Montana or elsewhere; and~~

~~(c) verification of student teaching or one year of teaching experience in an elementary and/or secondary school or school district either in Montana or elsewhere or eligibility for a Class 5 alternative license to complete this requirement.~~

~~(16) (11) "Regionally accrediting agency accredited" means a college or university accredited by one of the following accrediting associations:~~

~~(a) through (d) remain the same.~~

~~(e) Southern Association of Schools and Colleges; and or~~

~~(f) remains the same.~~

~~(17) "Regionally accredited institution" means an institution of higher education accredited by one of the regional accrediting agencies specified in (16).~~

~~(18) "Secondary level endorsement" means the holder is authorized to teach in grades 5-12 specifically in the subject field endorsement. Those applicants who have completed a secondary level teacher preparation program shall be granted a 5-12 level license.~~

~~(19) (12) "Supervised teaching experience" means teaching experience while under the supervision of an accredited professional educator preparation program and is identified on a college or university transcript as field experience, internship, practicum, or student teaching.~~

~~(20) (13) "Year of administrative experience" means employment at any level within a state accredited K-12 school system as a licensed administrator of at least .5 full-time employee (FTE) in an accredited school during a school fiscal year for at least 1080 hours or 180 school days or a 1.0 FTE for at least 540 hours or 90 school days. as a licensed member of a supervisory or administrative staff. The experience required must be obtained in a school organization consistent with Montana's K-12~~

~~pattern.~~ Experience gained prior to basic eligibility for initial licensure is not considered. ~~Any individual wishing to have their e~~Experience as a County Superintendent may be considered as "administrative" experience ~~must provide~~ with evidence of the following:

(a) possession of a Class 3 ~~administrative~~ license for the time ~~period as~~ County Superintendent they are requesting ~~requested~~ to be considered for as administrative experience; and

(b) the school(s) they are claiming to hold or have held supervisory responsibilities over ~~have noted there is no superintendent or principal by having the chair of the Board of Trustees submit evidence of the supervisory role of the county superintendent~~ provided notice that the county superintendent served in an administrative role.

~~(21)~~ (14) "Year of teaching experience" means employment in ~~an accredited school during a school fiscal year as a licensed member of an instructional staff.~~ The experience required ~~must be obtained in a school organization consistent with Montana's K-12 pattern at any level within a state accredited K-12 school system as licensed instructional staff of at least .5 FTE during a school fiscal year for at least 1080 hours or 180 school days or a 1.0 FTE for at least 540 hours or 90 school days.~~ Experience gained prior to basic eligibility for initial licensure is not considered.

~~(22)~~ "Year of validity" means the full year of a teaching license. ~~All licenses are validated July 1 through June 30.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, MCA

10.57.107 EMERGENCY AUTHORIZATION OF EMPLOYMENT (1) In accordance with 20-4-111, MCA, ~~school district~~ administrators who have exhausted all possibilities for ~~obtaining~~ hiring a licensed teacher may request that the Superintendent of Public Instruction issue an emergency authorization of employment to the district to employ a person to teach ~~in the emergency situation.~~ The following requirements ~~and standards set forth below~~ must be met to ~~assure~~ ensure consideration of a the request for an ~~emergency authorization of employment:~~

(a) ~~The request for emergency authorization of employment must originate with the school district.~~

(b) The position must have been advertised at least statewide ~~through the teacher placement offices of the Montana job service and the Montana university system~~ far enough in advance to reasonably enable qualified applicants to submit applications ~~and credentials and to be interviewed.~~

(c) The individual for whom the emergency authorization is being sought shall not be currently licensed or eligible for a license and shall:

(i) ~~shall~~ have previously held a valid teacher or specialist license;

(ii) ~~shall~~ hold a bachelor's degree related to the area for which the emergency authorization of employment is being sought; or

(iii) ~~shall~~ provide acceptable evidence of ~~cultural expertise~~ academic qualifications and experience related to the area for which the emergency

authorization of employment is being sought.

(d) The individual for whom the emergency authorization is being sought shall not have held a ~~valid e~~Class 5 license within the year preceding the year for which emergency authorization of employment is being sought.

(2) remains the same.

AUTH: 20-4-102, MCA

IMP: 20-4-111, MCA

10.57.109 UNUSUAL CASES (1) The Board of Public Education is aware that ~~policy~~ these licensure rules cannot cover all the special circumstances that can arise. Therefore, the Superintendent of Public Instruction is authorized to exercise judgment in unusual cases and report any such actions to the Board of Public Education on a regular basis.

AUTH: 20-4-102, MCA

IMP: 20-4-102, MCA

10.57.112 LICENSE OF EXCHANGE TEACHERS (1) An exchange teacher is a person from outside the United States with exceptional expertise and contracted to provide instruction.

(2) A Class 5 license may be issued ~~for one year to a teacher, administrator, or specialist~~ an educator who is on an exchange program with a school district or university, ~~when the university-employed exchange teacher is assigned in the role of a Class 8 dual credit only postsecondary faculty.~~

AUTH: 20-4-102, MCA

IMP: 20-4-103, MCA

10.57.201 GENERAL PROVISIONS TO ISSUE LICENSES (1) remains the same.

(2) Applicants for an initial Montana Class 1, 2, 3, or 6 licensure license who qualify under subchapter 4 of this chapter and meet the following qualifications to practice may be licensed ~~Class 1, 2, 3, or 6~~ as appropriate:

(a) ~~individuals~~ applicants who have a current professional - (not provisional, ~~or alternative, or lifetime~~) - teacher, specialist, or administrator license from another state and completed an accredited professional educator preparation program in an area that ~~can be licensed~~ approved for endorsement in Montana. ~~This section applies only to individuals who have completed an applicable accredited professional educator preparation program in an area that can be licensed in Montana and have satisfied minimal educator licensure requirements as defined in ARM 10.57.102;~~

(b) ~~individuals~~ applicants who have graduated within the last five years from an accredited ~~teacher, specialist, or administrator~~ professional educator preparation program in an area that ~~can be licensed in Montana and have satisfied minimal educator licensure requirements as defined in ARM 10.57.102~~ approved for endorsement; or

(c) ~~individuals applicants~~ who hold a current license from the ~~n~~National Board for p~~Professional t~~Teaching s~~Standards~~ in an area ~~that can be licensed approved for endorsement~~ in Montana, ~~and have satisfied minimal educator licensure requirements as defined in ARM 10.57.102;~~ or

(d) ~~individuals who currently hold a Class 5 alternative license who meet one or more of the above three qualifications and have satisfied minimal educator licensure requirements as defined in ARM 10.57.102;~~

(3) Applicants for an initial Montana Class 1 or 2 licensure license must verify completion of a supervised teaching experience either as part of an accredited professional educator preparation program ~~or successfully complete one year of supervised internship in a state accredited elementary and/or secondary school or school district either in Montana or elsewhere.~~

(4) Applicants for an initial Montana Class 1, 2, or 3 licensure license whose degree is more than five years old and who do not have current out-of-state licensure must have earned six semester credits from a regionally accredited college or university within the five-year period preceding the effective date of the license. For the purposes of this provision, current licensure does not include provisional or lifetime licenses.

(5) Applicants for an initial Montana Class 6 licensure license who meet ~~relevant sections~~ the requirements of ARM 10.57.433, 10.57.434, and 10.57.435 may be licensed as appropriate. ~~Those whose~~ Applicants with a degree is more than five years old and who do not have current out-of-state licensure must have earned six graduate semester credits from a regionally accredited college or university within the five-year period preceding the effective date of the license. For the purposes of this provision, current licensure does not include provisional or lifetime licenses.

(6) Applicants for an initial Montana Class 4 licensure ~~who have a current career and technical license from another state in an area that can be endorsed in Montana shall~~ license may be licensed as Class 4A, 4B, or 4C depending on the level of education and extent of training as required under ARM 10.57.420 and 10.57.421.

(7) Applicants for an initial Montana Class 5 alternative licensure license who meet the requirements of ARM 10.57.424 and the relevant section(s) of ARM 10.57.425 through 10.57.432 may be licensed as appropriate.

(8) Applicants for an initial Montana Class 7 Native American language and culture licensure license who meet the requirements of ARM 10.57.436 may be licensed as appropriate.

(9) Applicants for an initial Montana Class 8 dual credit-only postsecondary faculty licensure shall license who meet the requirements of ARM 10.57.437 and 10.57.438 may be licensed as appropriate.

(10) All applicants must meet all other nonacademic requirements for licensure in Montana pursuant to 20-4-104, MCA.

AUTH: 20-4-102, MCA

IMP: 20-4-103, MCA

10.57.201A CRIMINAL HISTORY BACKGROUND CHECK (1) The National

Child Protection Act of 1993, as amended, (codified at 42 United States Code sections 5119a and 5119c) (the "Act") authorizes a state and national criminal history background check to determine the fitness of an employee, volunteer, or other person with unsupervised access to children, the elderly, or individuals with disabilities. ~~The background check contemplated herein shall be made pursuant to and with the support of the Act.~~ The purpose of this rule is to support the Superintendent of Public Instruction's duty to ~~evaluate a provider's moral and professional character and to determine whether a provider, as defined herein and in the Act, an applicant for licensure~~ has been convicted of a crime that bears upon the ~~provider's~~ applicant's fitness to have responsibility for related to the safety and well-being of children and the integrity of the teaching profession.

(2) ~~As applied to the Act and used in this rule, the following definitions shall apply:~~

(a) ~~"authorized agency" means the Montana Office of Public Instruction;~~

(b) ~~"identification document" means a document made or issued by or under the authority of the United States government, a state, political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;~~

(c) ~~"national criminal history background check" means a report generated from the criminal history record system maintained by the United States Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;~~

(d) ~~"provider" means those persons seeking educator licensure in Montana and listed in (3);~~

(e) ~~"qualified entity" means the Superintendent of Public Instruction.~~

(3) ~~Except as otherwise provided for herein, each~~ Each of the following persons ~~(the "applicants")~~ shall provide to the Superintendent of Public Instruction Montana Department of Justice information and material sufficient to obtain a fingerprint-based national criminal history background check ~~(a "background check")~~:

(a) remains the same.

(b) ~~any person~~ applicant seeking to reinstate a lapsed, surrendered, revoked, or suspended educator license; or

(c) an individual for whom a school district is seeking emergency authorization of employment pursuant to 20-4-110, MCA, and ARM 10.57.107; and

~~(c) any applicant seeking to reinstate a lapsed, revoked, or suspended educator license.~~

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

~~(5)~~ (4) The Superintendent of Public Instruction shall not issue to an applicant a Montana educator license pursuant to 20-4-101, et seq., MCA, until the applicant's background check has been completed and the results of the background check have been delivered to and reviewed by the Superintendent of Public Instruction.

~~(6) The Superintendent of Public Instruction may accept the results of a background check conducted for field experiences required by a professional educator preparation unit of the Montana university system or for employment in a~~

~~public school or school district, provided the background check was completed no more than two years before the applicant submits a license application to the Superintendent of Public Instruction.~~

(5) To initiate the criminal history background check process, the applicant must submit a set of fingerprints on the appropriate form to the Montana Department of Justice.

~~(7) The Superintendent of Public Instruction shall not request a background check of a provider hereunder unless the provider first provides a set of fingerprints and completes and signs a statement that:~~

~~(a) contains the name, address, and date of birth appearing on a valid identification document of the provider;~~

~~(b) the provider has not been convicted of a crime and, if the provider has been convicted of a crime, contains a description of the crime and the particulars of the conviction;~~

~~(c) notifies the provider that the entity may request a background check hereunder;~~

~~(d) notifies the provider of the provider's rights under (8); and~~

~~(e) notifies the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to a person to whom the qualified entity provides care.~~

(6) As part of the licensure application process, the applicant must provide character and fitness information to the Superintendent of Public Instruction. If the applicant has any criminal history record, the applicant must provide a description and explanation of the circumstances of the crime.

~~(8) (7) Each provider applicant who is the subject of a background criminal history background check is entitled to receive a copy of the report from the Superintendent of Public Instruction with the appropriate identification and signed release. The applicant may challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency through the Montana Department of Justice procedures.~~

~~(9) (8) The authorized agency Montana Office of Public Instruction shall:~~

~~(a) upon receipt of a background check report lacking disposition data, conduct research in whatever state and local record keeping systems are available in order to obtain complete data; and~~

~~(b) make a determination whether the provider applicant has been convicted of, or is under pending indictment for, a crime that bears upon the provider's applicant's fitness to have responsibility for related to the safety and well-being of children, the elderly, or individuals with disabilities and shall convey that determination to the qualified entity or the teaching profession.~~

~~(10) (9) Conviction, including conviction following a plea of nolo contendere, a conviction in which the sentence is suspended or deferred, or any other adjudication treated by the court as a conviction, may be considered by the Superintendent of Public Instruction in the licensure process if the conviction was for a sexual offense, a crime involving violence, the sale of drugs, or theft, or any other crime meeting the criteria of Title 37, chapter 1, part 2, MCA offense related to public health, welfare, and safety as it applies to the teaching profession.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-103, 20-4-104, MCA

10.57.209 EXTENSION OF LICENSES FOR MILITARY SERVICE (1) ~~The unexpired term of a valid teaching license held by When a person engaged in teaching at the time that person employed in a position requiring a Montana educator license is called into active military service, the unexpired term of an active educator license shall be extended in proportion to the length of active military service. Official notification of the beginning and termination dates of active military service must be submitted to the Superintendent of Public Instruction ~~on when the person has been released~~ from active duty to the Superintendent of Public Instruction to secure such extension of licensure.~~

~~(2) The unexpired term of a valid teaching license shall be extended one year for each year of active military service not to exceed five years. In calculating the unexpired term of a license for military extension purposes, an expired license year shall be any year in which a teacher has taught more than one-half of the school year.~~

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

AUTH: 20-4-102, MCA  
IMP: 20-4-102, MCA

10.57.215 RENEWAL REQUIREMENTS (1) ~~Requirements for renewal of All Montana educator licenses are as follows: may be renewed with verification of 60 renewal units earned during the five years of validity through August 31 of the year the license expires.~~

- ~~(a) Class 1 licenses require 60 renewal units;~~
- ~~(b) Class 2 licenses require college credit and renewal units as follows:~~
  - ~~(i) three semester credits and 15 renewal units;~~
  - ~~(ii) four semester credits;~~
  - ~~(iii) four quarter credits and 20 renewal units;~~
  - ~~(iv) five quarter credits and 10 renewal units; or~~
  - ~~(v) six quarter credits;~~
- ~~(c) Class 3 licenses require 60 renewal units;~~
- ~~(d) Class 4 licenses require 60 renewal units. The requirements specific to each type of license are set forth in ARM 10.57.420(3);~~
- ~~(e) Class 5 licenses cannot be renewed;~~
- ~~(f) Class 6 licenses require college credit or renewal units as follows:~~
  - ~~(i) four graduate semester credits;~~
  - ~~(ii) six graduate quarter credits; or~~
  - ~~(iii) 60 renewal units;~~
- ~~(g) Class 7 licenses require 60 renewal units as verified by the tribe and as set forth in ARM 10.57.536;~~
- ~~(h) Class 8 licenses require 60 renewal units.~~

~~(2) remains the same.~~

~~(a) one hour of attendance at a workshop professional development activity = one renewal unit;~~

(b) and (c) remain the same.

~~(3) Renewal activities used to renew all licenses must be:~~

~~(a) for activities other than (3)(b) or (c);~~

~~(i) a planned and structured experience;~~

~~(ii) of benefit to the license holder's professional development as defined in ARM 10.55.714;~~

~~(iii) an exposure to a new idea or skill or an extension of an existing idea or skill; and~~

~~(iv) in compliance with (6) and (7); or~~

~~(b) the instruction of a relevant higher education course, based upon the academic credit of the course, by a Montana license holder who has achieved a graduate degree in an endorsed field of specialization; or~~

~~(c) the completion of the assessment process for national board licensure, or renewal of national board licensure, through the National Board for Professional Teaching Standards. Verification of completion of the national board assessment shall result in 60 renewal units. Renewal units earned may apply to renewal of an expiring license. Class 2 license holders may use national board renewal units in lieu of college course credits as required in (1). This process may also be used in lieu of any credits required to reinstate a lapsed license. Renewal activities used to renew all licenses must be a planned and structured experience, of benefit to the licensee's professional development as defined in ARM 10.55.714, an exposure to a new idea or skill or an extension of an existing idea or skill, and in compliance with (4).~~

~~(4) All renewal units must be earned during the valid term of the license. Renewal units earned through August 31 immediately following the expiration date of a license shall also be considered for renewal. Activities acceptable to renew licenses are:~~

~~(a) credits earned from a regionally accredited college or university;~~

~~(b) activities offered by renewal unit providers approved pursuant to ARM 10.57.216 and documented on an OPI renewal unit certificate;~~

~~(c) other professional development activities offered by providers who have not been approved as a renewal unit provider pursuant to ARM 10.57.216, when licensees have received approval for the professional development activity from the Superintendent of Public Instruction or submit acceptable evidence of the professional development activity with their application for renewal;~~

~~(d) another state's validated professional development activities other than college or university credit when the intent and structure of the process ensures the meeting or exceeding of Montana renewal unit requirements for licensure;~~

~~(e) the instruction of a relevant college or university course, based upon the academic credit of the course, by a Montana licensee who has achieved a graduate degree in an endorsed field of specialization; or~~

~~(f) verification of completing the National Board Certification (NBC) process through the National Board of Professional Teaching Standards or successfully achieving and renewing NBC licensure shall result in 60 renewal units. NBC renewal units may apply to renewal of an expiring license.~~

~~(5) The licensee holder shall be solely responsible for retaining the renewal unit verification to be used in the application for license renewal.~~



~~(6) Educators licensed in Montana who are living out of state and participate in another state's validated professional development activities other than college/university credit may use these renewal unit activities when the intent and structure of the process assures the meeting or exceeding of Montana renewal unit requirements for licensure.~~

~~(7) Educators licensed in Montana who are living in state and who wish to participate in professional development activities offered by providers who have not been approved as a renewal unit provider pursuant to ARM 10.57.216 may apply to the state superintendent for approval prior to beginning the program.~~

AUTH: 20-2-121, 20-4-102, MCA

IMP: 20-4-102, 20-4-108, MCA

10.57.216 APPROVED RENEWAL ACTIVITY (1) Organizations wishing to offer professional development activities for the award of renewal units may apply for annual provider status to the Superintendent of Public Instruction. The organization must receive approval from the Superintendent of Public Instruction prior to awarding renewal units offering activities. Status as an annual a provider must will be renewed July 1 of each year as long as the provider is in compliance with (2).

(2) Organizations which may be approved for status as a provider of professional development for renewal unit credit, upon submission and approval of an application for status as a provider of professional development renewal unit credit, may include:

(a) ~~regionally accredited college and university programs offering activities for units other than college credit;~~

(b) ~~public school districts or schools accredited by the Board of Public Education not part of a public school district which is an OPI-approved renewal unit provider;~~

~~(c) government agencies (federal, state, tribal, county, city); and~~

~~(d) other organizations providing professional development appropriate for educators in Montana's accredited K-12 schools.~~

(3) Approved providers of professional development for the award of renewal units must agree to:

(a) provide activities deemed appropriate for educator license renewal professional development of licensees in compliance with ARM 10.55.714 and 10.57.215;

(b) prepare and issue award completed renewal unit registration forms certificates provided by the Superintendent of Public Instruction, or an approved facsimile, to eligible participants. ~~This form shall be provided by the Superintendent of Public Instruction and this form, or an approved facsimile, must be utilized for all renewal unit awards;~~

(c) report the activities undertaken as professional development for renewal unit awards offered to the Superintendent of Public Instruction. ~~Annual provider status shall be continued upon complete reporting of all activities for the period of July 1 through June 30 of each year;~~

(d) be prepared to submit to an audit of records conducted by the Superintendent of Public Instruction, ~~Records which must be maintained by the~~

~~provider include including:~~

~~(i) through (e) remain the same.~~

~~(4) (3) The Superintendent of Public Instruction shall provide access to approved professional development providers and annually provide a report to the Board of Public Education, which shall include, at a minimum, a list of providers.~~

AUTH: 20-4-102, MCA

IMP: 20-4-108, MCA

10.57.217 APPEAL PROCESS FOR RENEWAL ACTIVITY (1) Decisions of the ~~s~~Superintendent of Public Instruction on matters of renewal unit activity or provider status may be appealed to the Board of Public Education pursuant to ARM 10.57.603.

AUTH: 20-4-102, MCA

IMP: 20-4-108, MCA

10.57.218 RENEWAL UNIT VERIFICATION (1) Applications to the Superintendent of Public Instruction for license renewal shall include a listing of the activities completed for renewal as required by ARM 10.57.215. The ~~educator licensee~~ is responsible for maintaining official documentation verifying completion of renewal activities during the term of the license.

(2) The Superintendent of Public Instruction may conduct an audit of any renewal applications submitted. Those ~~persons licensees~~ selected for audit will be required to submit ~~verification of meeting the professional development requirements through official documentation (official transcripts, original grade reports or original renewal unit certificates)~~ within 60 days from the date the renewal application is submitted or from the date of the audit letter.

~~(3) If an educator is unable to produce verification of renewal unit activities within 60 days from the date of the audit letter, the educator's license may be suspended or revoked by the Board of Public Education.~~

AUTH: 20-4-102, MCA

IMP: 20-4-108, MCA

10.57.301 ENDORSEMENT INFORMATION (1) The only endorsements on Montana teaching, administrative, or specialist licenses are those approved by the Board of Public Education. ~~A major or a minor or the equivalent in the endorsement area is required.~~

(2) ~~An E~~endorsements are may be granted by the Superintendent of Public Instruction for the appropriate level(s) and area(s) of preparation based on the ~~college program of study completed~~ as verified by the appropriate official defined in ARM 10.57.102.

(3) An endorsement may be dropped from a ~~teaching~~ license at the end of the ~~its~~ valid term of the license if ~~minimum licensure requirements (major and minor or extended major)~~ pursuant to these rules are met ~~without that endorsement.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-103, 20-4-106, MCA

10.57.410 CLASS 2 STANDARD TEACHER'S LICENSE (1) and (2) remain the same.

(a) ~~meeting or exceeding the minimum educator licensure requirements in ARM 10.57.102(15)~~ a bachelor's degree from a regionally accredited college or university;

(b) completion of an accredited professional educator preparation program which included appropriate supervised teaching experience defined in ARM 10.57.102; and

(c) remains the same.

(3) A Class 2 standard teacher's license ~~shall be~~ is renewable pursuant to the requirements of ARM 10.57.215.

(4) A lapsed Class 2 standard teacher's license may be reinstated by ~~showing verification of~~ earning 60 renewal units, ~~40 of which must be earned by college credit, earned during the five-year period preceding the validation date of the new license.~~

AUTH: 20-2-121, 20-4-102, MCA  
IMP: 20-4-102, 20-4-103, 20-4-106, 20-4-108, MCA

10.57.411 CLASS 1 PROFESSIONAL TEACHER'S LICENSE (1) through (2)(a) remain the same.

(b) ~~a master's degree in professional education or an endorsable teaching area(s) from an a regionally accredited college or university~~ or certification by the National Board for Professional Teaching Standards; and

(c) ~~three years of successful teaching experience as defined by ARM 10.57.102(24).~~

(3) remains the same.

(4) A lapsed Class 1 professional teacher's license may be reinstated by ~~showing verification of~~ earning 60 renewal units ~~earned during the five-year period preceding the validation date of the new license.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA

10.57.412 CLASS 1 AND 2 ENDORSEMENTS (1) remains the same.

(2) Areas approved for endorsement on Class 1 and 2 licenses include the following: agriculture, art K-12, biology, business and information technology education, chemistry, communication, computer science K-12, ~~drama~~, early childhood (age 3 to grade 3), earth science, economics, elementary education (K-8), English, English as a second language K-12, family and consumer sciences, geography, health, health enhancement K-12, history, ~~history-political science~~, industrial arts technology education, journalism, library K-12, marketing, mathematics, middle grades (4-8), music K-12, physical education K-12, political science, school counseling K-12, science (broadfield), social studies (broadfield),

sociology, special education P-12, ~~speech-communication, speech-drama, technology education, theater, trades and industry, traffic education K-12, and world languages.~~

~~(3) A license holder may qualify for a statement of specialized competency by the completion of a minimum of 20 semester college credit hours or equivalency in a specific academic area as approved by the Board of Public Education. Approved areas of permissive specialized competency are: early childhood education, gifted and talented education, technology in education, mentor teacher, and dance. Permissive special competencies identified on an educator license may be retained as long as the licensee continues to renew the license.~~

~~(4) To obtain an elementary (K-8), early childhood (age 3 to grade 3), or middle grades (4-8) endorsement, an applicant must provide verification of completion of an accredited elementary teacher education program in those areas to include student teaching or university supervised teaching experience.~~

~~(5) To obtain a secondary (5-12) or K-12 endorsement other than special education, the applicant must provide verification of at least:~~

~~(a) 16 semester credits in a professional educator completion of an accredited professional educator preparation program at the grade level(s) identified by the program, including student supervised teaching experience or an appropriate college waiver; and~~

~~(b) for those applicants completing programs which are not an accredited professional educator preparation program:~~

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

~~(6) Both elementary and secondary preparation, including student teaching or university supervised teaching experience, are required for endorsement in any approved K-12 endorsement area. The K-12 endorsement areas outlined in (2) may also be endorsed at the elementary or secondary level depending on the verified level of preparation.~~

~~(a) A Class 1 or 2 license may be endorsed in special education P-12 with program preparation at the elementary or secondary levels, or a balanced K-12 program of comparable preparation.~~

~~(6) To obtain an endorsement in special education P-12, the applicant must provide verification of:~~

~~(b) The balanced K-12 license level option is available through Montana Board of Public Education-approved special education programs for those individuals with:~~

~~(i) (a) a minimum of a completed bachelor's degree; and~~

~~(ii) (b) verified completion of an out-of-state approved accredited special education P-12 program which includes student teaching or university supervised teaching experience.~~

~~(c) Completion of an accredited professional educator preparation program in any disability area shall result in a special education endorsement.~~

~~(7) Applicant must also submit a recommendation for any endorsement requested from the appropriate official from an accredited professional educator program.~~

~~(8) Applicants who have completed accredited professional educator preparation programs outside of Montana and hold endorsements in specific~~

disability areas (for example, early childhood special education, autism, hearing impaired) in another state may not qualify for a special education P-12 endorsement.

(9) Applicants with graduate degrees in an endorsable field of specialization area may use experience instructing in relevant higher education college or university courses as credit in that endorsement area for licensure.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.413 CLASS 3 ADMINISTRATIVE LICENSE (1) remains the same.

(2) Appropriate administrative areas acceptable which may be approved for license endorsement are ~~the following~~: elementary principal, secondary principal, K-12 principal, K-12 superintendent, and supervisor.

(3) To obtain a Class 3 administrative license, except pursuant to ARM 10.57.419, an applicant must ~~hold at least the appropriate master's degree and qualify for one of the endorsements~~ be eligible for an appropriately endorsed Class 1, 2, or 5 license to teach in the school(s) in which the applicant would be an administrator or would supervise, and qualify as set forth in ARM 10.57.414 through 10.57.419 418.

(4) A Class 3 administrative license shall be renewable pursuant to the requirements of ARM 10.57.215.

(5) remains the same.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.414 CLASS 3 ADMINISTRATIVE LICENSE - SUPERINTENDENT ENDORSEMENT (1) remains the same.

(a) ~~a minimum of three years of successful teaching experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor; and an education specialist, master's, or doctoral degree in education or education leadership;~~

(b) completion of an accredited professional educator preparation program as defined in ARM 10.57.102 for superintendents;

~~(b) a minimum of 18 semester graduate credits in a school administrator preparation program, of which 12 must be beyond the master's degree, in each of the following content areas:~~

- ~~(i) organizational leadership;~~
- ~~(ii) instructional leadership;~~
- ~~(iii) facilities planning and policy;~~
- ~~(iv) personnel and labor relations;~~
- ~~(v) community and board relations;~~
- ~~(vi) policy development; and~~

(c) a minimum of 18 semester graduate credits in a school administrator preparation program, of which 12 must be beyond the master's degree in education leadership and include three semester credits of college coursework in each of the following:

- ~~(i) Montana school law; and three semester credits of college coursework in~~
- ~~(ii) Montana school finance; and~~
- ~~(iii) Montana collective bargaining and employment law;~~
- ~~(d) a minimum of three years of teaching experience as an appropriately licensed teacher or specialist;~~
- ~~(e) licensure and endorsement as a P-12 principal; and~~
- ~~(f) a minimum of one year of administrative experience as an appropriately licensed principal or one year of a supervised Board of Public Education approved administrative internship as a superintendent.~~

~~(2) In addition to the requirements detailed in (1), every applicant must provide verification of either: Applicant must also submit a recommendation for the endorsement requested from the appropriate official from an accredited professional educator program.~~

~~(a) an education specialist degree or doctoral degree in education leadership from an accredited professional educator preparation program as defined in ARM 10.57.102(3); and~~

~~(b) a minimum of one year of administrative experience as an appropriately licensed principal or one year of a supervised Board of Public Education approved administrative internship as a superintendent; or~~

~~(c) a master's degree in educational leadership from an accredited professional educator preparation program or a master's degree in education from an accredited program; and~~

~~(i) licensure and endorsement as a K-12 principal; and~~

~~(ii) a minimum of one year of administrative experience as defined in ARM 10.57.102(20) or a minimum of one year of a supervised Board of Public Education approved administrative internship as superintendent.~~

~~(3) A Class 3 administrative license endorsed as a superintendent shall be renewed as follows:~~

~~(a) for those applicants meeting all licensure requirements at the time of initial application, verification of 60 renewal units earned during the valid term of the license; or~~

~~(b) for those applicants not meeting the requirement of (1)(b)(vii), verification of three semester credits of college coursework in Montana school law and three semester credits of college coursework in Montana school finance earned during the valid term of the initial Class 3 license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

#### 10.57.415 CLASS 3 ADMINISTRATIVE LICENSE - ELEMENTARY PRINCIPAL ENDORSEMENT (1) remains the same.

~~(a) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the elementary level; and~~

~~(b) a master's degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102(3); or a master's degree related to education;~~

(c) completion of an accredited professional educator preparation program as defined in ARM 10.57.102 for elementary principals;

~~(c) a master's degree from any accredited professional educator preparation program and a minimum of 24 graduate semester credits from a school administrator preparation program in the following content areas:~~

~~(i) school leadership;~~

~~(ii) instructional leadership to include supervision and elementary curriculum;~~

~~(d) (iii) successful completion of three semester credits of college coursework in Montana school law; and~~

(e) recommendation for the endorsement from the appropriate official from an accredited professional educator program.

~~(iv) school and community relations.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.416 CLASS 3 ADMINISTRATIVE LICENSE - SECONDARY PRINCIPAL ENDORSEMENT (1) remains the same.

~~(a) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the secondary level; and~~

~~(b) a master's degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102(3); or a master's degree related to education;~~

(c) completion of an accredited professional educator preparation program as defined in ARM 10.57.102 for secondary principals;

~~(c) a master's degree from any accredited professional educator preparation program and a minimum of 24 graduate semester credits from a school administrator preparation program in the following content areas:~~

~~(i) school leadership;~~

~~(ii) instructional leadership to include supervision and secondary curriculum;~~

~~(d) (iii) successful completion of three semester credits of college coursework in Montana school law; and~~

(e) recommendation for the endorsement from the appropriate official from an accredited professional educator program.

~~(iv) school and community relations.~~

~~(2) A Class 3 administrative license endorsed as a secondary principal shall be renewed upon verification of 60 renewal units earned during the valid term of the license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.417 CLASS 3 ADMINISTRATIVE LICENSE - K-12 PRINCIPAL ENDORSEMENT (1) remains the same.

~~(a) a master's degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102(3); or a~~

master's degree related to education;

~~(b) full eligibility for an elementary or a secondary principal endorsement or current endorsement as a Montana elementary or secondary principal; completion of an accredited educator preparation program for K-12 principals;~~

~~(c) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at any level within K-12; and~~

~~(d) at least six graduate semester credits in educational leadership and curriculum at the elementary level, if eligible at the secondary level, or at least six graduate credits in educational leadership and curriculum at the secondary level, if eligible at the elementary level. completion of three semester credits of college coursework in Montana school law; and~~

~~(e) recommendation for the endorsement from the appropriate official from an accredited professional educator program.~~

~~(2) A Class 3 administrative license endorsed as a K-12 principal shall be renewed upon verification of 60 renewal units earned during the valid term of the license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.418 CLASS 3 ADMINISTRATIVE LICENSE - SUPERVISOR ENDORSEMENT (1) This administrative endorsement is issued in specific fields such as math, music, and school counseling, ~~or in general areas such as elementary education, secondary education and curriculum development.~~ This endorsement may be issued to applicants who submit verification:

~~(a) of successful completion, at an accredited college or university, of a master's degree in the area requested for endorsement at a regionally accredited college or university;~~

~~(b) remains the same.~~

~~(c) of three years of successful experience as an appropriately licensed and assigned teacher;~~

~~(d) of at least 14 graduate semester credits in education or the equivalent to include:~~

~~(i) general school administration;~~

~~(ii) administration in the specific area to be endorsed;~~

~~(iii) supervision of instruction;~~

~~(iv) basic school finance; and~~

~~(v) school law; and~~

~~(e) completion of a supervised practicum/internship (minimum of four semester credits or appropriate waiver) at an accredited professional educator preparation program; and~~

~~(e) of recommendation for the endorsement from the appropriate official from an accredited professional educator program. The recommendation of the appropriate official(s) is required.~~

~~(2) A Class 3 administrative license endorsed as a supervisor shall be renewed upon verification of 60 renewal units earned during the valid term of the~~



license.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.419 CLASS 3 ADMINISTRATIVE LICENSE - SPECIAL EDUCATION SUPERVISOR ENDORSEMENT (1) remains the same.

(a) ~~successful~~ completion, at ~~an~~ a regionally accredited college or university, of a master's degree in special education or a master's degree in a the following special education-related service fields: ~~;~~, i.e., school psychologist, speech-language pathologist, audiologist, physical therapist, occupational therapist, registered nurse, clinical social worker, or clinical professional counselor;

(b) remains the same.

(c) three years of ~~successful~~ experience in an accredited school setting as an appropriately licensed and assigned teacher, or five years of ~~successful~~ experience in an accredited school setting as a fully licensed and assigned related services provider;

(d) ~~at least 14 graduate semester credits in education or the equivalent to include:~~ three semester credits in special education law;

~~(i) general school administration;~~

~~(ii) administration in the specific area to be endorsed;~~

~~(iii) supervision of instruction;~~

~~(iv) basic school finance; and~~

~~(v) school law; and~~

(e) a supervised practicum/internship ~~(minimum of four semester credits or appropriate waiver).~~ in an accredited professional educator preparation program; and

~~(f) The recommendation of~~ for the endorsement from the appropriate official(s) ~~is required from an accredited professional educator preparation program.~~

~~(2) A Class 3 administrative license endorsed as a special education supervisor shall be renewed upon verification of 60 renewal units earned during the valid term of the license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.420 CLASS 4 CAREER AND TECHNICAL EDUCATION LICENSE

(1) and (2) remain the same.

(a) A Class 4A license ~~shall be~~ issued to individuals holding a valid Montana ~~secondary level~~ teaching license, but without an appropriate career and technical education endorsement;

(b) A Class 4B license ~~shall be~~ issued to individuals with at least a bachelor's degree, but who do not hold a valid Montana ~~secondary level~~ teaching license with the appropriate career and technical education endorsement; and

(c) A Class 4C license ~~shall be~~ issued to individuals who hold at least a high school diploma or GED high school equivalency diploma and meet the minimum requirements for endorsement.

(3) and (4) remain the same.

(a) Class 4A licenses ~~(with a bachelor's degree)~~ shall be renewable by earning 60 renewal units, ~~40 of which must be earned through college credit.~~ Endorsement related to technical studies may be accepted ~~with prior approval.~~ The first renewal must show evidence of renewal units earned in the following content areas:

(i) and (ii) remain the same.

~~(b) Class 4A licenses (with a master's degree) shall be renewable by earning 60 renewal units. The first renewal must show evidence of renewal units earned in the following content areas:~~

~~(i) principles and/or philosophy of career and technical education; or~~

~~(ii) safety and teacher liability.~~

~~(c) (b) Class 4B or 4C licenses shall be renewable by earning 60 renewal units, 40 of which must be earned through college credit. Professional development appropriate~~ Appropriate coursework to renew a Class 4B or 4C license includes the following:

(i) through (vii) remain the same.

(viii) endorsement related technical studies, with prior OPI approval.

(5) A lapsed Class 4 license may be reinstated by showing verification of ~~the~~ following:

(a) for Class 4A licenses:

~~(i) if the licensee does not have a master's degree, 60 renewal units, 40 of which must be earned by college credit or prior approved endorsement related technical studies, earned during the five-year period preceding the validation date of the new license; or~~

~~(ii) if the licensee has a master's degree, 60 renewal units earned during the five-year period preceding the validation date of the new license.~~

(b) for Class 4B and 4C licenses, the licensee must verify completion of four semester credits of coursework 60 renewal units earned during the five-year period preceding the validation date of the new license in the following areas:

(i) through (vii) remain the same.

(viii) endorsement related technical studies or industry validated training, with prior approval.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.421 CLASS 4 ENDORSEMENTS (1) Recognized occupations eligible for a Class 4 license shall be evaluated on an annual basis by the Superintendent of Public Instruction. Appropriate career and technical education areas acceptable for endorsement on the Class 4 license include but are not limited to the following: automotive technology, welding, auto body, industrial mechanics, agriculture business (marketing and communications), livestock production, plant and soil sciences, small engines, heavy equipment operations, electronics, horticulture, agriculture mechanics, building trades, building maintenance, culinary arts, metals, drafting, computer information systems, graphic arts, aviation, health ~~occupations~~ science education, machining, diesel mechanics, videography, and ~~theater arts~~

stagecraft.

~~(2)~~ Endorsements ~~not on removed from~~ the list of recognized occupations may be retained as long as the ~~holder~~ licensee continues to renew the license.

~~(2)~~ ~~(3)~~ To obtain an endorsement on a Class 4 license, an applicant must provide the following:

~~(a)~~ verification of a minimum of 10,000 hours of documented work experience which may include apprenticeship training, documenting the knowledge and skills required in the specific trade in which they are to teach. Acceptable documentation is determined by the sSuperintendent of Public Instruction and may include, but is not limited to:

(i) and (ii) remain the same but are renumbered (a) and (b).

~~(iii)~~ ~~(c)~~ verification of teaching experience in the area requested for endorsement, accompanied by verification of substantial work experience in the area requested for endorsement; or

~~(iv)~~ ~~(d)~~ certificates of completion of appropriate technical programs or related college degrees and coursework, and industry certification (e.g., ASE, AWS);

~~(b)~~ ~~for (4)~~ For health occupations science education or computer information systems, an alternative to the above requirement of 10,000 hours work experience may be substituted as approved by the Superintendent of Public Instruction as follows:

~~(i)~~ ~~(a)~~ for health occupations science education:

(A) through (D) remain the same but are renumbered (i) through (iv).

(ii) remains the same but is renumbered (b).

(3) remains the same but is renumbered (5).

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.424 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE (1) A Class 5 alternative provisional license is valid for a term of three years, is not renewable, and may not be reinstated.

(2) An applicant for a Class 5 alternative provisional license must sign and file with the Superintendent of Public Instruction a plan of professional intent leading, within three years of the date of validity of the provisional license, to the an appropriately endorsed Class 1, 2, 3, or 6 license within three years of the date of the alternative license as provided in ARM 10.57.412, 10.57.414 through 10.57.419, or 10.57.434 and 10.57.436.

~~(3) A Class 5 alternative license is available with any endorsement normally allowed for Class 1, 2, 3, or 6 licenses.~~

~~(4)~~ A Class 5 alternative provisional licensee is not eligible for a Board of Public Education approved internship program in the same endorsement area subsequent to the Class 5 licensure expiration date.

~~(5)~~ ~~(4)~~ When the endorsement-specific requirement in ARM 10.57.425 through 10.57.432 requires a master's degree, master's degrees which do not meet the specific requirement may be accepted with university approval as evidenced by enrollment in the accredited professional educator preparation program.

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA

10.57.425 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE -  
ELEMENTARY LEVEL

(1) To obtain a Class 5 alternative provisional license with an elementary, middle, or early childhood level endorsement, an applicant must provide verification of:

- (a) a bachelor's degree; and
- (b) ~~a minimum of 60 semester credits of academic preparation in language arts and literature, history, government and related social science, mathematics, and any two of the following: art, music, foreign languages, speech, drama, library science, or health;~~
- (c) ~~professional preparation of at least six semester credits to include human growth and development, reading and/or language arts, social studies, and arithmetic; and~~
- (d) for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:
  - (i) can meet the requirements for full licensure within the three-year valid period of the license; and
  - (ii) meets the professional educator preparation program's admission requirements.

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA

10.57.426 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE -  
SECONDARY, K-12, AND P-12 SPECIAL EDUCATION LEVELS (1) To obtain a Class 5 alternative provisional license with a secondary, K-12, or P-12 special education level endorsement, an applicant must provide verification of:

- (a) a bachelor's degree;
- (b) ~~a minimum of 30 semester credits in an area approved by the Board of Public Education for endorsement;~~
- (c) ~~professional educator preparation of at least six semester credits; and~~
- (d) for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:
  - (i) can meet the requirements for full licensure within the three-year valid period of the license; and
  - (ii) meets the professional educator preparation program's admission requirements.

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA

10.57.427 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE -

SUPERINTENDENT ENDORSEMENT (1) To obtain a Class 5 alternative provisional license with a superintendent endorsement, an applicant must provide verification of:

- (a) remains the same.
- (b) eligibility for a Class 1, 2, or 5, or 6 teaching license at the appropriate level;
- (c) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at any level; and
- (d) of one year of appropriately licensed experience as a principal or one year of a supervised Board of Public Education approved administration internship as superintendent;
- (e) completion of an accredited professional educator preparation program, as defined in ARM 10.57.102, for superintendents; and
- (f) for those applicants who have not completed the required courses in Montana school law, Montana school finance, and Montana collective bargaining and employment law, a plan of intent as detailed in ARM 10.57.424.

(2) Applicants more than six semester credits from meeting requirements for full licensure required to complete coursework other than Montana school law, Montana collective bargaining and employment law, and Montana school finance must also submit written evidence of either:

- (a) enrollment in an accredited professional educator preparation program leading to the superintendent endorsement and enrollment in the be enrolled in a Board of Public Education-approved internship program as outlined in ARM 10.55.703 607; or
- (b) enrollment in an accredited professional educator preparation program leading to the superintendent endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:
  - (i) supervision of the licensee by university personnel;
  - (ii) annual on-site visitations by the university supervisor; and
  - (iii) progress toward completion of requirements for the superintendent endorsement.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.428 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE - ELEMENTARY PRINCIPAL ENDORSEMENT (1) To obtain a Class 5 alternative provisional license with an elementary principal endorsement, an applicant must provide verification of:

- (a) a master's degree from any accredited professional educator preparation program and nine graduate semester credits in school administration;
- (b) eligibility for a Class 1, 2, or 5, or 6 teaching license at the elementary level; and
- (c) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the elementary level; and

(d) for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:

(i) can meet the requirements for full licensure within the three-year valid period of the license; and

(ii) meets the professional educator preparation program's admission requirements.

~~(2) Applicants more than six semester credits from meeting requirements for full licensure required to complete coursework other than Montana school law must also submit written evidence of either:~~

~~(a) enrollment in an accredited professional educator preparation program leading to the elementary principal endorsement and enrollment in the Board of Public Education-approved internship program as outlined in ARM 10.55.703 607; or~~

~~(b) enrollment in an accredited professional educator preparation program leading to the elementary principal endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:~~

~~(i) supervision of the licensee by university personnel;~~

~~(ii) annual on-site visitations by the university supervisor; and~~

~~(iii) progress toward completion of requirements for the elementary principal endorsement.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.429 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE - SECONDARY PRINCIPAL ENDORSEMENT

(1) To obtain a Class 5 alternative provisional license with a secondary principal endorsement, an applicant must provide verification of:

(a) a master's degree from any accredited professional educator preparation program and nine graduate semester credits in school administration;

(b) eligibility for a Class 1, 2, or 5, or 6 teaching license at the secondary level; and

(c) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the secondary level; and

(d) for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:

(i) can meet the requirements for full licensure within the three-year valid period of the license; and

(ii) meets the professional educator preparation program's admission requirements.

~~(2) Applicants more than six semester credits from meeting requirements for full licensure required to complete coursework other than Montana school law must also submit written evidence of either:~~

~~(a) enrollment in an accredited professional educator preparation program~~

leading to the secondary principal endorsement and enrollment in the Board of Public Education-approved internship program as outlined in ARM 10.55.703 ~~607~~; or

~~(b) enrollment in an accredited professional educator preparation program leading to the secondary principal endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:~~

- ~~(i) supervision of the licensee by university personnel;~~
- ~~(ii) annual on-site visitations by the university supervisor; and~~
- ~~(iii) progress toward completion of requirements for the secondary principal endorsement.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.430 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE - K-12 PRINCIPAL ENDORSEMENT (1) To obtain a Class 5 alternative provisional

license with a K-12 principal endorsement, an applicant must provide verification of:

(a) a master's degree from any accredited professional educator preparation program ~~and nine graduate semester credits in school administration;~~

(b) eligibility for a Class 1, 2, or 5, ~~or 6~~ teaching license at any level within K-12; and

(c) a minimum of three years of ~~successful~~ experience as an appropriately licensed and assigned ~~Class 1 or 2 teacher or Class 6 school counselor~~ at any level within K-12; and

(d) for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:

(i) can meet the requirements for full licensure within the three-year valid period of the license; and

(ii) meets the professional educator preparation program's admission requirements.

(2) Applicants ~~more than six semester credits from meeting requirements for full licensure~~ required to complete coursework other than Montana school law must also submit written evidence of either:

~~(a) enrollment in an accredited professional educator preparation program leading to the K-12 principal endorsement and enrollment in the Board of Public Education-approved internship program as outlined in ARM 10.55.703; or 607~~

~~(b) enrollment in an accredited professional educator preparation program leading to the K-12 principal endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:~~

- ~~(i) supervision of the licensee by university personnel;~~
- ~~(ii) annual on-site visitations by the university supervisor; and~~
- ~~(iii) progress toward completion of requirements for the K-12 principal endorsement.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.431 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE - SUPERVISOR ENDORSEMENT (1) To obtain a Class 5 alternative provisional license with a supervisor endorsement, an applicant must provide verification of:

- (a) remains the same.
- (b) ~~verification of three years of appropriately licensed experience as a teacher in the area requested for supervisory endorsement or verification of five years of experience in a school setting as a fully licensed and appropriately assigned related services provider.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA

10.57.432 CLASS 5 ALTERNATIVE PROVISIONAL LICENSE - SPECIALIST ENDORSEMENT (1) To obtain a Class 5 alternative provisional license with a specialist endorsement in school psychology, an applicant must provide ~~verification of:~~

- (a) verification of a master's degree or greater in school psychology or related field from an regionally accredited school psychologist professional educator preparation program; and
- (b) ~~recommendation from the Montana Association of School Psychologists Competency Review Board. for those applicants who have not completed an accredited specialist preparation program, verification from an accredited specialist program, of being within four course deficiencies of completing full requirements as outlined in ARM 10.57.434.~~

(2) To obtain a Class 5 alternative provisional license with a specialist endorsement in school counseling, an applicant must provide ~~verification of:~~

- (a) verification of a master's bachelor's degree; and
- (b) ~~institutional verification from the accredited specialist program, of being within four course deficiencies of completing full requirements as outlined in ARM 10.57.435.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA

10.57.433 CLASS 6 SPECIALIST LICENSE (1) through (2)(b) remain the same.

(3) A Class 6 specialist license may also be endorsed in traffic education if the licensee meets the requirements of ARM 10.13.310 and is approved by the Superintendent of Public Instruction.

(4) Class 6 specialist licenses may be renewed pursuant to the requirements of ARM 10.57.215.

~~(4) (5) A lapsed Class 6 specialist license may be reinstated by showing verification of four graduate semester credits or equivalent 60 renewal units earned during the five-year period preceding the validation date of the new license.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-106, 20-4-108, MCA



10.57.434 CLASS 6 SPECIALIST LICENSE - SCHOOL PSYCHOLOGIST

(1) remains the same.

(a) current credentials as a nationally certified school psychologist (NCSP) from the ~~n~~National a~~Association of s~~School p~~Psychologists (NASP); or~~

(b) completion of a specialist level degree from a NASP accredited school psychologist program which included a 1200-hour internship, of which 600 hours were in a school setting; or

(c) for those applicants who did not earn at least a specialist level school psychology degree from a NASP accredited program:

(i) a master's degree or higher in school psychology or an ~~an~~ education specialist degree in a related field from an regionally accredited institution college or university; and

(e) (ii) ~~recommendation from the Montana Association of School Psychologists Competency Review Board after completion of an oral examination a~~ NASP accredited specialist program defined in ARM 10.57.102, attesting to the applicant's qualifications being equivalent to NASP training standards, which included a 1200-hour internship experience of which 600 hours were in a school setting.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.435 CLASS 6 SPECIALIST LICENSE - SCHOOL COUNSELOR

(1) remains the same.

(a) a master's degree; ~~in school counseling (K-12); or and~~

(b) ~~a master's degree with equivalent graduate level school counseling content; and~~

(c) ~~a supervised internship of at least 600 hours in a school or school related setting.~~

(2) ~~A Class 6 specialist endorsed in school counseling may be approved to teach traffic education if the licensee meets the requirements of ARM 10.13.310 and is approved by the Superintendent of Public Instruction.~~

(b) completion of a CACREP accredited school counselor program which included an internship in a school setting of 600 hours; or

(c) for those applicants who did not earn a degree from a CACREP accredited program:

(i) a master's degree in school counseling from a regionally accredited college or university; and

(ii) recommendation from an accredited specialist program defined in ARM 10.57.102, which included an internship in a school setting of 600 hours.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.436 CLASS 7 AMERICAN INDIAN LANGUAGE AND CULTURE

SPECIALIST (1) A Class 7 American Indian language and culture specialist license shall be is valid for a period of five years.

(2) The Superintendent of Public Instruction shall issue a Class 7 license based upon verification by the American Indian tribe for which the language and culture licensure is desired that the individual authorized representative of a tribal government, that has a memorandum of understanding with the Superintendent of Public Instruction, that the applicant has met tribal standards for competency and fluency as a requisite for teaching that language and culture. ~~Candidates for Class 7 licensure must meet all nonacademic requirements for licensure in Montana.~~

(3) The ~~board~~ Board of Public Education will accept and place on file the criteria developed by each tribe for qualifying an individual as competent to be a specialist in its language and culture.

(4) remains the same.

(5) ~~Sixty units of renewal activities authorized and verified by the tribe will be required for renewal of a Class 7 license.~~ A Class 7 American Indian language and culture specialist license may be renewed upon verification by the tribe that the professional development plan, as defined by the memorandum of understanding in (2) is met.

(6) A school district may assign an individual licensed under this rule to only specialist services within the field of American Indian language and culture under such supervision as the district may deem appropriate. No other teaching license or endorsement is required for duties within this prescribed field.

AUTH: 20-4-102, MCA

IMP: 20-4-103, 20-4-106, MCA

10.57.437 CLASS 8 DUAL CREDIT-ONLY POSTSECONDARY FACULTY LICENSE

(1) A faculty member of a ~~postsecondary institution~~ college or university is required to hold a Class 8 dual credit license, unless already licensed or eligible for licensure as a Class 1, 2, or 4 and properly endorsed, whenever a faculty member is teaching a course for which one or more students will earn both high school and college credit.

(2) The license is valid for five years:

~~(a) as long as the license holder is a faculty member of a regionally accredited postsecondary institution;~~

~~(b) only for the delivery of courses that fall within an endorsable major or minor, or the equivalent, held by the faculty member; and~~

~~(c) only when teaching dual credit courses within the role and scope of their duties assigned by the employing postsecondary institution.~~

(3) To obtain a Class 8 dual credit-only postsecondary faculty license, an applicant shall provide the following:

(a) ~~V~~erification of faculty employment from the Chief Academic Officer or an appropriate official of the employing regionally accredited postsecondary institution college or university that the class 8 licensure applicant meets the definition in ARM 10.57.102(10) in their role of teaching a dual credit course at a regionally accredited postsecondary institution; and

(b) compliance with all other nonacademic requirements for licensure as required by 20-4-104, MCA, ARM 10.57.201 and 10.57.201A; and

~~(b) (c) R~~ecommendation from the appropriate official Chief Academic Officer

from a Montana or NCATE regionally accredited professional educator preparation program college or university stating all of verifying the following:

(i) ~~the a~~Applicant has earned a major or minor or the equivalent in one of the endorsable teaching areas as set forth in ARM 10.57.438 plans to teach in a subject covered by the K-12 endorsement areas in ARM 10.57.438, and will teach a subject in which the applicant has a major or minor; and

(ii) ~~the a~~Applicant is competent, pursuant to ARM 10.58.501, as demonstrated by the applicant's satisfaction of criteria set forth in a rubric developed and published by the Superintendent of Public Instruction in consultation with K-12 education and higher education; and demonstrates adequate education and experience to instruct dual enrollment courses as demonstrated by the following criteria:

(A) ability to create learning environments that support creativity, critical thinking, individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self-motivation;

(B) understanding and ability to use a variety of instructional and assessment strategies to encourage learners to develop understanding of content areas and to build skills to apply knowledge in meaningful ways; and

(C) understanding of individual differences and diverse cultures with an ability to integrate history, culture, heritage, and contemporary status of American Indians and tribes in Montana.

~~(c) Compliance with all other nonacademic requirements for licensure as required by 20-4-104, MCA, ARM 10.57.201(4), and 10.57.201A.~~

(4) Class 8 dual credit license applications will be reviewed by the Certification Standards and Practices Advisory Council for recommendation regarding issuance of the license by the Superintendent of Public Instruction. Denial of an application for licensure shall be appealable to the Board of Public Education pursuant to ARM 10.57.607.

(5) A eClass 8 dual credit-only postsecondary faculty license shall be renewed pursuant to the requirements of ARM 10.57.215.

(5) (6) A eClass 8 license shall not be valid unless the licensee is in an employment relationship with a regionally accredited postsecondary institution college or university.

~~(6) This rule shall be applied beginning with the fall semester of 2009.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.438 CLASS 8 DUAL CREDIT-ONLY POSTSECONDARY FACULTY LICENSE ENDORSEMENTS (1) Dual credit instructors must qualify for licensure and endorsement under one of the following categories:

~~(a) Class 1 professional or Class 2 standard license according to ARM 10.57.410, 10.57.411, and 10.57.412;~~

~~(b) Class 4 career and technical license according to ARM 10.57.420 and 10.57.421; or~~

~~(c) Class 8 dual credit-only postsecondary license according to ARM 10.57.437 and this rule.~~

~~(2)~~ Areas approved for endorsement on Class 8 dual credit-only postsecondary faculty licenses include the following: ~~agriculture, art K-12, biology, business education, chemistry, computer science K-12, drama, earth science, economics, English, family and consumer sciences, geography, health, history, history-political science, industrial arts, journalism, marketing, mathematics, music K-12, physical education K-12, science (broadfield), social studies (broadfield), sociology, speech-communication, speech-drama, technology education, trade and industry and world languages~~ are listed in ARM 10.57.412.

~~(3)~~ (2) Applicants for the Class 8 license with degrees in highly specialized academic areas and hired by the ~~postsecondary institution~~ college or university under the policies set forth in ARM 10.57.102(10) to teach specific courses not covered by the K-12 endorsement areas in ~~(2)~~ (1), may be eligible for a designation in their area of specialization as approved by the Superintendent of Public Instruction.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.501 SOCIAL WORKERS, NURSES, AND SPEECH AND HEARING THERAPISTS (1) remains the same.

(2) Speech and hearing therapists engaged in school services in the public schools of Montana who issued grades or credits in the ~~pupil's~~ school program must be licensed under the regularly established teacher licensure requirements in speech and hearing association. ~~For related school services which do not involve credits or promotion, the Superintendent of Public Instruction shall recognize speech and hearing therapists licensed by the American Speech and Hearing Association on the basis of professional association standards on file with the Superintendent of Public Instruction.~~

AUTH: 20-4-102, MCA

IMP: 20-4-102, MCA

10.57.601 REQUEST FOR DISCIPLINE AGAINST THE LICENSE OF AN EDUCATOR/SPECIALIST: PRELIMINARY ACTION (1) Pursuant to 20-4-110~~(2)~~,

MCA, requests to issue a letter of reprimand or to suspend or revoke an educator/specialist license shall be brought before the Board of Public Education by only:

(a) an official action of the board of trustees of a local district for any licensed educator/specialist currently employed by that district or under contract or otherwise employed by that district at any time during the 12 months prior to the receipt by the Board of Public Education of the discipline request ~~to issue a letter of reprimand or to suspend or revoke;~~ or

(b) the Superintendent of Public Instruction.

(2) The Superintendent of Public Instruction may initiate a request to the Board of Public Education for discipline against an educator/specialist's license within 12 months from the date of receiving direct notification of alleged misconduct from a local school district board of trustees or from any other credible source.

(3) Requests for discipline shall specify whether a letter of reprimand, revocation, or suspension is sought and shall include:

(a) through (c) remain the same.

(d) if the request is made by a board of trustees of a district, a copy of the minutes documenting the trustees' decision to request disciplinary action ~~a letter of reprimand or revocation or suspension of a license, if the request is made by the board of trustees.~~

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

10.57.601A DEFINITION OF "IMMORAL CONDUCT" (1) remains the same.

(a) sexual contact, as defined in 45-2-101, MCA, or sexual intercourse as defined in 45-2-101, MCA, ~~between an educator/specialist and involving a minor or a person the educator/specialist~~ applicant or licensee knows, ~~or~~ reasonably should know, or should have known is a student at a public or private elementary or secondary school;

(b) conduct, whether resulting in the filing of criminal charges or not, which would constitute an offense under any of the following statutes of this state;

(i) through (iii) remain the same.

(iv) 45-5-505, MCA, (deviate sexual conduct), if the conduct either was non-consensual or involved a minor or a person the educator/specialist applicant or licensee knows, ~~or~~ reasonably should know, or should have known is a student at a public or private elementary or secondary school;

(v) through (d)(iii) remain the same.

(e) submitting false credentials, omitting relevant information, or making any statement of material fact ~~the~~ an applicant or licensee knows to be false to apply for a license, endorsement, employment, or promotion. False credentials include but are not limited to:

(i) and (ii) remain the same.

(iii) false academic awards; ~~and~~ or

(iv) inaccurate employment history;

(f) significant misuse of technology or electronic communication ~~with involving a minor or a person an applicant or licensee licensed educator/specialist~~ knows, ~~or~~ reasonably should know, or should have known is a student at a public or private elementary or secondary school, including but not limited to misuse of computers, cellular telephones, or other electronic devices; or

(g) remains the same.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

10.57.601B REVIEW (1) Upon receipt of a request for disciplinary action by the trustees of a district or the Superintendent of Public Instruction made pursuant to 20-4-110(2), MCA, and ARM 10.57.601, ~~and for the purpose of complying with 20-4-110(5), MCA,~~ the Board of Public Education shall review the allegations to determine whether ~~or not a substantial reason exists to hold a hearing for the issuance of a~~

letter of reprimand or the suspension or revocation of the educator/specialist license there is sufficient cause to believe that professional misconduct occurred.

(2) This review shall include notifying the affected educator/specialist licensee of the charges request for discipline and allegations against the educator licensee by certified mail and allowing the educator/specialist licensee ten days to respond to those charges.

(3) After receiving a response from the licensee, the board may request further information to ensure the preliminary review properly reflects the facts and position of each party.

(4) If the board determines there is sufficient cause to believe that professional misconduct occurred, the board shall provide notice to the licensee of a hearing on possible disciplinary action as provided in ARM 10.57.602.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

10.57.602 NOTICE AND OPPORTUNITY FOR OF HEARING UPON DETERMINATION THAT SUBSTANTIAL REASON EXISTS TO HOLD A HEARING

~~(1) On the basis of the preliminary review conducted pursuant to ARM 10.57.601B, the Board of Public Education shall determine whether or not a substantial reason exists to hold a hearing to issue a letter of reprimand or to suspend or revoke the educator/specialist license.~~

~~(a) If the board determines that no substantial reason exists to hold such a hearing, the matter is ended.~~

~~(b) If the board determines that there is substantial reason to hold such a hearing, the The board Board of Public Education shall provide notice of the a pending disciplinary action to the educator/specialist licensee, by certified mail not less than 30 days prior to the date of the hearing.~~

~~(a) Such notice shall include:~~

~~(i) through (iv) remain the same.~~

~~(v) a designation of who will hear the allegation pursuant to ARM 10.57.603;~~  
and

~~(vi) a provision advising statement of the licensee's parties of their right to be represented by counsel at the hearing.~~

~~(e) (b) The notice shall advise the educator/specialist licensee that the educator/specialist licensee has the right to contest the proposed disciplinary action of the board, and that the educator/specialist licensee may do so by appearing at the hearing either personally or through counsel, or by requesting the board to consider the matter on the basis of the available evidence without an appearance by the educator/specialist filing a written signed statement contesting the matters asserted and requesting a hearing.~~

~~(d) The board shall enclose with the notice an election form on which the educator/specialist shall be asked to indicate whether the educator/specialist intends to appear at the hearing and contest the board's proposed action, contest the board's proposed action without appearing at the hearing, or accept the proposed letter of reprimand, suspension or revocation without contesting it. The notice shall require the educator/specialist to return the election form within 20 days of the date~~

on which the notice was mailed, and shall inform the educator/specialist that failure to return the form in a timely manner shall result in a letter of reprimand or the suspension or revocation of the license by default.

~~(e) If the educator/specialist or administrator does not return the completed election form within 20 days or elects to accept the proposed letter of reprimand, suspension, or revocation without contesting it, the board, at its next meeting, shall suspend or revoke the educator/specialist license or shall direct the chair to issue a letter of reprimand.~~

(c) The notice shall advise the licensee that the disciplinary hearing will be open to the public unless an individual's right to privacy outweighs the public's right to know.

~~(f) (2) If the licensed licensee educator/specialist or administrator elects to contest the proposed letter of reprimand, suspension, or revocation and complies with (1)(d), disciplinary action, the board shall conduct a contested case hearing pursuant to ARM 10.57.603.~~

~~(2) (3) If resolution is reached prior to the hearing, the parties may report such resolution to the board and ask for dismissal of the matter. Dismissal of the matter by the board based on mutual agreement of the parties must be granted in writing, but need not contain findings of fact or conclusions of law.~~

AUTH: 20-4-102, MC  
IMP: 20-4-110, MCA

10.57.603 HEARING IN CONTESTED CASES (1) The Board of Public Education shall select one of the following methods for providing a hearing:

(a) a hearing before the ~~B~~board of Public Education at a special or regular meeting of the ~~B~~board;

(b) a hearing before a committee of the board that shall report to the board proposed findings of fact, proposed conclusions of law, and a proposed order; or

(c) a hearing before a hearing examiner appointed by the ~~B~~board of Public Education who shall report to the board proposed findings of fact, proposed conclusions of law, and a proposed order.

(2) At the time and place set in the notice to the ~~educator/specialist~~ applicant or licensee, the chairperson of the Board of Public Education, the designated committee, or an appointed hearing examiner shall conduct the hearing in accordance with Title 2, chapter 4, part 6, MCA, and ARM 1.3.211 through 1.3.224 of the Attorney General's model rules for hearing contested cases, as found in the Administrative Rules of Montana.

~~(3) In the case of an appeal made pursuant to ARM 10.57.217 regarding a denial of renewal units or provider status, written notice of the appeal must be made to the board within 30 days of the denial by the Superintendent of Public Instruction. For this type of appeal, the board may follow informal proceedings pursuant to 2-4-604, MCA, and the final board decision may be issued by letter from the chair of the board to the appellant. Prior to the hearing, the board's attorney or designated hearing officer shall schedule a pre-hearing conference to consider:~~

(a) simplification of the issues;

(b) the possibility of obtaining admissions of facts and documents;

- (c) the number of witnesses;
- (d) the exchanges of witness and exhibit lists; and
- (e) any other matters which may aid in the disposition of the matter.

(4) On appeal the burden is on the appellant to establish by a preponderance of the evidence that the appellant meets the statutory criteria for issuance of an educator/specialist license. In the case of a request for disciplinary action against a licensee pursuant to ARM 10.57.601 or 10.7.611, the burden is on the requestor to establish by a preponderance of the evidence that the disciplinary action is warranted.

AUTH: 20-4-102, MCA  
IMP: 20-4-110, MCA

10.57.604 POST HEARING PROCEDURE (1) Either immediately following the hearing, or within ~~60~~ 30 days of the conclusion of the hearing regarding an educator/specialist license, the ~~Board~~ Board of Public Education shall, as ~~provided herein~~ applicable:

~~(a) make a final decision to:~~ uphold the decision of the Superintendent of Public Instruction to deny an application for licensure;

~~(i) through (iii) remain the same but are renumbered (b) through (d).~~

~~(iv)~~ (e) suspend or revoke the license for a specific period of time, up to and including permanent revocation of the educator/specialist license; and

~~(b) consistent with its decision, issue findings of fact, conclusions of law, and an order for suspension or revocation of the educator/specialist license; or~~

~~(c) dismiss the request for letter of reprimand, revocation, or suspension.~~

~~(2) Consistent with the board's a decision to suspend or revoke a license, the board chair or designee shall sign the stipulated agreement, the letter of reprimand, or in the case of a suspension or revocation, the final issue findings of fact, conclusions of law, and an order signed by the board chair or designee.~~

~~(3) The board shall record its decision in its minutes and shall serve provide its decision, including the letter of reprimand, or a copy of the findings of fact, conclusions of law, and order by certified mail on the educator/specialist to the licensee and on to any other involved party within 30 ten days of its decision.~~

~~(4) The date of the letter of reprimand, decision to uphold a denial of licensure by the superintendent, or final written decision and order of the board determines the date from which an appeal may be filed pursuant to 2-4-702, MCA.~~

~~(5) Pursuant to 2-4-623, MCA, decisions of the Board of Public Education shall be available for public inspection. Confidential information such as names of any minors, the educator/specialist's applicant's or licensee's address, telephone number, or medical records may be redacted from the posted final decision.~~

AUTH: 20-2-121, 20-4-102, MCA  
IMP: 20-4-102, 20-4-110, MCA

#### 10.57.605 SURRENDER OF AN EDUCATOR/SPECIALIST LICENSE

~~(1) An educator/specialist licensee may surrender that educator/specialist's his or her license to the Superintendent of Public Instruction. The Superintendent of~~



Public Instruction, upon review, may accept or reject the license surrender.

(2) remains the same.

(3) The Superintendent of Public Instruction may investigate further following the surrender of an ~~educator/specialist's~~ license and shall maintain a record of the circumstances surrounding the surrender of any license. The contents of that record shall be available for review by the licensing authority from any other jurisdiction in which the educator/specialist seeks licensure.

(4) Surrender of a license is permanent and irrevocable, unless specified otherwise in the document of surrender. Surrender of a license is a sanction against an educator or specialist and may prejudice the ability of an educator/specialist to successfully seek relicensure ~~in Montana in the same or any other class of license or educational endorsement.~~

(5) The Superintendent of Public Instruction shall ~~provide notice to~~ immediately inform the Board of Public Education of each surrender of a license and of the circumstances surrounding the surrender.

AUTH: 20-4-114, MCA

IMP: 20-2-121, MCA

10.57.606 REPORTING OF THE SURRENDER, DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE (1) The Superintendent of Public Instruction shall maintain membership in the National Association of State Directors of Teacher Education and Certification (NASDTEC) and shall report information concerning disciplinary action to the NASDTEC clearinghouse ~~concerning licensure as provided herein and as required by NASDTEC membership.~~

(2) Upon receipt of a license surrendered pursuant to ARM 10.57.605, the Superintendent of Public Instruction shall report to the NASDTEC clearinghouse that the Superintendent accepted the surrender of a license held by the ~~educator/~~ specialist licensee.

(3) ~~As provided herein,~~ The Superintendent of Public Instruction shall report to the NASDTEC clearinghouse the denial of licensure for cause. A denial "for cause" is defined as circumstances which:

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

(5) The Superintendent of Public Instruction shall report to the NASDTEC clearinghouse a letter of reprimand issued by the Board of Public Education, and the suspension or revocation of a license held by an educator/specialist licensed in Montana.

(6) If a denial of licensure or disciplinary action by the Board of Public Education is overturned by a court of competent jurisdiction, the Superintendent of Public Instruction will notify the NASDTEC clearinghouse of such action.

(7) The Superintendent of Public Instruction shall maintain, pursuant to the superintendent's record retention policies, a record of the circumstances surrounding the surrender, denial, revocation, suspension, or reprimand involving an ~~educator/specialist's~~ license or application for licensure. The contents of that record shall be available for review by the certifying authority from any other jurisdiction in which the educator/specialist seeks licensure.

AUTH: 20-4-102, MCA  
IMP: 20-4-110, MCA

10.57.607 APPEAL FROM DENIAL OF AN EDUCATOR/SPECIALIST LICENSE

(1) Written notice of appeal from the decision of the Superintendent of Public Instruction to deny issuance or renewal of an educator/specialist license must be submitted to the Board of Public Education. Written notice of appeal must be postmarked or received by the board no later than 30 days from the date of the letter of denial sent from the office of the Superintendent of Public Instruction.

(2) The written request notice of appeal may not be submitted by e-mail. The notice must be signed by the appellant and must be in a form which:

(a) summarizes the appellant's responses to the Superintendent's denial of licensure;

(b) ~~states that the appellant meets the minimum qualifications for issuance of a license established by law~~ provide preliminary statements supporting the appellant's contention that the Superintendent's denial should be overturned; and

(c) if applicable, shows that the appeal satisfies the requirements of ARM 10.57.608.

(3) When an appeal of a denial from the decision of the Superintendent is before the Board of Public Education, the board shall provide notice by certified mail at least 30 days prior to a hearing of the appeal.

(a) Such notice shall include:

(i) a statement of the time, place, and nature of the hearing;

(ii) the legal authority and jurisdiction under which the hearing is to be held;

(iii) reference to the particular sections of the statutes and rules involved;

(iv) a statement of the matters asserted; and

(v) designation of who will hear the allegation pursuant to ARM 10.57.603.

(b) The notice shall advise the applicant that the applicant has the right to contest the denial and that the applicant may do so by appearing at the hearing either personally or through counsel, or by requesting the board to consider the matter on the basis of the available evidence without an appearance by the applicant.

(c) The notice shall advise the licensee that the hearing will be open to the public unless an individual's right to privacy outweighs the public's right to know.

(d) The hearing officer or person designated pursuant to ARM 10.57.603 to hear the appeal shall conduct a pre-hearing conference to determine matters relevant to scheduling, evidence, witnesses, and other matters related to the hearing as delineated in ARM 10.57.603.

AUTH: 20-2-121, 20-4-102, MCA  
IMP: 20-4-102, 20-4-110, MCA

10.57.608 CONSIDERATIONS GOVERNING ACCEPTANCE OF APPEAL IN CASES ARISING UNDER 20-4-104, MCA

(1) The Board of Public Education shall not consider an appeal from a denial by the Superintendent of Public Instruction based on 20-4-104, MCA, if the appellant has made an appeal to the board from the denial of an ~~educator/specialist~~ license within three years prior to the

application which is at issue, and ~~that appeal was denied by the board~~ the appellant did not prevail following a hearing, unless at the time of notice of appeal pursuant to ARM 10.57.607 the appellant demonstrates substantial changes in circumstances relating to the appellant's eligibility for a license.

(2) The board shall not consider an appeal by ~~an educator/specialist licensee~~ regarding a suspended, revoked, or surrendered license during the period of suspension, revocation, or surrender.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

10.57.611 SUBSTANTIAL AND MATERIAL NONPERFORMANCE (1) A licensed staff member commits ~~a violation of~~ substantial and material nonperformance of an employment contract pursuant to 20-4-110(1)(g), MCA, if, after signing a binding contract of employment with a Montana school district, the licensed staff member substantially and materially breaches such contract without good cause.

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

(3) Licensed staff members violating 20-4-110(1)(g), MCA, ~~may be penalized according to the following guidelines as follows:~~

(a) through (c) remain the same.

(4) In determining the severity of the sanction, if any, the ~~board~~ Board of Public Education will consider the following:

(a) through (c) remain the same.

(5) This rule ~~provides guidelines only and~~ shall not be construed to either require or to prohibit the board from exercising its discretion in overseeing discipline of license holders pursuant to 20-4-110(6), MCA.

AUTH: 20-2-114, 20-2-121, MCA

IMP: 20-2-121, 20-4-110, MCA

5. The board proposes to repeal ARM 10.57.609, Hearing on Appeal, AUTH: 20-1-102, MCA; IMP: 20-4-110, MCA.

6. The effective date of these rules is July 1, 2015.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail [pdonovan@mt.gov](mailto:pdonovan@mt.gov) and must be received no later than 5:00 p.m., November 6, 2014.

8. Peter Donovan has been designated to preside over and conduct this hearing.

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

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

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

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

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Sharon Carroll  
Sharon Carroll  
Board Chair  
Board of Public Education

Certified to the Secretary of State September 29, 2014.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through XIV; the amendment	)	PROPOSED ADOPTION,
of ARM 10.58.102 through 10.58.104,	)	AMENDMENT, AMENDMENT AND
10.58.501 through 10.58.503,	)	TRANSFER, AND REPEAL
10.58.505, 10.58.507, 10.58.509	)	
through 10.58.511, 10.58.513 through	)	
10.58.524, 10.58.526, 10.58.528,	)	
10.58.705, 10.58.707, and 10.58.802;	)	
the amendment and transfer of ARM	)	
10.58.508 and 10.58.512; and the	)	
repeal of ARM 10.58.210, 10.58.304	)	
through 309, 10.58.525, 10.58.527,	)	
10.58.601 through 10.58.603,	)	
10.58.801, and 10.58.901 all	)	
pertaining to educator preparation	)	
programs	)	

TO: All Concerned Persons

1. On October 31, 2014, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Office of Public Instruction conference room at 1300 11th Avenue, Helena, Montana, to consider the proposed adoption, amendment, amendment and transfer, and repeal of the above-stated rules.

2. The Board of Public Education 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 Board of Public Education no later than 5:00 p.m. on October 20, 2014 to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The Board of Public Education proposes to adopt the following rules:

NEW RULE I CONTENT AND PEDAGOGICAL KNOWLEDGE (1) The provider ensures that candidates:

(a) demonstrate a deep understanding of the critical concepts and principles of their discipline and are able to use discipline-specific practices flexibly to advance the learning of all P-12 students toward attainment of college- and career-readiness standards;

(b) demonstrate an understanding of the 11 Montana teaching standards (ARM 10.58.501) within the categories "the learner and learning," "content," "instructional practice," and "professional responsibility";

- (c) use research and evidence to develop an understanding of the teaching profession and use both to measure their P-12 students' progress and their own professional practice;
- (d) apply content and pedagogical knowledge as reflected in outcome assessments in response to standards of professional associations and national or other accrediting bodies;
- (e) demonstrate skills and commitment that afford all P-12 students access to rigorous college- and career-ready standards; and
- (f) integrate technology in the design, implementation, and assessment of learning experiences to engage P-12 students, improve learning, and enrich professional practice.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE II CLINICAL PARTNERSHIPS AND PRACTICE (1) The provider:

- (a) ensures that effective partnerships and high-quality clinical practice are central to preparation so that candidates develop the knowledge, skills, and professional dispositions necessary to demonstrate positive impact on all P-12 students' learning and development;
- (b) ensures that partners co-construct mutually beneficial P-12 school and community arrangements, including technology-based collaborations for clinical preparation and share responsibility for continuous improvement of candidate preparation. Partnerships for clinical preparation can follow a range of forms, participants, and functions. They establish mutually agreeable expectations for candidate entry, preparation, and exit; ensure that theory and practice are linked; maintain coherence across clinical and academic components of preparation; and share accountability for candidate outcomes;
- (c) ensures that partners co-select, prepare, evaluate, support, and retain high-quality clinical educators, both provider- and school-based, who demonstrate a positive impact on candidates' development and P-12 student learning and development. In collaboration with their partners, the provider uses multiple indicators and appropriate technology-based applications to establish, maintain, and refine criteria for selection, professional development, performance evaluation, continuous improvement, and retention of clinical educators in all clinical placement settings; and
- (d) works with partners to design clinical experiences of sufficient depth, breadth, diversity, coherence, and duration to ensure that candidates demonstrate their developing effectiveness and positive impact on all students' learning and development. Clinical experiences, including technology-enhanced learning opportunities, are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' development of the knowledge, skills, and professional dispositions, as delineated in [NEW RULE I].

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE III CANDIDATE QUALITY, RECRUITMENT, AND SELECTIVITY

(1) The provider:

(a) demonstrates that the quality of candidates is a continuing and purposeful part of its responsibility from recruitment, at admission, through the progression of courses and clinical experiences, and to decisions that completers are prepared to teach effectively and are recommended for licensure;

(b) presents plans and goals to recruit and support completion of high-quality candidates from a broad range of backgrounds and diverse populations to accomplish its mission and demonstrates efforts to know and address local, community, tribal, Montana, national, or regional needs for hard-to-staff schools and current shortage fields;

(c) sets admissions requirements, including the CAEP minimum GPA of 3.0 of the average grade point average of its accepted cohort of candidates, gathers data to monitor the applicants and selected pool of candidates and designs the selection to completion policy that includes multiple assessment measures to determine admission, continuation in, and completion of programs, including:

(i) data points that are reliable and valid predictors of candidate success and demonstrate that the standard for high academic achievement and ability is met through multiple evaluations and sources of evidence; and

(ii) data that is regularly and systematically compiled, summarized, and analyzed to improve the applicant pool, and candidate performance, program quality, and unit operations;

(d) establishes and monitors attributes and dispositions beyond academic ability that candidates must demonstrate at admissions and during the program, including selecting criteria, describing the measures used and evidence of the reliability and validity of those measures, and reporting data that show how the academic and nonacademic factors predict candidate performance in the program and effective teaching;

(e) creates criteria for program progression and monitors candidates' advancement from admissions through completion; ensures candidates demonstrate the ability to teach to college- and career-ready standards; and presents multiple forms of evidence to indicate candidates' developing content knowledge, pedagogical content knowledge, pedagogical skills, and the integration of technology in all of these domains;

(f) prior to recommending any completing candidate for licensure, documents that the candidate has reached a high standard for content knowledge in the fields where licensure is sought and can teach effectively with positive impacts on P-12 student learning and development; and

(g) prior to recommending any completing candidate for licensure, documents that the candidate understands the expectations of the profession, including codes of ethics, professional standards of practice, and relevant laws and policies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE IV PROGRAM IMPACT (1) The provider:

- (a) demonstrates the impact of its completers on P-12 student learning and development, classroom instruction, and schools, and the satisfaction of its completers with the relevance and effectiveness of their preparation;
- (b) documents impact on P-12 student learning and development using state-supported P-12 data and other measures employed by the provider, including employer surveys and program completer surveys;
- (c) demonstrates, through structured and validated observation instruments and surveys, which completers effectively apply the professional knowledge, skills, and dispositions as delineated in ARM 10.58.501;
- (d) demonstrates, using measures that result in valid and reliable data that employers are satisfied with the completers' preparation for their assigned responsibilities in working with P-12 students; and
- (e) demonstrates, using measures that result in valid and reliable data, that program completers perceive their preparation as relevant to the responsibilities they confront on the job and that the preparation was effective.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE V PROVIDER QUALITY ASSURANCE AND CONTINUOUS IMPROVEMENT (1) The provider:

- (a) maintains a quality assurance system comprised of valid data from multiple measures, including evidence of candidates' and completers' positive impact on P-12 student learning and development; supports continuous improvement that is sustained and evidence-based and that evaluates the effectiveness of its completers; and uses the results of inquiry and data collection to establish priorities, enhance program elements and capacity, and test innovations to improve completers' impact on P-12 student learning and development;
- (b) develops a quality assurance system comprised of multiple measures that can monitor candidate progress, completer achievements, and provider operational effectiveness;
- (c) ensures that its quality assurance system relies on data that are relevant, verifiable, representative, cumulative; provides specific guidance for improvement; and produces empirical evidence that interpretations of data are valid and consistent;
- (d) regularly and systematically assesses performance against its goals and relevant standards, tracks results over time, tests innovations and the effects of selection criteria on subsequent progress and completion, and uses results to improve program elements and processes;
- (e) ensures that measures of completer impact on P-12 learning and development are based on established best practices, summarized, analyzed, shared widely, and acted upon in decision making related to programs, resource allocation, and future direction; and
- (f) assures that appropriate stakeholders, including alumni, employers, practitioners, school and community partners, and others defined by the provider, are involved in program evaluation, improvement, and identification of models of



excellence.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE VI EARLY CHILDHOOD EDUCATION (1) The program requires that successful candidates:

(a) demonstrate an understanding of young children's (birth-age 8) characteristics and needs encompassing multiple, interrelated areas of children's development and learning including physical, cognitive, social, emotional, language, and aesthetic domains as well as learning processes and motivation to learn;

(b) base their practice on coherent early childhood theoretical perspectives, current research about brain growth and development, and the importance of play;

(c) apply their understanding of multiple influences on young children's development and learning including family, community, cultural, and linguistic contexts, temperament, approaches, and dispositions to learning (including initiative, self-direction, persistence, and attentiveness), motivation, attachment, economic conditions, health status, opportunities for play and learning, technology and media, and developmental variations;

(d) understand the potential influence of early childhood programs, including early intervention, on short- and long-term outcomes for children;

(e) demonstrate the ability to use developmental knowledge including strengths of families and children to create physically and psychologically safe learning environments that are healthy, respectful, supportive, and challenging for each child;

(f) know about, understand, and value the complex characteristics and importance of children's families and communities including home language, cultural values, ethnicity, socioeconomic conditions, family structures, relationships, stresses, supports, and community resources;

(g) create respectful, reciprocal relationships with families using a range of formal and informal strategies such as home visits, parent-teacher conferences, family nights, and transition planning into and out of early childhood programs including kindergarten;

(h) promote and encourage family involvement in all aspects of children's development and learning including assisting families to find resources concerning parenting, mental health, health care, and financial assistance;

(i) demonstrate essential knowledge and core skills in team building and in communicating with families and colleagues from other disciplines to encourage families' participation in curriculum and program development as well as assessment of children's learning, including identification of children's strengths and needs;

(j) recognize the goals of assessment and summarize, analyze, and use assessment information gathered through ongoing, systematic observations and other informal and formal assessments, including play-based assessments and developmental screenings to:

(i) learn about children's unique qualities;

(ii) guide instruction; and

(iii) evaluate effective curriculum to maximize children's development and

learning;

(k) make ethical considerations when administering and interpreting assessments including:

(i) an understanding of family context and involving families in the assessment process;

(ii) recognizing the importance of establishing positive conditions for assessment (in familiar settings with familiar people); and

(iii) avoiding bias and using culturally sensitive assessments that have established reliability and validity;

(l) create a caring community of learners that supports positive relationships; promotes the development of children's social, emotional, and friendship skills; and assists children in the development of security, self-regulation, responsibility, and problem solving;

(m) utilize a broad repertoire of developmentally appropriate teaching skills and strategies supportive of young learners, such as integrating curricular areas; scaffolding learning; teaching through social interactions; providing meaningful child choice; implementing positive guidance strategies; and making appropriate use of technology;

(n) provide curriculum and learning experiences that reflect the languages, cultures, traditions, and individual needs of diverse families and children, with particular attention to the cultures of the children and families in the classroom and to American Indians and tribes in Montana;

(o) use a variety of learning formats and contexts to support young learners, including creating support for extended play, creating effective indoor and outdoor learning centers, teaching primarily through individual and small group contexts, and utilizing the environment, schedule, and routines as learning opportunities;

(p) design, implement, and evaluate developmentally meaningful, integrated, and challenging curriculum for each child using professional knowledge, Montana's Early Learning Standards, Montana Content Standards (K-5), and Indian Education for All;

(q) integrate and support in-depth learning using both spontaneous and planned curricula and teaching practices in each of the academic discipline content areas including language and literacy; science; mathematics; social studies; the performing and visual arts; health and well-being; and physical development, skills, and fitness by:

(i) demonstrating knowledge and understanding of theory and research and applying knowledge in the areas of language, speaking and listening, reading and writing processes, literature, print and non-print texts, which are inclusive of texts from and about American Indians and tribes in Montana, and technology; and planning, implementing, assessing, and reflecting on English/language arts and literacy instruction that promotes critical thinking and creative engagement;

(ii) demonstrating knowledge, understanding, and use of the fundamental concepts of physical, life, earth, and space sciences to design and implement age-appropriate inquiry lessons to teach science, to build student understanding for personal and social applications, to convey the nature of science, the concepts in science and technology, the history and nature of science, including scientific contributions of American Indians and tribes in Montana;

(iii) demonstrating knowledge, understanding, and use of the major concepts, and procedures, and reasoning processes of mathematics that define number systems and number sense, operations, algebra, geometry, measurement, data analysis statistics and probability in order to foster student understanding and use of patterns, quantities, and spatial relationships that can represent phenomena, solve problems, and deal with data to engage students in problem solving, reasoning and proof, communication, connections, and representation, including culturally inclusive lessons and examples relating to American Indians and tribes in Montana;

(iv) demonstrating knowledge, understanding, and use of the major concepts and modes of inquiry from the social studies, the integrated study of history, government, geography, economics including personal financial literacy, and an understanding of the social sciences and other related areas to promote students' abilities to make informed decisions as citizens of a culturally diverse democratic society, including the cultural diversity of American Indians and tribes in Montana, and interdependent world;

(v) demonstrating knowledge, understanding, and use of the content, functions, and achievements of the performing arts (dance, music, drama) and the visual arts as primary media for communication, inquiry, perspective, and engagement among students, and culturally diverse performing and visual arts inclusive of the works of American Indian artists and art in Montana;

(vi) demonstrating knowledge, understanding, and use of the major concepts in the subject matter of health education to create opportunities for student development and practice of skills that contribute to good health for all young children; and

(vii) demonstrating knowledge, understanding, and use of human movement and physical activity as central elements to foster active, healthy life styles and enhanced quality of life for all students;

(r) base curriculum planning on the understanding of the particular significance of social and emotional development as the foundation for young children's school readiness and future achievements;

(s) uphold and use state and national codes of ethical conduct for the education of young children and other applicable regulations and guidelines to analyze, resolve, and discuss implications of professional ethical dilemmas with respect to the child, family, colleagues, and community;

(t) collaborate with multiple stakeholders, including:

(i) teachers in preceding and subsequent grade levels to increase continuity and coherence across ages/grades;

(ii) families and interdisciplinary professionals to meet the developmental needs of each child; and

(iii) relevant community and state resources to build professional early learning networks that support high quality early learning experiences for young children and their families;

(u) use formal and informal assessments, early learning professional knowledge, reflection, collaborative relationships, and critical thinking to analyze and continuously improve professional practices with young children and their families;

(v) identify and involve oneself with the distinctive history, values, knowledge base, and mission of the early childhood field;

(w) engage in informed advocacy for young children and the early childhood profession; and

(x) demonstrate knowledge, skills, and dispositions during well-planned and sequenced clinical experiences working with children and families in two different age groups (3-5 and 5-8) and two types of the settings:

(i) one of which must include a Kindergarten-3rd grade experience in an accredited school setting for a formal student teaching experience; and

(ii) the second clinical site may include state-licensed child care centers or homes, Head Start, and community or school-based preschool programs.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE VII MIDDLE GRADES (4-8) (1) The program ensures that successful candidates demonstrate knowledge of young adolescent development and an understanding of the middle grades learner and learning. Candidates demonstrate:

(a) knowledge and understanding of the major concepts, principles, theories, and research related to young adolescent development (grades 4 through 8) and apply this knowledge and understanding when making curricular decisions, planning and implementing instruction, and participating in middle grades programs and practices;

(b) knowledge of young adolescents in the areas of intellectual, physical, social, emotional, and moral characteristics, individual needs, and interests, and apply this knowledge to create healthy, respectful, supportive, and challenging learning environments for all young adolescents, including those whose language and cultures are different from their own;

(c) knowledge and understanding of the implications of diversity on the development of young adolescents and apply that understanding to implement curriculum and instruction that is responsive to young adolescents' local, tribal, Montana, national, and international histories, language/dialects, and individual identities;

(d) understanding of young adolescent development and apply that understanding when planning and implementing middle grades curriculum and when selecting and using instructional strategies; and

(e) knowledge of young adolescent development when making decisions about their role in creating and maintaining developmentally responsive learning environments and when participating in effective middle grades instructional and organizational practices, including interdisciplinary team organization and advisory programs.

(2) The program ensures that successful candidates demonstrate in-depth interdisciplinary knowledge of the middle grades content, standards, and curriculum and the ability to assist all young adolescents in understanding the interdisciplinary nature of knowledge. Candidates demonstrate:

(a) knowledge and understanding of theory and research and apply knowledge in the areas of language, speaking, and listening; reading and writing processes; literature, print, and non-print texts, which are inclusive of texts from and

about American Indians and tribes in Montana; and technology; and plan, implement, assess, and reflect on English/language arts and literacy instruction that promotes critical thinking and creative engagement for young adolescents;

(b) knowledge, understanding, and use of the fundamental concepts of physical, life, earth, and space sciences to design and implement age-appropriate inquiry lessons to teach science, to build middle grades student understanding for personal and social applications, to convey the nature of science, the concepts in science and technology, and the history and nature of science, including scientific contributions of American Indians and tribes in Montana;

(c) knowledge, understanding, and use of the major concepts and procedures that define number and operations, algebra, geometry, measurement, data analysis, and probability to engage young adolescent students in problem solving, reasoning and proof, communication, connections, and representation, including culturally inclusive lessons and examples relating to American Indians and tribes in Montana;

(d) knowledge, understanding, and use of the major concepts and modes of inquiry from the social studies, the integrated study of history, government, geography, economics including personal financial literacy, and an understanding of the social sciences and other related areas to promote middle grades students' abilities to make informed decisions as citizens of a culturally diverse democratic society, including the cultural diversity of American Indians and tribes in Montana, and the interdependent world;

(e) knowledge, understanding, and use of the content, functions, and achievements of the performing arts (dance, music, theater) and the visual arts as primary media for communication, inquiry, perspective, and engagement among young adolescent students, and culturally diverse performing and visual arts inclusive of the works of American Indian artists and art in Montana;

(f) knowledge, understanding, and use of health education to create opportunities for middle grades student development and practice of skills that contribute to good health for all young adolescents; and

(g) knowledge, understanding, and use of human movement and physical activity as central elements to foster active, healthy life styles and enhanced quality of life for all young adolescent students.

(3) The program ensures that successful candidates demonstrate knowledge and understanding of middle grades philosophy and school organization.

Candidates demonstrate:

(a) knowledge and understanding of the major concepts, principles, theories, and research underlying the philosophical foundations of developmentally responsive middle grades programs and schools and apply this knowledge and understanding to work skillfully within the middle grades organizational components;

(b) knowledge of the philosophical foundations of developmentally responsive middle grades programs and schools; and

(c) knowledge of the effective components of middle grades programs and apply this knowledge in order to function effectively within a variety of school organizational settings (e.g., grades K-8, 4-6, 6-8, 7-8).

(4) The program ensures that successful candidates demonstrate knowledge

and understanding of middle grades curriculum, instruction, assessment, and learning. Candidates demonstrate:

(a) knowledge, understanding, and use of interdisciplinary connections to integrate subject matter contents, employing inclusive ideas and issues that engage middle grades students' ideas, interests, concerns, and experiences;

(b) abilities to plan and implement instructional strategies for middle grades classrooms based on knowledge of individual students, learning theory, content, cross-curricular connections, curricular goals, and an understanding of community;

(c) understanding of how middle grades students differ in their development and approaches to learning, and apply this understanding to differentiate instruction to meet the learning needs of all young adolescents;

(d) knowledge of proven instructional strategies and use this knowledge to develop middle grades students' ability to use critical thinking, problem solving, and current and emerging technologies;

(e) knowledge and understanding of individual and group motivation and behavior among students at the middle grade level to foster active engagement in learning, self-motivation, and positive interaction, and to create supportive learning environments;

(f) knowledge and understanding of effective verbal, nonverbal, and media communication techniques in middle grades learning environments to foster active inquiry, collaboration, and supportive interaction in the middle grades classroom; and

(g) knowledge and understanding of formative and summative assessment strategies and use this knowledge and understanding to evaluate and ensure the continuous intellectual, social-emotional, and physical development of middle grades students.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE VIII ADVANCED PROGRAMS (1) Advanced programs are offered at postbaccalaureate levels for:

(a) the continuing education of teachers who have previously completed initial preparation; or

(b) the preparation of other school professionals.

(2) Advanced programs commonly award graduate credit and include master's, specialist, and doctoral degree programs as well as non-degree educator preparation programs offered at the postbaccalaureate level. Examples of these programs include:

(a) teachers who are preparing for a second endorsement at the graduate level in a field different from the field in which they had their first endorsement;

(b) programs for teachers who are seeking a master's degree in the field in which they teach;

(c) programs not tied to endorsement, such as programs in curriculum and instruction; and

(d) programs for other school professionals such as school counselors, school psychologists, educational administrators, and curriculum directors.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

NEW RULE IX CONTENT AND PEDAGOGICAL KNOWLEDGE (1) The provider ensures that advanced program candidates:

- (a) develop a deep understanding of the critical concepts and principles of their discipline and, by completion, are able to use discipline-specific practices flexibly to advance the learning of all students toward attainment of college- and career-readiness standards;
- (b) demonstrate an understanding of and are able to apply knowledge and skills specific to their discipline;
- (c) use research and evidence to develop school environments that support and assess P-12 students' learning and their own professional practice specific to their discipline;
- (d) apply content and discipline-specific knowledge as reflected in outcome assessments in response to standards of professional associations and national or other accrediting bodies;
- (e) demonstrate skills and commitment to creating supportive environments that afford all P-12 students access to rigorous college- and career-ready standards; and
- (f) integrate technology standards to support the design, implementation, and assessments of learning experiences and environments to engage students, improve learning, and enrich professional practice.

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

NEW RULE X CLINICAL PARTNERSHIPS AND PRACTICE (1) The provider:

- (a) ensures that effective partnerships and high-quality clinical practice are central to preparation so that candidates develop the knowledge, skills, and professional dispositions necessary to demonstrate positive impact on all P-12 students' learning and development;
- (b) ensures that partners co-construct mutually beneficial P-12 school and community arrangements, including technology-based collaborations, for clinical preparation and share responsibility for continuous improvement of advanced program candidate preparation. Partnerships for clinical preparation can follow a range of forms, participants, and functions. They establish mutually agreeable expectations for advanced program candidate entry, preparation, and exit; ensure that theory and practice are linked; maintain coherence across clinical and academic components of preparation; and share accountability for advanced program candidate outcomes;
- (c) ensures that partners co-select, prepare, evaluate, support, and retain high-quality clinical educators, both provider- and school-based, who demonstrate a positive impact on advanced program candidates' development and P-12 student learning and development. In collaboration with their partners, providers use

multiple indicators and appropriate technology-based applications to establish, maintain, and refine criteria for selection, professional development, performance evaluation, continuous improvement, and retention of clinical educators in all clinical placement settings; and

(d) works with partners to design clinical experiences of sufficient depth, breadth, diversity, coherence, and duration to ensure that advanced program candidates demonstrate their developing effectiveness in creating environments that support all students' learning and development. Clinical experiences, including technology-enhanced learning opportunities, are structured to have multiple performance-based assessments at key points within the program to demonstrate advanced program candidates' development of the knowledge, skills, and professional dispositions, as delineated in [NEW RULE IX], that are associated with creating a supportive school environment that results in a positive impact on the learning and development of all P-12 students.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE XI CANDIDATE QUALITY, RECRUITMENT, AND SELECTIVITY (1) The provider:

(a) demonstrates that the quality of advanced program candidates is a continuing and purposeful part of its responsibility from recruitment, at admission, through the progression of courses and clinical experiences, and to decisions that advanced program completers are prepared to perform effectively and are recommended for licensure where applicable, and demonstrates that development of candidate quality is the goal of educator preparation in all phases of the program;

(b) presents plans and goals to recruit and support completion of high-quality advanced program candidates from a broad range of backgrounds and diverse populations to accomplish its mission:

(i) admitted candidates reflect the diversity of Montana's P-12 students; and

(ii) the provider demonstrates efforts to know and address local, community, tribal, Montana, regional, or national needs for school and district staff prepared in advanced fields;

(c) sets admissions requirements, including the CAEP minimum GPA of 3.0 of the average grade point average of its accepted cohort of candidates, and gathers data to monitor applicants and selected pool of candidates, and designs the selection to completion policy that includes multiple assessment measures to determine admission, continuation in, and completion of programs, providing:

(i) data points are reliable and valid predictors of candidate success and demonstrate that the standard for high academic achievement and ability is met through multiple evaluations and sources of evidence; and

(ii) these data are regularly and systematically compiled, summarized, and analyzed to improve the applicant pool, and candidate performance, program quality, and unit operations;

(d) establishes and monitors attributes and dispositions beyond academic ability that advanced program candidates must demonstrate at admissions and during the program, and selects criteria, describes the measures used and evidence



of the reliability and validity of those measures, and reports data that show how the academic and non-academic factors predict advanced program candidate performance in the program and in service; and

(e) creates criteria for program progression and monitors candidates' advancement from admissions through completion. All advanced program candidates demonstrate the ability to create and maintain supportive environments for teaching college- and career-ready standards. Providers present multiple forms of evidence to indicate advanced program candidates' application of content knowledge and research, data-informed decision making, and the integration of technology in all of these domains.

(2) Prior to recommending any advanced program candidate for program completion, the provider documents that the advanced program candidate:

(a) has reached a high standard for content knowledge, data- and research-informed decision making, integration of technology in the discipline, and demonstrates the ability to create, maintain, and enhance supportive environments for effective P-12 learning; and

(b) understands the expectations of the profession, including codes of ethics, professional standards of practice, and relevant laws and policies.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE XII PROGRAM IMPACT (1) The provider:

(a) demonstrates the impact of its completers on P-12 student learning and development, classroom instruction, and schools, and the satisfaction of its completers with the relevance and effectiveness of their preparation;

(b) documents advanced program completers' impact on P-12 student learning and development using state-supported P-12 data and other measures employed by the provider, including employer surveys, and program completer surveys;

(c) demonstrates, through structured and validated observation instruments and surveys, which completers effectively apply the professional knowledge, skills, and dispositions that the preparation experiences were designed to achieve;

(d) demonstrates, using measures that result in valid and reliable data that employers are satisfied with the advanced program completers' preparation for their assigned responsibilities in working with P-12 students; and

(e) demonstrates, using measures that result in valid and reliable data, that advanced program completers perceive their preparation as relevant to the responsibilities they confront on the job, and that the preparation was effective.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE XIII PROVIDER QUALITY ASSURANCE AND CONTINUOUS IMPROVEMENT (1) The provider:

(a) maintains a quality assurance system comprised of valid data from multiple measures, including evidence of candidates' and completers' positive

impact on P-12 student learning and development; supports continuous improvement that is sustained and evidence-based, and that evaluates the effectiveness of its completers; and uses the results of inquiry and data collection to establish priorities, enhance program elements and capacity, and test innovations to improve completers' impact on P-12 student learning and development;

(b) develops a quality assurance system which is comprised of multiple measures, that can monitor candidate progress, completer achievements, and provider operational effectiveness;

(c) ensures that its quality assurance system relies on data that are relevant, verifiable, representative, cumulative, and provides specific guidance for improvement, and produces empirical evidence that interpretations of data are valid and consistent;

(d) regularly and systematically assesses performance against its goals and relevant standards, tracks results over time, tests innovations, and the effects of selection criteria on subsequent progress and completion, and uses results to improve program elements and processes;

(e) ensures that measures of advanced program completer impact on the P-12 learning environment, including available outcome data, are based on established best practices, summarized, analyzed, shared widely, and acted upon in decision making related to programs, resource allocation, and future direction; and

(f) assures that appropriate stakeholders, including alumni, employers, practitioners, school and community partners, and others defined by the provider, are involved in program evaluation, improvement, and identification of models of excellence.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

NEW RULE XIV SUPERINTENDENTS (1) The successful candidate completes the requirements of ARM 10.58.705 and the following requirements. The program requires that successful candidates:

(a) facilitate the development, articulation, implementation, and stewardship of a school and/or district vision of learning supported by the school community and:

(i) collaboratively develop, implement, and promote a commitment to a shared vision and mission integrated throughout the school system by strategic planning, aligning districtwide curriculum, and facilitating policy-making processes;

(ii) promote continuous and sustainable district improvement by using data to inform goals, assess organizational effectiveness, and promote organizational learning and designing, implementing, assessing and adjusting plans to achieve goals; and

(iii) demonstrate skill in working with school boards;

(b) promote the development of the full educational potential of each person through our public schools by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth and:

(i) advocate, nurture, and sustain a culture of collaboration, trust, learning, and high expectations to create a comprehensive, rigorous, and coherent curricular

program that addresses post-secondary and life readiness through district academic standards;

(ii) develop the instructional and leadership capacity of staff in order to create a personalized and motivated learning environment for students through comprehensive professional learning opportunities with principals and leaders;

(iii) appraise, support, and supervise instruction in accordance with state standards and associated accountability systems by fostering a culture of continuous improvement which promotes growth and informs practice and promotes learning with multiple measures through district/state standards-based systems;

(iv) develop districtwide assessment and accountability systems to monitor and evaluate student progress and the impact of the instructional programs; and

(v) maximize instructional time, use appropriate and effective instructional strategies and technologies to support teaching and learning through principal supervision and evaluation and developing principal leadership skills;

(c) ensure proper management of the organization, operations, and resources for a safe, efficient, and effective learning environment to develop the full educational potential of each person and:

(i) develop the capacity for distributed leadership to ensure teacher and organizational growth to support quality instruction and student learning;

(ii) efficiently and effectively use human, fiscal, and capital resources, applying fiscal and management theory;

(iii) advocate, promote, and protect the social, emotional, and physical safety of students and staff;

(iv) demonstrate knowledge of information systems;

(v) demonstrate knowledge of student transportation laws and best practices; and

(vi) demonstrate knowledge of Montana school law, Montana school finance, and Montana collective bargaining and employment law;

(d) collaborate with families and other community members, respond to diverse community interests and needs, including American Indians and tribes in Montana families, and mobilize community resources in order to fully develop the educational potential of each person and:

(i) promote family engagement by fostering and sustaining positive relationships with parents, families, caregivers, community members and partners;

(ii) promote understanding, appreciation, and use the community's diverse cultural, social, and intellectual resources to expand the educational experience; and

(iii) collect and analyze data and information pertinent to the educational environment;

(e) act with integrity, fairness, and in an ethical manner in order to develop the full educational potential of each person through our public schools and:

(i) ensure a system of accountability for every student's academic, social, and emotional success;

(ii) model principles of self-awareness, reflective practice, transparency, and ethical behavior;

(iii) safeguard the values of democracy, equity, and diversity;

(iv) consider and evaluate the potential moral and legal consequences of decision making and promote social justice to ensure that individual student needs

inform all aspects of schooling; and

(v) demonstrate knowledge of the Americans with Disabilities Act (ADA) and the Individual Disabilities Education Act (IDEA);

(f) understand, respond to, and influence the larger political, social, economic, legal, and cultural context in order to develop the full educational potential of each person through our public schools and assess, analyze, and anticipate emerging trends and initiatives in order to advocate for children, families, and caregivers by acting to influence local, district, state, and national decisions affecting student learning through systemic analysis of issues, knowledge of collective bargaining, marketing strategies, and political and economic trends; and

(g) complete an internship/field experience that provides at least 216 hours of significant opportunities to synthesize and apply the knowledge and practice and develop the skills identified in this rule through substantial, sustained, standards-based work in real settings, planned and guided cooperatively by the institution and properly administratively endorsed school district personnel for graduate credit.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

4. The Board of Public Education proposes to amend the following rules, new matter underlined, deleted matter interlined:

10.58.102 PROCESS LEADING TO ACCREDITATION OF EDUCATOR PREPARATION PROVIDERS PROFESSIONAL EDUCATION UNITS (1) The Board of Public Education shall adopt procedures for ~~implementing the process of accrediting professional education units~~ the accreditation review of educator preparation providers.

(2) The ~~Office~~ Superintendent of Public Instruction shall implement the Board of Public Education's procedures by conducting accreditation site reviews.

(a) The ~~Office~~ Superintendent of Public Instruction shall establish a cadre of qualified educators to serve on review teams. Team members representing accredited K-20 education entities shall:

(i) ~~Team members shall be recommended from higher education and public schools~~ nominated by K-20 teachers, administrators, supervisors, and members of professional organizations, and educational boards, and agencies; and

(ii) ~~Team members shall have a minimum of five years of teaching or professional education experience.~~

(b) The ~~Office~~ Superintendent of Public Instruction shall ~~administer~~ conduct workshops sessions to ~~that~~ prepare educators for serving on review teams to serve as team members of site reviews. ~~Work sessions shall include instruction in constitutional and statutory authority of the Board of Public Education, requirements for state and national accreditation, history and content of state standards, practical experience at applying standards, and information on the review procedures.~~

(c) Performance of team members shall be evaluated by the team chairperson, ~~in conjunction with~~ and the Office of Public Instruction's educator preparation program director coordinator.

(d) Team chairpersons or ~~and~~ members shall not be assigned to serve in the

review of institutions educator preparation providers where a conflict of interest may interfere with the integrity of the review.

(3) Members of the Board of Public Education shall be invited to ~~participate as observers at each unit's program review~~ observe accreditation site reviews.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.103 VISITATIONS ACCREDITATION SITE REVIEWS (1) All ~~professional education units~~ Educator preparation providers (EPPs) shall ~~host~~ sponsor an accreditation site review every seven years or on an adjusted schedule based upon coordination with national accreditation or upon request of ~~an institution~~ the EPP or the Board of Public Education.

(2) Joint ~~visitations~~ accreditation site reviews and cooperation with ~~other accrediting agencies~~ the Council for the Accreditation of Educator Preparation (CAEP) will be encouraged.

(3) A ~~review by the National Council for Accreditation of Teacher Education (NCATE) of the same material covered in subchapters 2, 3, 4 and 6 may be accepted in lieu of the state review.~~

(4) ~~Units~~ Educator preparation providers are required to engage in an ongoing self-study of professional educator preparation programs continuous improvement.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.104 ACCREDITED PROGRAMS (1) The ~~Office~~ Superintendent of Public Instruction shall report to the public the ~~professional education unit's~~ educator preparation providers' accreditation status in meeting the Board of Public Education's standards for professional educator preparation.

(2) Pursuant to 20-4-121, MCA, the report shall include ~~professional education units~~ educator preparation providers and the corresponding regional and national accreditation agencies. The report shall include the initial and expiration dates of all accredited programs.

(a) Each ~~professional education unit~~ educator preparation provider shall annually provide information pursuant to (2) to the Office of Public Instruction.

(b) The report shall be accessible to ~~institutions, school personnel offices, counselors, K-20 educators~~ and the general public within the state, and to other state education agencies, and shall be posted ~~on the web sites of~~ to the Office of Public Instruction and Board of Public Education web sites.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.501 GENERAL REQUIREMENTS TEACHING STANDARDS (1) All programs require that successful candidates:

(a) demonstrate understanding of ~~and ability to integrate knowledge of the~~

~~history, cultural heritage, and contemporary status of American Indians and tribes in Montana~~ how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and individualize developmentally appropriate and challenging learning experiences for learners of all cognitive abilities;

~~(b) demonstrate understanding of the central concepts, tools of inquiry, and structure of the discipline(s) he or she teaches and creates learning experiences that make subject matter meaningful for students~~ use understanding of individual differences and diverse cultures and communities, including American Indians and tribes in Montana and English Language Learners (ELL), to ensure inclusive environments that enable each learner to meet high standards;

~~(c) demonstrate understanding of how students learn and develop, and provide learning opportunities that support intellectual, social, and personal development~~ work with others to create environments that support individual and collaborative learning and that encourage positive social interaction, active engagement in learning, and self-motivation;

~~(d) demonstrate knowledge of how students, within different populations, including Montana American Indians, differ in their approaches to learning and create instructional opportunities that are adapted to diverse learners~~ understanding of the central concepts, tools of inquiry, and structures of the discipline(s) the candidate teaches and create individualized learning experiences that make the discipline accessible and meaningful for learners to assure mastery of the content, and include the instruction of reading and writing literacy into all program areas;

~~(e) demonstrate understanding of personal, cultural and socioeconomic biases and teaching style differences that affect one's teaching~~ how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues;

~~(f) utilize a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills~~ use multiple methods of assessment, including formative and summative assessments, to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making;

~~(g) demonstrate understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation~~ plan and implement individualized instruction that supports students of all cognitive abilities in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context;

~~(h) demonstrate knowledge of effective verbal, nonverbal, media, and electronic communication techniques to teach the strategies of active inquiry, collaboration, and supportive interaction in the classroom~~ use a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections and build skills to apply knowledge in meaningful ways;

~~(i) plan instruction based on knowledge of subject matter, students, the~~

~~community, curriculum goals, and appropriate use of current and emerging technologies engage in ongoing professional learning and use evidence to continually evaluate candidate's practice, particularly the effects of candidate's choices and actions on others (learners, families, other professionals, and the community), and adapt practice to meet the needs of each learner;~~

~~(j) demonstrate assessment strategies, tools, and practices to plan and evaluate effective instruction interact knowledgeably and professionally with students, families, and colleagues based on social needs and institutional roles;~~

~~(k) demonstrate continued growth in knowledge related to a particular subject area and the teaching of it; engage in leadership or collaborative roles, or both, in content-based professional learning communities and organizations and continue to develop as professional educators; and~~

~~(l) demonstrate knowledge of strategies to build relationships with school colleagues, families, and agencies in the larger community to support students' learning and well-being; and understanding of and ability to integrate history, cultural heritage, and contemporary status of American Indians and tribes in Montana.~~

~~(m) demonstrate the ability to foster contextual and experiential learning and to build connections between academic learning and the skills required in the present and future workforce.~~

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.502 AGRICULTURAL EDUCATION (1) ~~Candidates for agricultural education teacher endorsement shall~~ The program requires that candidates have one year (2000 hours) of practical farm or agricultural-related experience within five years prior to completion of the program-

~~(2) The program requires and~~ that successful candidates:

(a) demonstrate essential skills and knowledge including the scientific/technical, safety, and career information in the following areas of:

(i) through (x) remain the same.

(b) demonstrates a philosophy of ~~vocational~~ career and technical education, which reflects the unique student/community and industry interaction and includes the biological, physical, and applied sciences, personal leadership, and school-to-career components of a comprehensive agricultural education program;

(c) demonstrate competence in the development of a comprehensive instructional program based on identified agriculture industry demographic and technological advances, including current and evolving issues and ongoing practices of Montana American Indian agricultural contributions, while recognizing the social, economic, and demographic diversity of the community in conjunction with a partnership of students, community, business, industry, tribes, families, and an appointed advisory committee;

(d) through (g) remain the same.

(h) demonstrate research-based strategies to meet the diverse learning needs of all students by applying and integrating the state's learning goals, agricultural workplace competencies, and essential academic learning requirements in program implementation and assessment, including ~~20-1-501, MCA~~ American

Indians and tribes in Montana.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.503 ART K-12 (1) The program requires that successful candidates:

~~(a) develop competence and a working vocabulary in:~~ demonstrate understanding of and engage in the processes of art making involving traditional and contemporary studio approaches, concentrating in one or more studio area;

~~(b) demonstrate understanding of historical and contemporary theories of art education curriculum and instruction, enabling them to reflect and refine personal art education practices;~~

~~(c) engage in inquiry into the history of art, enabling them to acquire knowledge of the cultural context in which artworks have been created, including that of American Indians and tribes in Montana, and fostering respect for all forms of art through the study of diverse traditional and contemporary artists;~~

~~(d) develop abilities to critically study, see, and respond to the qualities within artworks, both in the process of creating their own artworks and in observing the artworks of others, and teaching candidates to communicate their perceptions about artworks in verbal and written language;~~

~~(i) (e) develop competence and a working vocabulary in art production through developing the ability to present imaginative and original ideas and feelings by creating images in a concentration of one or more of the visual art forms;~~

~~(ii) art history and heritage through developing the ability to understand and appreciate works of art from different cultures, places, and times, to include Montana American Indians;~~

~~(iii) art criticism through developing the ability to analyze and evaluate the structure and significance of works of art and to make reasoned interpretations and judgments about their meaning; and~~

~~(iv) aesthetics, including sensory perception, and the study of the nature and experience of the arts;~~

~~(b) (f) use appropriate art technologies as tools of expression, research, and assessment;~~

~~(e) (g) comprehend and appropriately use copyright and patent laws in relation to original art works and reproductions;~~

~~(d) (h) develop sequential visual arts curricula with a mission and scope that assures student development and competence in a variety of media;~~

~~(e) demonstrate an understanding of:~~

(2) The program requires that successful candidates demonstrate an understanding of:

~~(i) (a) the stages of artistic development of children, adolescents, and young adults as these relate to art curriculum, and ensuring that the scope and sequence of the curriculum is age appropriate;~~

~~(ii) through (v) remain the same but are renumbered (b) through (e).~~

~~(f) develop and use assessment strategies for evaluating student progress and accomplishments in the visual arts as aligned to the Montana standards for visual arts, as well as other standards where the arts are integrated with technology~~



and the content areas;

(g) ~~connect art collaborative skills and practices of art in interdisciplinary curriculum and instruction~~ with other disciplines; and

(h) ~~introduce career opportunities in art and art-related fields, and encourage and advise to provide encouragement and advice to students about postsecondary future options.~~

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

#### 10.58.505 BUSINESS AND INFORMATION TECHNOLOGY EDUCATION

(1) The program requires that successful candidates:

(a) ~~demonstrate a variety of collaborative efforts to enhance the curricula including, but not limited to, advisory committees, business partnerships, tech prep, school to work, applied academics, technology integration, career planning, cooperative education, curriculum integration, and Indian Education for All (20-1-501, MCA)~~ create, analyze, revise, and implement business education curricula that facilitates the learning of dynamic subject matter in diverse learning environments;

(b) build professional relationships with stakeholders to produce a relevant learning environment that reflects the real world and provides benefits to the student and the community, including development of career pathways and work-based learning experiences;

(c) demonstrate the development of personal and leadership competencies (e.g., citizenship, personal development, goal setting, parliamentary procedure, and teamwork collaboration);

~~(e)~~ (d) demonstrate and apply ethical professional practice based on the principles and philosophy and objectives of business education and career and technical education through civic engagement, advocacy, and active participation in professional development and professional growth activities;

~~(d)~~ demonstrate effective classroom management techniques and modify the curriculum to meet a variety of student needs;

(e) integrate professional student organizations into the curriculum to provide an environment in which students grow professionally, personally, and socially; involve the business and professional community; and recognize the organization provides opportunities for personal growth and leadership development;

~~(e)~~ (f) identify methods for selection and application of the tools of technology tools relating to personal and business decision making;

(f) remains the same but is renumbered (g).

~~(g)~~ (h) demonstrate basic concepts of effective oral and written communication skills to facilitate learning, incorporate quality standards in all forms of communications, and recognize that culture impacts business communication;

(i) determine the nature and extent of the information needed, access needed information effectively and efficiently, and evaluate information and its sources critically;

~~(h)~~ (j) demonstrate ethical and social responsibilities responsibility related to business and the legal framework for personal, business, and social interactions;

~~(i)~~ demonstrate the skills needed to successfully obtain and maintain

employment;

(j) remains the same but is renumbered (k).

(l) demonstrate the importance of employment communications to career success (e.g., resume, application letter, application forms and online application system, follow-up letter, electronic database employment search engines), interview techniques, and the skills needed to successfully obtain and maintain employment;

(k) through (p) remain the same but are renumbered (m) through (r).

~~(q) conduct research activities in domestic and international business;~~

(s) demonstrate an awareness of the interrelatedness of one country's political policies and economic practices on another including interactions with sovereign tribal nations and an understanding of the global business environment, including the interconnectedness of cultural, political, legal, economic, and ethical systems;

(r) through (t) remain the same but are renumbered (t) through (v).

~~(u) (w) demonstrate accounting procedures to make decisions about planning, organizing, and allocating and use of accounting tools, strategies, and systems to maintain, monitor, control, and plan the use of financial resources; and~~

(x) demonstrate the ability to use technology as a tool for facilitating business functions, coordinate information technology instruction in business education and across the curriculum, and explain the value of information technology and the potential impact it may have on students' lives;

(y) develop students' ability to analyze, synthesize, evaluate, and apply technologies to solve problems, increase productivity, and improve quality of life; and

(v) remains the same but is renumbered (z).

AUTH: 20-2-114, 20-2-121, MCA

IMP: 20-1-501, 20-2-121, ~~20-4-121~~, MCA

10.58.507 THEATRE (1) The program requires that successful candidates:

(a) demonstrate the ability to create curriculum, instruction, and assessment for K-12 students in a school theatre program to make students aware of the process of artistic creation, ~~from creating and performing to responding;~~ including:

(i) generating and conceptualizing creations;

(ii) analyzing, interpreting, selecting, organizing, developing, and refining artistic techniques; conveying meaning; and completing performances; and

(iii) perceiving and analyzing, interpreting intent and meaning in, and apply criteria to evaluate responses;

(b) through (d) remain the same.

(2) Candidates The program requires that successful candidates demonstrate understanding and knowledge of:

(a) theatre as a social and aesthetic experience ~~and a reflection of culture,~~ reflecting on authentic representation, including Montana cultures of American Indians and tribes in Montana and cultures, a broad view of the unique history of theatre and acquaintance with representative plays of past and present, and candidates will be able to synthesize and relate knowledge and personal experiences to make art;

(b) and (c) remain the same.

(3) ~~Candidates shall~~ The program requires candidates have experience with performance, ~~in order to~~ and that successful candidates:

(a) direct/supervise a theatrical production/~~activity~~ with artistic integrity, including supervision of appropriate selections (being mindful of community standards), analysis, casting, rehearsal, and performance;

(b) manage/supervise the technical requirements and use current and emerging technologies of a theatrical production/~~activity~~ by effectively planning and executing scenery, lights, make-up, sound, properties, costumes, special effects, promotion and publicity; and

(c) use production/~~activity~~ as a measurement/evaluation of current and future goals and objectives.

(4) ~~Candidates~~ The program requires candidates interact with the community; ~~as a resource person who~~ and successful candidates:

(a) contributes in the development of facilities;

(b) supervises classroom projects, assembly programs, or any activity that involves elements of theatre;

(c) assists planning comprehensive theatre and/or other fine arts curriculum including video/film; and

(d) advocates in their school and the larger community for theatre instruction and performances.

(5) The program requires candidates demonstrate knowledge and use of educational theatre resources and professional organizations.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.509 ENGLISH/LANGUAGE ARTS (1) The program requires that successful candidates:

(a) apply theory, research, and practice of in English/language arts throughout program preparation and performance requirements to plan standards-based learning experiences for all students;

(b) ~~demonstrate skills and strategies used in creating an inclusive and supportive learning environment in which all students engage in learning~~ plan, implement, assess, and reflect on instruction that increases motivation and active student engagement; builds sustained learning of English/language arts and responds to diverse students' needs;

(c) ~~demonstrate the implementation of instruction and assessment that assist students in developing skills and habits in critical thinking~~ plan, implement, assess, and reflect on English/language arts and literacy instruction that promotes critical thinking and creative engagement with complex issues related to social justice, diversity, and democracy;

(d) ~~make connections between the English/language arts curriculum and developments in culture, society, and education;~~

(e) (d) engage their students in activities learning experiences that demonstrate the role of the arts, humanities, and other content areas in English/language arts; ~~and~~

~~(f) (e) demonstrate understanding of legal and ethical issues in English/ language arts such as freedom of expression, censorship, and bias in literature;~~

~~(2) (f) Candidates are knowledgeable about demonstrate understanding of theory and research and apply knowledge in the areas of language, oral discourse, reading processes, writing processes, literature, print and non-print media texts, which are inclusive of texts from and about American Indians and tribes in Montana, and technology, research theory and findings. Candidates demonstrate;~~

~~(a) (g) knowledge of and skills in the use of the English language plan, implement, assess, and reflect on standards-based instruction that incorporates knowledge of language, including structure, history, and conventions; and facilitate students' comprehension and creation of oral and written discourse and print and non-print texts;~~

~~(b) (h) knowledge of and skills in the use of oral discourse plan, implement, assess, and reflect on standards-based instruction that incorporates knowledge of oral communication and interpersonal (verbal/non-verbal) communication for various contexts, purposes, and audiences;~~

~~(c) knowledge of and skills in the use of reading processes, (e.g., phonemic awareness, word identification and phonics, vocabulary and background knowledge, fluency, comprehension strategies, and motivation)~~

~~(i) plan, implement, assess, and reflect on standards-based instruction that integrates individual and collaborative approaches and that demonstrates a variety of reading comprehension strategies appropriate for reading purposes and genres;~~

~~(d) knowledge of and skills in writing processes~~

~~(j) plan, implement, assess, and reflect on standards-based instruction that integrates individual and collaborative approaches and technologies and that demonstrates an understanding of writing processes and strategies in different genres for a variety of purposes and audiences;~~

~~(e) knowledge of and skills in using~~

~~(k) plan, implement, assess, and reflect on standards-based instruction in literature, integrating an extensive range of literature, authors, print and non-print texts and genres, including historic and contemporary works by and about Montana American Indians and tribes in Montana;~~

~~(f) knowledge of and skills in the use of print and nonprint media and technology in contemporary culture~~

~~(l) plan, implement, assess, and reflect on standards-based instruction integrating technologies and/or digital media to compose multimodal discourse; and~~

~~(g) knowledge of research theory and findings in English/language arts; and~~

~~(h) the disposition and skills needed to integrate knowledge of English/ language arts, students, and teaching.~~

~~(m) prepare to interact knowledgeably and professionally with students, families, and colleagues based on social needs and institutional roles; engage in leadership and/or collaborative roles in English/language arts professional learning communities; and continue to develop as professional educators.~~

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.510 STUDENTS WITH DISABILITIES PK-12 (1) The program requires that successful candidates:

(a) demonstrate an understanding of the philosophical, historical, and legal foundations of special education understand how exceptionalities may interact with development and learning and use this knowledge to provide culturally responsive, meaningful, and challenging learning experiences for individuals with exceptionalities;

(b) demonstrate an understanding of the similarities and differences in human development, knowledge of characteristics of learners of all ages and the educational, cultural, and environmental implications of characteristics of various exceptionalities, including implications for Montana American Indian learners understand how to create and implement personalized, safe, inclusive, and culturally responsive learning environments for all individuals with exceptionalities to become active and effective learners with positive social interactions, self-determination, and healthy well-being;

(c) demonstrate knowledge of exceptional conditions and the impact of learners' academic and social abilities, attitudes, interests, values, beliefs, and cultures on instruction and career development, including the impact on Montana American Indians use knowledge of general and specialized curricula, including curricula used in Montana schools, to implement individualized learning opportunities that align with the needs of students with exceptionalities;

(d) demonstrate the ability to effectively collaborate with families, other educators, related service providers, and personnel from community agencies in culturally responsive ways, and promote and advocate the learning and well-being of individuals with exceptional learning needs use multiple methods of assessment and data sources to identify individualized learning needs and make a variety of education decisions (i.e., administer and score standardized assessments, interpret and present assessment results, write Present Levels of Academic Achievement and Functional Performance (PLAAFPS) (34 CFR 300.320(a)(1)), write measurable goals and objectives, and use data to monitor progress);

(e) create learning environments for individuals with exceptional learning needs that foster positive social interactions, cultural understanding, safety, emotional well-being, and active engagement select, adapt, and use a repertoire of evidence-based instructional strategies and assistive technology to advance learning of individuals with exceptionalities;

(f) demonstrate knowledge and understanding of typical and atypical language development and the ways in which exceptional conditions interact with an individual's experience with and use of language, and demonstrate knowledge and use of individualized strategies to enhance language development and teach communication skills guide professional practices by using foundational knowledge of the field along with professional ethics and standards;

(g) demonstrate knowledge of and apply research-based instructional strategies to individualize learning, and to plan, develop, implement, modify, and evaluate curriculum collaborate and communicate in culturally responsive ways with all individuals involved in the special education process to improve programs, services, and outcomes for individuals with exceptionalities and their families (i.e., facilitating meetings, scheduling services, implementing accommodations and

modifications);

~~(h) demonstrate knowledge of multiple types of assessment information for educational decisions; demonstrate knowledge of legal policies, ethical principles of measurement and assessment related to referral, eligibility, program planning, instruction, and placement for individuals with exceptional learning needs, and understand measurement theory and practices for addressing issues of validity, reliability, norms, bias, and interpretation of assessment results~~ an understanding of the philosophical, historical, and legal foundations of special education;

~~(i) demonstrate knowledge of individualized decision making and instruction and develop individualized instructional plans integrating general and special education learning expectations~~ typical and atypical language development and use systematic evidence-based instruction to enhance language development and teach communicative competence;

~~(j) demonstrate knowledge and understanding of personal, cultural, and socioeconomic biases and how teaching style differences affect one's teaching~~ special education laws and regulations, procedural safeguards, ethical concerns, evaluations/documentation, and appropriate instructional strategies and techniques to support students with social-emotional/behavioral needs (e.g., positive behavior intervention plans/supports); and

~~(k) demonstrate understanding of ethical and professional practices; and proficiency in Montana special education procedural competencies including knowledge of state and federal laws along with the 13 legally defined categories, knowledge of the Achievement in Montana (AIM) system and state forms, special education processes, identification of social and cultural movements in special education law, and court cases which shaped special education law, understand legal resources to assist decision making, and the ability to navigate federal and Montana law.~~

~~(l) demonstrate knowledge and understanding of psychological perspectives, applicable laws and regulations, procedural safeguards, ethical concerns, and appropriate instructional strategies, practices, and techniques to support students with challenging behaviors.~~

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.511 WORLD LANGUAGES (1) The program requires that successful candidates:

~~(a) demonstrate knowledge of phonetics, phonology, morphology, syntax, second language acquisition, and other aspects of linguistics (applied to the specific language or applied to second language study as a whole), literature, and culture~~ understanding of the major linguistic features of the target language (i.e., phonology, morphology, syntax, semantics) and describe the structure, function, and meaning of target language discourse;

~~(b) explain rules for word and sentence formation (e.g., verbal system, agreement, use of pronouns) and provide examples;~~

(c) identify and explain pragmatic and sociolinguistic features (e.g., politeness, formal/informal address) of the target discourse and identify features for creating coherence and discourse in extended spoken and written texts;

~~(b) (d) demonstrate sufficient listening comprehension to understand most routine social conventions, conversations on school or work requirements, and discussion on concrete topics related to particular interests and special fields of competence~~ short conventional narrative and descriptive texts, such as descriptions of persons, places, and things; and narrations about past, present, and future events;

~~(c) demonstrate oral proficiency to satisfy most work requirements, and show some ability to communicate on concrete topics relating to particular interests and special fields of competence;~~

~~(d) demonstrate reading comprehension for factual information in nontechnical prose and concrete topics related to special interests, read for information and description, follow a sequence of events and react to that information, and separate main ideas and details in material written for the general public;~~

~~(e) demonstrate the ability to write about most common topics with some precision and in some detail, write detailed resumes and summaries, take accurate notes, write social and informal business correspondence, describe and narrate personal experiences, explain simple points of view in prose discourse, and write about concrete topics relating to particular interests and special fields of competence in paragraph-length discourse, narrate and describe in the major time frames with some control of aspect;~~

~~(f) demonstrate a working social and professional competence in cultural skills (reflecting the international character of present-day social, political, and economic ties among countries) handle the linguistic challenges presented by a complication or unexpected turn of events appropriately within the context of a situation;~~

~~(g) demonstrate knowledge of and strategies to build connections with native cultures~~ deliver oral presentations extemporaneously on familiar literary and cultural topics and those of personal interest, using a variety of strategies to tailor the presentation to the needs of their audience;

~~(h) demonstrate understanding of language as an essential element of culture, of the principal ways in which the second language culture differs from the first language culture, first-hand knowledge of literary masterpieces, and the geography, history, art, and social customs of major lands in which the language is dominant~~ understand conventional written narrative and descriptive texts, such as descriptions of persons, places, and things and narrations about past, present, and future events;

~~(i) demonstrate and apply an understanding of the differences between the grammatical systems of the second language and those of English~~ write narratives, descriptions, and summaries on topics of general interest in all major time frames with good control of aspect;

~~(j) demonstrate knowledge of the present-day objectives of second language teaching as communication, an understanding of the methods and techniques for attaining these objectives, and the ability to evaluate the professional literature of~~

second language teaching understanding of language as an essential element of culture;

(k) demonstrate knowledge of the use of special techniques, such as educational media, the internet and electronic mail, and the relation of second language study to other curricular areas; and cultural perspectives as reflected in daily living patterns and societal structures, including geography, history, religious, and political systems, literature, fine arts, media, and a variety of cultural products;

(l) connect perspectives to the products and practices of a culture as a way to compare the target culture to their own or to compare a series of cultures;

(m) interpret and synthesize ideas from literary and other cultural texts that represent defining works in the target cultures;

(n) identify themes, authors, historical style, and text types in a variety of media that the cultures deem important to understanding their traditions;

(o) provide opportunities for students to connect to the target language and culture through a variety of means, including technology, as a key component of their classroom practice;

(p) exhibit ease, originality, and flexibility in applying language acquisition theories to instructional practice, using a wide variety of strategies to meet the linguistic needs of their students at various developmental levels;

(q) tailor language use to students' developing proficiency levels and use a variety of strategies to help students understand oral and written input;

(r) use the target language to the maximum extent in the classroom at all levels of instruction;

(s) demonstrate an understanding of the national and state standards for foreign language learning to make instructional decisions;

(t) understand how to integrate interpersonal, interpretive, and presentational modes of communication in instruction;

(u) design authentic and standards-based performance assessments using the three modes of communication to measure student progress in communicative and cultural competencies;

(v) design a content-based curriculum which integrates content from other subject areas into instruction; and

(l) remains the same but is renumbered (w).

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

(3) ~~The Native American language requires that successful candidates demonstrate the knowledge of and competence in Native American languages as attested by the appropriate tribal authority.~~

(4) ~~The English as a Second Language (ESL) program requires that successful candidates:~~

~~(a) demonstrate knowledge of the linguistic structure of the language and features of the culture which uses the native language understanding of language as a system, including phonology, morphology, syntax, pragmatics, and semantics;~~

~~(b) use the major language acquisition theories to develop a standards-based ESL curriculum which teaches language and literacy through academic content areas;~~

~~(b) (c) demonstrate knowledge of and use of instructional strategies, methods, and skills for teaching English as a second language; and understanding~~



of how cultural groups and individual cultural identities affect language learning and school achievement;

(d) demonstrate understanding of various assessment issues as they affect English language learners (ELLs), such as accountability, bias, special education testing, language proficiency, and accommodations in formal testing situations;

(e) demonstrate understanding of language proficiency instruments used for identification, placement, and reclassification of ELLs;

(f) demonstrate the ability to build partnerships with colleagues and students' families, serve as community resources, and advocate for equal access to educational resources for ELLs; and

(c) remains the same but is renumbered (g).

(4) The Native American language program and culture specialist licensure requires that successful candidates demonstrate the knowledge of and competence in languages of American Indians and tribes in Montana, as attested by the appropriate tribal authority, pursuant to ARM 10.57.436.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.513 HEALTH (1) The program requires that successful candidates:

(a) utilize health-related data about the social and cultural environments inclusive of Montana Indian tribes, impacting growth and development factors, needs, and interests of students to promote healthy lifestyles and behaviors inclusive of American Indians and tribes in Montana;

(b) distinguish between behaviors and external factors (family, peers, culture, media, technology) that foster promote health enhancement and those that hinder well-being;

(c) conduct needs assessments that provide appropriate data to determine health education needs based on observed and obtained data of the learners and diverse populations;

(d) use advocacy and communication skills to recruit school and community representatives to support and assist in health education program planning;

(e) develop a logical scope and sequence plan for a health education program that includes a display of functional knowledge of health promotion and disease prevention concepts related to alcohol and other drugs, injury prevention, nutrition, physical activity, sexual health, tobacco, mental health, suicide prevention, personal and consumer health, including goal settings, interpersonal communication, and decision skills to enhance health and community and environmental health;

(f) formulate appropriate and measurable learner goals and objectives that promote healthy lifestyles and behaviors;

(g) design health educational strategies consistent with specified learner goals and objectives to encourage the practice of healthy behaviors to promote physical and cognitive health;

(h) remains the same.

(i) select resources and media best suited to implement program plans for diverse learners, including relevant resources for American Indians and tribes in

~~Montana. Resources and media must meet the guidelines set for Indian Education for All (20-1-501, MCA);~~

~~(j) demonstrate competence in delivering planned health education programs;~~

~~(k) evaluate health educational programs, adjusting objectives and instructional strategies as necessary;~~

~~(l) plan to assess student achievement of based on health education program objectives, interpret results, and determine future program needs;~~

~~(m) implement evaluation plans;~~

~~(n) interpret results of program evaluation and examine implications of evaluation findings of future program planning;~~

~~(o) (m) design and develop a plan for coordinating health education with other components of a school health program;~~

~~(p) (n) demonstrate the dispositions and communication skills to facilitate cooperation among health educators, other teachers, and appropriate school staff;~~

~~(q) remains the same but is renumbered (o).~~

~~(r) design professional development programs for teachers, other school personnel, community members, and other interested individuals;~~

~~(s) and (t) remain the same but are renumbered (p) and (q).~~

~~(u) (r) synthesize valid and reliable health data and respond to requests for health information;~~

~~(v) (s) select effective, educational valid, and reliable health resource materials for dissemination;~~

~~(w) (t) interpret concepts, purposes, models, and theories of health promotion and health education;~~

~~(x) remains the same but is renumbered (u).~~

~~(y) (v) select a variety of communication methods and techniques in providing health information and adapt health information to a specific target audience; and~~

~~(z) (w) develop effective communication between health care providers and consumers working cooperatively as an advocate for improving personal, family, and community health.~~

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.514 FAMILY AND CONSUMER SCIENCES (1) and (1)(a) remain the same.

(b) illustrate how each domain of human well-being including social, economic, financial, emotional, spiritual, physical, and intellectual can be enriched in every family and consumer sciences content area;

~~(b) (c) use manage resources responsibly to address the diverse needs and goals of individuals, families, and communities in all family and consumer sciences areas, such as resource management, consumer economics, financial literacy, living environments, and textiles and apparel including, but not limited to, practices related to human, economic, and environmental resources;~~

~~(c) (d) apply principles of early childhood, human development, and~~

interpersonal relationships, ~~and family~~ to strengthen relationships for individuals and families across the life span in contents such as parenting, care giving, and the in the family, workplace, and communities throughout the life span;

~~(d)~~ (e) apply principles of nutrition, ~~food, and wellness practices that enhance individual and family well-being across the life span,~~ culinary arts, and sustainability of wellness practices and address related concerns in a global society;

~~(e)~~ (f) develop, justify, and implement curricula that address perennial and evolving family, career, and community issues, and reflect the integrative nature of family and consumer sciences, ~~and integrate core~~ across all academic areas;

~~(f)~~ (g) create and implement a safe, supportive learning environment that shows sensitivity to diverse needs, values, and characteristics of students, families, and communities, including American Indians ~~(20-1-501, MCA)~~ and tribes in Montana;

(g) remains the same but is renumbered (h).

~~(h)~~ (i) assess, evaluate, and improve student learning and programs in family and consumer sciences using appropriate criteria, standards, and processes; ~~and~~

~~(i)~~ (j) integrate leadership strategies from Family, Career, and Community Leaders of American (FCCLA) or other sources into the program to develop students' academic growth, application of family and consumer sciences content, leadership, service learning, and career development; and

(k) facilitate each student's critical thinking and problem solving in family and consumer sciences through varied instructional strategies and technologies and through responsible management of resources in schools, communities, and the workplace.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

#### 10.58.515 INDUSTRIAL/ TRADES AND TECHNOLOGY EDUCATION

(1) and (1)(a) remain the same.

(i) a mission statement with stated goals and objectives that reflect the intent of industrial/~~technology~~ trades and technology education programs, as guided by the national professional organizations;

(ii) remains the same.

(iii) content orientated toward ~~technology education (TE) or industrial~~ trades and technology ~~(IT)~~ education;

(b) demonstrate ~~knowledge of content area(s) in which the candidate teaches~~ knowledge/competency in applied science, technology, engineering, mathematics, and communication, including:

(i) ~~fundamental~~ knowledge about the development of technology, its effects on people, industry, the environment, and society;

(ii) communication technology, which includes information-related technology that uses resources to transfer information and to extend human potential;

(ii) remains the same but is renumbered (iii).

~~(iii) communication technology, which includes information-related technology that uses resources to transfer information and to extend human potential;~~

- (iv) through (vii) remain the same.
- (c) demonstrate knowledge of quality workmanship and work ethics;
- (d) through (j) remain the same.
- (k) apply and use ~~other~~ content knowledge ~~(e.g., mathematics, science, history)~~ from other disciplines to technology to solve individual and social problems inclusive of gender equity and culturally sensitive opportunities;
- ~~(l) introduce career opportunities in industrial/technology and related fields and encourage and advise students about postsecondary options;~~
- (l) know and understand the rules and requirements and how to obtain access to industry certifications (i.e., automotive, welding, machining);
- ~~(m) demonstrate knowledge of educational environments in the classroom and laboratory that enhance student learning;~~
- ~~(n) select and apply appropriate instructional strategies for individual and group instruction;~~
- ~~(o) (m) demonstrate knowledge of and apply safe laboratory management skills (e.g., maintaining inventory, filing, requisitioning equipment and materials, maintenance, and budgeting) including OSHA 10 requirements, with emphasis on the facilities, personal safety equipment, and environmental concerns;~~
- ~~(p) develop and use lesson plans and organize materials to meet the learning needs of students;~~
- ~~(q) develop and implement classroom management consistent with school policy;~~
- ~~(r) demonstrate the development of personal and leadership competencies (e.g., citizenship, personal development, goal setting, parliamentary procedure, and teamwork)~~
- (n) demonstrate and apply ethical professional practice based on principles and philosophy of industrial trade and technology education and career technical education (CTE) through civic engagement, advocacy, and active participation in professional development and professional growth activities;
- (o) demonstrate an awareness of professional student organizations into the curriculum to provide an environment in which students grow professionally, personally, and socially; involve the business and industry community; and recognize the potential for these organizations to provide personal leadership development;
- (p) demonstrate a knowledge of the value of building professional relationships with stakeholders to produce a relevant learning environment and provide benefits to the student and the community including development of career pathways and work-based learning experiences;
- ~~(s) (q) articulate industrial/technology trades and technology education to the school and the local community publics;~~
- ~~(t) (r) develop and coordinate an external advisory committee for the program partnerships, advisory boards, and work-related experiences into the curriculum; and~~
- ~~(u) (s) demonstrate knowledge of and how to gain access to services and financial resources available from state and federal agencies and operate within applicable laws and regulations governing education;~~
- ~~(v) develop students' abilities to search, access, retrieve, synthesize, and apply information; and~~

~~(w) provide opportunities for students with work-related experience useful for employment entry after graduation.~~

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.516 JOURNALISM (1) through (1)(b) remain the same.

(c) demonstrate knowledge of the functions of the news media in a democratic society and ensure students understand their role in preserving free and independent news media;

(d) demonstrate knowledge of the organizational structure of the news media and the value of news for today's media consumers;

(e) through (h) remain the same.

(i) demonstrate knowledge of and apply skills in using multiple drafts, conferences, and self-assessment as guides for revision and editing, matching language use and style with the intended audience;

(j) and (k) remain the same.

(l) demonstrate the values and skills needed to package multimedia products effectively using various forms of journalistic design with a range of visual, auditory, and interactive media;

(m) demonstrate the value of auditory, visual, still photography, and photojournalism to tell stories in compelling ways;

~~(n) demonstrate knowledge of~~ develop a plan and apply strategies on how to organize staffs and demonstrate skills in leadership and group dynamics;

(m) remains the same but is renumbered (o).

~~(n) demonstrate knowledge of the purposes and characteristics of sound strategies in instructional planning and delivery;~~

(o) remains the same but is renumbered (p).

(q) communicate components of curriculum and instruction to students, parents, lay audiences, and other educators;

~~(p) create engaging learning environments by organizing students for effective whole class, small group, and individual work;~~

~~(q)~~ (r) integrate a variety of instructional strategies, materials, and technologies appropriate to the breadth of journalism content and the individual needs of students; and

~~(r) select, prepare, use, and evaluate varied assessment methods and procedures;~~

~~(s) communicate components of curriculum and instruction to students, parents, lay audiences, and other educators; and~~

(s) incorporate instruction in reading literacy and writing literacy in journalism as required by the Montana Content Standards, understanding that course organization needs to allow continuous student learning.

~~(t) create an inclusive and supportive learning environment in which all students can engage in learning.~~

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.517 LIBRARY MEDIA K-12 (1) The program requires that successful candidates:

(a) ~~demonstrate planning, implementing, teaching, and evaluating an integrated instructional program in information literacy, including working collaboratively with students and certified and support staff in the development of K-12 curriculum that promotes information literacy to prepare independent, lifelong learners, including the implementation of Indian Education for All, 20-1-501, MCA; the ability to design, implement, assess, and evaluate an information literacy program that prepares independent lifelong learners and includes the ability to demonstrate collaboration techniques with students and staff in the development and implementation of K-12 curriculum;~~

(b) ~~demonstrate the ability to manage the library facility to meet school district goals and exhibit professional best practices through policy development, budgeting, needs assessment, market analysis, technical skills, and collaboration with students, faculty, and administrators. Candidates demonstrate competency in library program administration including strategic planning from which budgets, funding, facilities, equipment, and public relations are exhibited and professional standards met; by:~~

(i) utilizing current practices in the areas of policy development, budgeting, needs assessment, and collaboration with students and colleagues; and

(ii) demonstrating competency and professionalism in library program administration including budgeting, facilities, equipment, public relations, and program advocacy;

(c) promote reading for learning and enjoyment by demonstrating the ability to:

(i) manage library collections through evaluation, selection, acquisition, and organization of library materials for staff, faculty, and diverse learners, including American Indian learners;

(ii) collaborate with teachers and students in the selection of reading materials in print and digital formats; and

(iii) select materials which reflect knowledge of current youth literature, support a wide range of information needs and interests, and support American Indians and tribes in Montana;

(d) ~~demonstrate knowledge of acquisitions and technical services and the policies and procedures that govern these services; and~~

(e) use emerging information technologies and explain their impact on the K-12 library media program model and facilitate the effective use of current and emerging digital information tools to locate, analyze, evaluate, and efficiently and ethically use information to support research, learning, creating, and communicating in a digital society.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.518 MATHEMATICS (1) and (1)(a) remain the same.

(b) reason, construct, and evaluate mathematically in constructing,

evaluating, and communicating mathematical arguments and develop appreciation for mathematical rigor and inquiry;

(c) communicate mathematical thinking orally and in writing to peers, faculty, and others demonstrate an appreciation for mathematical rigor and inquiry;

(d) recognize, use, and make connections between and among mathematical ideas and in contexts outside mathematics to build mathematical understanding recognize, formulate, and apply connections between mathematical ideas and representations in a wide variety of contexts;

(e) use varied representations of mathematical ideas to support and deepen students' mathematical understanding demonstrate understanding of the mathematical modeling process by interpreting and analyzing mathematical results and models in terms of their reasonableness and usefulness;

(f) appropriately use current and emerging technologies as essential tools for teaching and learning mathematics; and recognize, use, and make connections between and among mathematical ideas and in contexts outside mathematics to build mathematical understanding including the ability to:

(i) attend to precision in mathematical language, notation, approximations, and measurements by consistently and appropriately applying mathematical definitions and procedures; and

(ii) choose appropriate symbolic representations and labels such as specifying units of measure, calculating accurately and efficiently, and expressing numerical answers with a degree of precision appropriate for the context and the data used in calculation;

(g) support a positive disposition toward mathematical processes and mathematical learning appropriately use current and emerging technologies as essential tools for teaching and learning mathematics;

(h) look for and recognize repeated reasoning patterns and the mathematical structures behind those patterns to organize and generalize mathematical methods and results in mathematical problem solving and inquiry;

(2) (i) demonstrate knowledge of how students learn mathematics and of the pedagogical knowledge specific to mathematics teaching and learning by demonstrating;

(i) how learners develop mathematical proficiency through the interdependent processes of integrating conceptual understanding, procedural fluency, strategic competence, adaptive reasoning, and productive disposition;

(ii) an understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments in mathematics and ensure high standards of mathematical work for all students;

(iii) an understanding of learning environments that promote mathematical learning, including individual and collaborative learning, positive social interaction about mathematics, active engagement in mathematics learning, and promote self-motivation among mathematical learners;

(iv) an understanding of multiple methods of assessment of mathematical learner growth, progress, and decision making;

(v) an understanding of a variety of instructional strategies that encourage learners to develop deep understanding of mathematics; and

(vi) an understanding of grades 5-12 mathematics curriculum as specified by

the State of Montana Content Standards and of the assessment process as specified by the Montana statewide assessment;

~~(3) (i) demonstrate content knowledge in:~~

~~(a) (i) numbers and operations by demonstrating computational proficiency, including a conceptual understanding of numbers, ways of representing number relations among number and number systems, and meanings of operations including knowledge and understanding of number systems, arithmetic algorithms, fundamental ideas of number theory, proportion and rate, quantitative reasoning, modeling, and applications;~~

~~(b) (ii) different perspectives on algebra including ways of representing mathematical relationships and algebraic structures knowledge and understanding of algebraic structures, basic function classes, functional representations, algebraic models and applications, formal structures and results in abstract algebra, and linear algebra;~~

~~(c) (iii) geometries by using spatial visualization and geometric modeling to explore and analyze geometric shapes, structures, and their properties geometry and trigonometry including knowledge and understanding of Euclidean and non-Euclidean geometries, geometric transformations, axiomatic reasoning and proof, formulas and calculations related to classical geometric objects, and properties of trigonometric functions;~~

~~(d) (iv) calculus by demonstrating a conceptual including knowledge and understanding of limit, continuity, differentiation, and integration involving single and multiple-variable functions, sequences and series, and a thorough background in the techniques and application of the calculus;~~

~~(e) (v) discrete mathematics by applying including knowledge and understanding of basic the fundamental ideas of discrete mathematics structures, counting techniques, iteration, recursion, formal logic, and applications in the formulation and solution of problems;~~

~~(f) (vi) data analysis, statistics, and probability by demonstrating including knowledge and understanding of concepts and practices related to data analysis, statistics, and probability descriptive statistics using numbers and graphs, survey design, sources of bias and variability, empirical and theoretical probability, simulation, and inferential statistics related to univariate and bivariate data distributions; and~~

~~(g) measurement by applying and using measurement concepts and tools~~

~~(vii) historical development and perspectives of various branches of mathematics including contributions of significant historical figures and diverse cultures, including American Indians and tribes in Montana.~~

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.519 MUSIC K-12 (1) The program requires that successful candidates:

~~(a) demonstrate ability to advise and encourage students about higher education and career opportunities related to the study and performance of music and music-related fields perform solo and small to large ensemble repertoire in~~



candidate's specialty area;

~~(b) demonstrate competence in the appropriate use of current and emerging technologies in contemporary music education, such as music writing programs, music theory/skills programs, keyboard/midi, and recording technology~~ perform in both vocal and instrumental ensembles;

(c) remains the same.

~~(d) perform solo and small to large ensemble repertoire at a high artistic level~~ demonstrate a comprehensive knowledge of musical notation and terminology;

~~(e) perform in both vocal and instrumental ensembles;~~

~~(f) demonstrate competence in performing and teaching voice, winds, string, and percussion instruments in order to conduct choral and instrumental ensembles;~~

~~(g) arrange and/or transpose music in an age- and level-appropriate manner~~ for ensembles and classroom situations;

~~(h) (f) demonstrate~~ basic competence in performing and teaching voice, winds, string, and percussion instruments, including a comprehensive knowledge of musical notation and language and skill in conducting and score reading, in order to instruct and conduct choral and instrumental ensembles;

~~(i) demonstrate a comprehensive knowledge and skill in conducting and score reading for choral and instrumental ensembles;~~

~~(j) (g) demonstrate~~ through analysis and performance an understanding of aural perception to distinguish tonal and temporal relationships;

~~(k) (h) demonstrate~~ through analysis and performance an understanding of the elements of music, including melody, harmony, rhythm, tempo, timbre, tone, dynamics, and form, and style;

~~(i) demonstrate~~ through analysis and performance knowledge of acoustics and the physics of sound as it relates to instrumental sound production, timbre, and tone quality;

~~(j) develop an understanding of post K-12 opportunities available to students, including post-secondary, other post K-12 education, and career opportunities~~ related to the study and performance of music and music-related fields;

~~(l) analyze music aurally and visually in terms of musical elements;~~

~~(m) demonstrate knowledge of acoustics and the physics of sound;~~

~~(n) (k) identify music stylistically and place it in an~~ in terms of style, historical period, and cultural significance as it relates to instruction, rehearsal, and performance;

~~(o) (l) demonstrate knowledge, awareness, and appreciation of past and present music of Montana's cultures, especially Montana American Indian cultures, and world musical cultures, including those of American Indians and tribes in~~ Montana;

~~(m) demonstrate understanding of the diversity of students with regard to culture, backgrounds, and abilities, including the cultures of American Indians and tribes in Montana;~~

~~(p) (n) demonstrate knowledge of the relationship of music to other performing and visual arts, and other disciplines outside the arts;~~

~~(q) (o) demonstrate an understanding of the aesthetic, philosophical, and psychological aspects of music, and music's contribution to the individual and society; and~~

~~(r) demonstrate knowledge of the relationship of music to other disciplines outside the arts;~~

~~(s)~~ (p) demonstrate knowledge and understanding of how children learn and develop, both as individuals and as part of a group, with regard to music instruction;

~~(t) demonstrate understanding of the diversity of their students with regard to learning styles, backgrounds, and abilities, including American Indian cultures pursuant to 20-1-501, MCA;~~

~~(u)~~ (q) use a variety of age-appropriate instructional strategies to develop students' critical thinking, problem solving, and performance skills;

(r) demonstrate competency in promoting student creativity through age- and ability-appropriate instruction in interpretation, improvisation, and composition;

~~(v) structure appropriate learning environments for K-12 music instruction;~~

~~(w)~~ (s) plan instruction based on their candidate's musical knowledge and needs of the curriculum, their the candidate's students, school, and the community, and curriculum goals;

~~(x)~~ (t) demonstrate understanding of and use varied age-appropriate assessment strategies to evaluate and ensure continuous and consistent musical development of students;

~~(y) evaluate the effects of their choices and actions on others; and~~

(u) demonstrate continuing competence in the appropriate use of current and emerging technologies in contemporary music education, such as music writing programs, music theory/skills programs, keyboard/midi, online resources, amplification, and recording technology and their relationship to acoustics and sound;

(v) demonstrate understanding of how to structure appropriate learning environments for K-12 music instruction, including appropriate pacing, modeling, and rehearsal organization;

~~(z)~~ (w) develop demonstrate an understanding of the need for positive relationships with colleagues, parents, and community members to support student learning and program continuity;

(x) demonstrate an understanding of strategies for managing a music program in terms of equipment management and maintenance, instructional materials, co-curricular activities including music performance and participation, and finance management including fundraising, grants, and sponsorships; and

(y) demonstrate an understanding of the implementation of age-appropriate classroom management for the music classroom.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.520 PHYSICAL EDUCATION (1) through (1)(b) remain the same.

(c) describe performance concepts and strategies related to skillful movement and physical activity ~~(e.g., including~~ fitness principles, game tactics, and skill improvement principles);

(d) remains the same.

(e) demonstrate knowledge and understanding of ~~approved~~ state and national content standards, current law, including ~~Indian Education for All~~ (20-1-501,

MCA) those related to American Indians and tribes in Montana, and local program goals as related to in physical education;

~~(f) identify, select, and implement appropriate learning/practice opportunities of K-12 physical education students based on developmental needs, expected progression, level of readiness, understanding the student, the learning environment, and the task;~~

~~(g) identify, select, and implement appropriate demonstrate understanding and use of current and proven instructional strategies, services, and resources that are responsive to students' strengths and/or weaknesses, multiple needs, learning styles, and prior experiences (e.g., personal, family, community, and cultural inclusive of Montana's Indian tribes) to promote skillful movement and physical activities;~~

~~(h) use organizational and managerial skills to create efficient, active, and equitable learning experiences in physical education and development that are responsive to students' strengths, interests, challenges, individual prior experiences, and diverse cultural heritages including the distinct cultural differences of American Indians and tribes in Montana;~~

~~(i) use a variety of developmentally and culturally appropriate practices (e.g., content selection, instructional formats, use of music, and appropriate incentives/rewards) to motivate school-age K-12 students to participate in indoor and outdoor physical activity inside and outside of the school to promote physical and cognitive health;~~

~~(j) use strategies to help students demonstrate responsible personal and social behaviors (e.g., including mutual respect, support ~~for~~ of others, safety, and cooperation) that promote positive relationships and a productive learning environment;~~

~~(k) develop and apply an effective classroom management plan;~~

~~(l) describe and demonstrate effective communication skills;~~

~~(m) describe and implement demonstrate knowledge and use of instructional strategies to enhance communication among students in physical activity settings;~~

~~(n) identify, develop, and implement appropriate program and instructional goals based on short and long term goals that are linked to student needs;~~

~~(o) design and implement learning experiences that are safe, appropriate, relevant, and based on principles of effective instruction;~~

~~(p) provide learning experiences that allow students to integrate knowledge and skills from multiple subject areas;~~

~~(q) select and implement instructional strategies for reading and writing within the content area;~~

~~(r) develop and apply direct and indirect instructional formats to facilitate student learning (e.g., ask questions, pose scenarios, facilitate factual recall, promote problem solving, and critical thinking);~~

~~(s) demonstrate knowledge of components of various types of assessment, describe their appropriate and inappropriate use, and address issues of validity, reliability, and bias;~~

~~(t) demonstrate knowledge and apply assessment techniques to assess student performance, provide feedback, and communicate student progress (i.e., for both formative and summative purposes);~~

- ~~(u) interpret and use performance data to make informed curricular and instructional decisions;~~
- ~~(v) evaluate personal instructional performance (e.g., description of teaching, justification of the teaching performance, critique of the teaching performance, the setting of teaching goals, and implementation of change);~~
- ~~(w) construct a plan for continued professional growth based on the assessment of personal teaching performance and school-based needs;~~
- ~~(x) design, develop, and implement student learning activities that integrate information~~
- (l) demonstrate knowledge and use technology tools and instruments to monitor students' motor skills, development, and performance;
- ~~(y) use technologies to communicate, network, locate resources, and enhance continuing professional development;~~
- ~~(z) (m) demonstrate strategies to become an advocate in the school and community to promote a variety of health-enhancing opportunities; and~~
- ~~(aa) (n) participate in the professional health education and physical education community (e.g., school, district, state, tribal, and national) and within the broader education field;~~
- ~~(ab) identify, seek, and utilize community resources to promote health enhancing opportunities; and~~
- ~~(ac) establish productive relationships with parents/guardians and school colleagues to support student growth and well being.~~

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.521 READING SPECIALISTS K-12 (1) The program requires that successful candidates:

- ~~(a) demonstrate knowledge of~~ understand the theoretical and evidence-based foundations of reading and writing processes and instruction as outlined in the Montana Content Standards, including:
  - ~~(i) knowledge of a wide range of evidence-based reading research and histories of reading~~ understanding of the historically shared knowledge of the profession and changes over time in the perceptions of reading and writing development, processes, and components;
  - ~~(ii) knowledge of a philosophy of reading instruction which recognizes the importance of teaching reading and writing as processes~~ understanding of the role of analyzing data and adjusting instruction for improving all students' reading development and achievement in order to meet the needs of individual learners; and
  - ~~(iii) demonstrating knowledge and awareness of reading components (e.g., phonemic awareness, word identification and phonics, vocabulary and background knowledge, fluency, comprehension strategies, and motivation), and how these are integrated in fluent reading and the writing process;~~
  - ~~(iv) an understanding and recognition of the distinct and unique cultural heritage of American Indians~~ and tribes in Montana; and
  - ~~(v) appropriate use of educational technology in the reading program;~~
- ~~(b) demonstrate knowledge and understanding of individual, cultural,~~

linguistic, and ethnic diversity in the teaching process; create and engage their students in literacy practices that develop awareness, understanding, respect, and a valuing of differences in our society by:

(i) recognizing, understanding, and valuing the forms of diversity that exist in society and their importance in learning to read and write;

(ii) using a literacy curriculum and engaging in instructional practices that positively impact students' knowledge, beliefs, and engagement with the features of diversity; and

(iii) developing and implementing strategies to advocate for equity;

(c) demonstrate use instructional practices, approaches, methods, and curriculum materials, and an integrated comprehensive, balanced curriculum to support student learning in reading and writing instruction; by:

(i) utilizing foundational knowledge to design or implement an integrated, comprehensive, and balanced curriculum;

(ii) utilizing appropriate and varied instructional approaches, including those that develop word recognition, language comprehension, strategic knowledge, and reading/writing connections, including the use of appropriate technology; and

(iii) utilizing a wide range of texts (e.g., narrative, expository, and poetry) from traditional print, digital, and online resources;

(d) demonstrate use a variety of assessment tools and practices to plan and evaluate effective reading and writing instruction; and by:

(i) understanding types of assessments and their purposes, strengths, and limitations;

(ii) selecting, developing, administering, and interpreting assessments, both traditional print and electronic, in order to make decisions based on data; and

(iii) using assessment information to plan, evaluate, reflect on, and adjust instruction;

(e) integrate foundational knowledge and use instructional practices, approaches and methods, curriculum materials, and assessments to monitor and evaluate the reading program and student learning. create a literate environment that fosters reading and writing by integrating foundational knowledge, instructional practices, approaches and methods, curriculum materials, and the appropriate use of assessments by:

(i) designing the physical environment to optimize students' use of traditional print, digital, and online resources in reading and writing instruction;

(ii) designing a social environment that is low risk and includes choice, motivation, and scaffolded support to optimize students' opportunities for learning to read and write; and

(iii) utilizing routines to support reading and writing instruction (e.g., time allocation, transitions from one activity to another, discussions, and peer feedback).

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.522 SCIENCE (1) The science program ensures that successful candidates follow the subject major and/or minor program of study or the broadfield major program of study. Subject major and/or minor teaching endorsement

programs are limited to biology, earth science, chemistry, and physics. The physical science endorsement is a balanced combination of physics and chemistry. The broadfield major includes a concentration in one of the endorsable disciplines, coupled with balanced study in three other endorsable science disciplines. Science disciplines selected adhere to a scope and sequence which ensures a thorough grounding in the basic concepts, skills, and dispositions associated with Montana and national K-12 content standards.

(2) remains the same.

(a) ~~demonstrate a thorough understanding of inquiry-based learning across the sciences. This preparation includes:~~ the nature of science and essential science engineering practices, including:

(i) ~~both breadth and depth of knowledge in science, including recent significant changes in the field, as reflected by national standards~~ Montana Content Standards, the science framework and their impact on the content knowledge necessary for teaching K-12 students;

(ii) understanding and articulating the knowledge and practices of contemporary science and engineering;

(iii) competency in basic mathematics, statistics, and current and emerging technological applications to science teaching;

~~(iii)~~ (iv) preparation and experience in environmental science, including Montana American Indians and tribes in Montana and their traditional relationships to the environment; and

~~(iv)~~ (v) methods to engage in active inquiry lessons in a variety of ways where students ask questions, develop and use models, plan and carry out investigations, analyze and interpret data using applicable science-specific technology, mathematics, and computational thinking, in order to construct explanations and solutions and communicate concepts by engaging in argument from evidence;

(b) ~~demonstrate knowledge and skills in the methods of guided and facilitated learning in order to interpret and communicate science research~~ in obtaining, evaluating, and communicating information using multiple sources in order to communicate claims, methods, and designs to others;

(c) ~~apply instructional strategies which model learning environments with extended time, appropriate space, and resources with equipment and technology found in the contemporary secondary classroom~~ use a variety of strategies that demonstrate the candidates' knowledge of the appropriate teaching and learning activities, including laboratory or field settings and applicable instruments and technology, or both;

(d) ~~demonstrate understanding and experience of how to develop and maintain the highest levels of safety in classrooms, stockrooms, laboratories, and other areas related to instruction in science~~ safe laboratory management skills;

(e) ~~demonstrate knowledge of formative and summative assessment techniques which model a variety of authentic and equitable assessment strategies that ensure the continuous intellectual, social, and personal development of the learner in all aspects of science~~ practice ethical treatment of living organisms in the classroom; and

~~(f) apply and evaluate models of interdisciplinary approaches to provide experiences in understanding science; interrelate and interpret important concepts, ideas, and applications in their field of endorsement and supporting disciplines.~~

~~(g) articulate a well-defined rationale for instructional goals, materials, and actions in relation to state and national education standards and student achievement.~~

~~(3) The candidate for an endorsement in earth science has the following knowledge and skills, including demonstrates the following core competencies:~~

~~(a) remains the same.~~

~~(b) exploration and inquiry learning as tools in investigating all aspects of the natural environment, and knows how to apply and teach these methods when instructing students;~~

~~(c) through (f) remain the same but are renumbered (b) through (e).~~

~~(g) (f) conceptual understanding of ethical and human implications of such contemporary issues as the impact of technologies on earth systems; and~~

~~(h) (g) ability to designing, developing, and evaluating field, demonstration, and laboratory instructional activities, and in using use special skills and techniques with equipment, technologies, and facilities which support and enhance curricula and instruction in earth science and especially techniques and strategies for using the local environment as a teaching/learning laboratory; and~~

~~(i) facilitating classroom discourse through questioning, reflecting on, and critically analyzing ideas, leading students toward a deeper understanding of the inquiry process itself and especially using questions to define problems and potential solutions.~~

~~(4) The candidate for an endorsement in biology demonstrates the following knowledge and skills, including core competencies:~~

~~(a) conceptual understanding of the unifying concepts of biological systems: cellular organization, order, sensitivity, growth/development/reproduction, energy utilization, evolutionary adaptation, and homeostasis life processes in living systems including organization of matter and energy;~~

~~(b) exploration and inquiry learning as tools in investigating all aspects of the natural environment and knows experimental design and how to apply and teach these methods conceptual understanding of the similarities and differences among animals, plants, fungi, microorganisms, and viruses;~~

~~(c) remains the same.~~

~~(d) course work in the diversity of life including zoology, botany, and microbiology, encompassing the subdisciplines and noting the interrelationships of physiology, genetics, ecology, and evolution conceptual understanding of the principles and practices of biological classification and the theory and principles of biological evolution;~~

~~(e) conceptual understanding of mathematics including a working knowledge of probability and statistics the ecological systems including the interrelationships and dependencies of organisms with each other and their environments;~~

~~(f) conceptual understanding of two out of three areas of physics, chemistry, or earth science emphasizing the interrelationships among the sciences population dynamics and the impact of population on its environment;~~

~~(g) conceptual understanding of the relationships between biology and molecular genetics and the impacts of biotechnology upon humans and their environment including ethical and legal implications~~ general concepts of genetics and heredity;

~~(h) designing, developing, and evaluating field, demonstration, and laboratory instructional activities, and in using special skills and techniques with equipment, facilities, and specimens which support and enhance curricula and instruction in biology; and~~ conceptual understanding of organizations and functions of cells and multi-cellular systems;

~~(i) facilitating classroom discourse through questioning, reflecting on, and critically analyzing ideas, leading students toward a deeper understanding of the inquiry process itself, and especially using questions to define problems and potential solutions.~~ understanding of the regulation of biological systems including homeostatic mechanisms;

~~(j) conceptual understanding of the fundamental processes of modeling and investigating in the biological sciences;~~

~~(k) understanding of the applications of biology in environmental quality and in personal and community health;~~

~~(l) conceptual understanding of bioenergetics including major biochemical pathways;~~

~~(m) understanding of biochemical interactions of organisms and their environments;~~

~~(n) conceptual understanding of molecular genetics and heredity and mechanisms of genetic modification;~~

~~(o) understanding of molecular basis for evolutionary theory and classification;~~

~~(p) conceptual understanding of the causes, characteristics, and avoidance of viral, bacterial, and parasitic diseases;~~

~~(q) understanding of the issues related to living systems such as genetic modification, uses of biotechnology, cloning, and pollution from farming; and~~

~~(r) conceptual understanding of applications of biology and biotechnology in society, business, industry, and health fields.~~

(5) The candidate for an endorsement in chemistry demonstrates the following ~~knowledge and skills, including~~ core competencies:

(a) remains the same.

~~(b) understanding of exploration and inquiry as tools in investigating all aspects of the natural environment and knows how to apply and teach~~ demonstrates knowledge of application and instruction using these methods when instructing students;

~~(c) systemic and quantitative study of the fundamental topics of chemistry, interrelated and illustrated with descriptive and historical perspectives, as well as the applications of chemistry in society~~ conceptual understanding of the fundamental structures of atoms and molecules;

~~(d) conceptual understanding of organic, inorganic, analytical, physical, and biochemistry, and their relationships with each other~~ the basic principles of ionic, covalent, and metallic bonding;



(e) ~~conceptual understanding of physics, biology, or earth science emphasizing the interrelationships among the sciences~~ the physical and chemical properties and classification of elements including periodicity;

(f) ~~conceptual understanding of mathematics including a working knowledge of calculus~~ chemical kinetics and thermodynamics;

(g) ~~conceptual understanding of the interaction of chemistry and technology in contemporary health, ethical, legal, and human issues (e.g., the effects of synthetic molecules and food additives on life systems and the disposal of toxic chemical wastes)~~ principles of electrochemistry;

(h) ~~designing, developing, and evaluating field, demonstration, and laboratory instructional activities, and in using special skills and techniques with equipment, technologies, facilities, and chemicals which support and enhance curricula and instruction in chemistry; and~~ understanding of the Mole concept, stoichiometry, and laws of composition;

(i) ~~facilitating classroom discourse through questioning, reflecting on, and critically analyzing ideas, leading students toward a deeper understanding of the inquiry process itself and especially using questions to define problems and potential solutions.~~ conceptual understanding of solutions, colloids, and colligative properties;

(j) understanding of transition elements and coordination compounds;

(k) conceptual understanding of acids and bases, oxidation-reduction chemistry, and solutions;

(l) understanding of fundamental biochemistry;

(m) conceptual understanding of the applications of chemistry in personal and community health and environmental quality;

(n) understanding of the molecular orbital theory, aromaticity, metallic and ionic structures, and correlation to properties of matter;

(o) conceptual understanding of the advanced concepts of chemical kinetics, and thermodynamics;

(p) understanding of Lewis structures and molecular geometry;

(q) conceptual understanding of major biological compounds and natural products;

(r) understanding of solvent system concepts;

(s) conceptual understanding of chemical reactivity and molecular structure including electronic and steric effects; and

(t) understanding of organic chemistry including syntheses, reactions, mechanisms, and aromaticity.

(6) The candidate for an endorsement in physics demonstrates the following knowledge and skills core competencies, including:

(a) ~~conceptual understanding in the unifying concepts and processes of systems order and organization, evidence models and explanation, change constancy, measurement, evolution and equilibrium, form and function~~ energy, work, and power;

(b) ~~exploration and inquiry learning as tools in investigating all aspects of the natural environment, and knows how to apply and teach these methods when instructing students~~ understanding of motion, major forces, and momentum;

(c) ~~systematic and quantitative study of the fundamental topics in physics, interrelated and illustrated with descriptive and historical perspectives, as well as the~~

applications of physics in society conceptual understanding of Newtonian physics with engineering applications;

(d) conceptual understanding of classical mechanics, electricity and magnetism, heat and thermodynamics, waves, optics, atomic and nuclear physics, radiation and radioactivity, relativity, quantum mechanics, and other fields of modern physics, and their relationships with each other conservation, mass, momentum, energy, and charge;

(e) conceptual understanding of biology, chemistry, or earth science emphasizing interrelationships among the sciences the physical properties of matter;

(f) conceptual understanding of mathematics, including an introduction to calculus kinetic-molecular motion and atomic models;

(g) conceptual understanding of interaction of physics and technology in contemporary health, ethical, legal, and human issues (e.g., power plant siting and waste disposal, long-range energy policies, and the effects of radiation on living systems) radioactivity, nuclear reactors, fission, and fusion;

(h) designing, developing, and evaluating field, demonstration, and laboratory instructional activities, and in using special skills and techniques with equipment, technologies, and facilities which support and enhance curricula and instruction in physics; and understanding of wave theory, sound, light, the electromagnetic spectrum and optics;

(i) facilitating classroom discourse through questions, reflecting on, and critically analyzing ideas leading students toward a deeper understanding of the inquiry process itself, especially using questions to define problems and potential solutions. conceptual understanding of electricity and magnetism;

(j) understanding of the fundamental processes of investigating in physics;

(k) conceptual understanding of the applications of physics in environmental quality and to personal and community health;

(l) understanding of thermodynamics and energy-matter relationships;

(m) conceptual understanding of nuclear physics including matter-energy duality and reactivity;

(n) understanding of angular rotation and momentum, centripetal forces, and vector analysis;

(o) conceptual understanding of quantum mechanics, space-time relationships, and special relativity;

(p) understanding of models of nuclear and subatomic structures and behavior;

(q) conceptual understanding of light behavior, including wave-particle duality and models;

(r) understanding of electrical phenomena including electric fields, vector analysis, energy, potential, capacitance, and inductance;

(s) conceptual understanding of issues related to physics such as disposal of nuclear waste, light pollution, shielding communication systems, and weapons development;

(t) understanding of historical development and cosmological perspectives in physics including contributions of significant figures and underrepresented groups, and evolution of theories in physics; and

(u) conceptual understanding of the applications of physics and engineering in society, business, industry, and health fields.

(7) The candidate for an endorsement in broadfield science demonstrates the following ~~knowledge and skills, including~~ core competencies:

(a) remains the same.

~~(b) exploration and inquiry learning as tools in investigating all aspects of the natural environment and knows how to apply and teach these methods when instructing students~~ ability to collect and interpret empirical data using applicable science-specific technology to develop science and engineering practices, understand the cross-cutting concepts and processes, relationships, and natural patterns;

~~(c) systematic and quantitative interdisciplinary study of the fundamental topics in biology, chemistry, physics, and earth science including descriptive and historical perspectives, as well as the applications of these sciences in society;~~

(d) study and experiences emphasizing interrelationships among all the sciences, as well as ~~between~~ cross-cutting concepts of the sciences and with other areas of study such as mathematics, technology, and engineering;

~~(e) conceptual~~ understanding of mathematics, including a working knowledge of calculus and statistics;

(f) conceptual understanding of the relationships among science, science technologies, and the study of environmental education;

(g) designing, developing, and evaluating field experiences, demonstrations, and laboratory instructional activities, and in using special skills and techniques with equipment, technologies, facilities, and specimens which support and enhance curricula and instruction in all sciences including laboratory and field studies that promote the science and engineering practices, investigation and inquiry, and the use of experimental methods;

~~(h) conceptual understanding of earth sciences including~~ course-work content in astronomy, geology, paleontology, meteorology and oceanography, and their relationships with each other;

~~(i) conceptual understanding of biology including~~ course-work content in zoology, botany, physiology, genetics, ecology, microbiology, cell biology/biochemistry, and evolution, and their relationships with each other. ~~This preparation must include study and experiences emphasizing living organisms;~~

~~(j) conceptual understanding of chemistry including~~ course-work content in organic, inorganic, analytical, ~~physical~~ and biochemistry and their relationships with each other;

(k) conceptual understanding of physics including course-work content in classical mechanics, electricity and magnetism, heat and thermodynamics, waves, optics, atomic and nuclear physics, radiation and radioactivity, relativity, quantum mechanics, and other fields of modern physics and their relationships with each other; and

(l) facilitating classroom discourse through questioning, reflecting on, and critically analyzing ideas, leading students toward a deeper understanding of the inquiry process itself, and, especially, using questions to define problems and potential solutions.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.523 SOCIAL STUDIES (1) The social studies program ensures that successful candidates follow the subject-major/minor program of study or the broadfield major program of study. Subject-major/minor teaching endorsement programs are limited to history, government, economics, geography, psychology, and/or sociology. The broadfield social studies teaching endorsement shall include a concentration in history and government and additional ~~course work content~~ chosen from economics, geography, psychology, and/or sociology, Native American studies, or anthropology. The social studies disciplines adhere to a thorough grounding in the basic philosophy, theory, concepts, and skills associated with Montana and national standards.

(2) remains the same.

(a) demonstrate knowledge of the purposes of social studies, how to select content appropriate to those purposes, how to use emerging technology, and how to assess student learning in terms of social studies goals;

(b) and (c) remain the same.

(d) demonstrate knowledge of and ability to plan instruction on the history, cultural heritage, and contemporary status of American Indians and tribes in Montana, including an awareness and application of the Montana 7 Essential Understandings; and

(e) demonstrate ability to use a variety of approaches to instruction that are appropriate to the nature of social studies content and goals and to use them in diverse settings with students with diverse backgrounds, interests, and range of abilities.

(3) through (3)(b) remain the same.

(c) the basic economic goals for society, including freedom of choice, personal financial literacy, ethical action, efficiency, equity, full employment, price stability, growth, and security;

(d) through (4)(c) remain the same.

(d) the use of maps and other tools of geographical investigation or presentation, including the use of emerging technology, to process information from a spatial perspective.

(5) remains the same.

(a) the nature of individual dignity, human rights, ~~(popular)~~ sovereignty (popular, tribal, and national), political power, citizenship, and political authority;

(b) through (d) remain the same.

(e) ~~the American political system compared with forms of government and politics of other countries of the world and of American Indian tribes~~; and

(f) the nature of international relations and the principles and organizations that are used to mediate multinational conflict and achieve multinational order; and

(f) American democracy as compared and contrasted with other forms of government, political systems, and philosophies throughout history and today.

(6) through (6)(c) remain the same.

(d) the skills of chronological thinking, analysis of evidence, and interpretation of the historical record by using appropriate content standards;

- (e) and (f) remain the same.
- (g) the changing role of culture, ethnicity, race, gender, class, and identity in human affairs.
- (7) through (7)(b) remain the same.
- (c) the behaviors which are most effective in coping with stresses in life, understanding the effects of historical trauma upon cultures, and in improving interpersonal and cross-cultural relationships;
- (d) through (8) remain the same.
- (a) the basic structure and history of the world's dominant and indigenous social systems;
- (b) the factors, including the effects of changing communications, which hold groups together or which change and weaken them;
- (c) and (d) remain the same.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.524 COMMUNICATION (1) The program requires that successful candidates:

- (a) demonstrate understanding of ~~and perform proficiently in:~~
  - (i) ~~the composing process, including research, organization, and context development to plan standards-based, coherent, and relevant learning experiences for all students;~~
  - (ii) ~~theory~~
  - (b) demonstrate understanding of theories of human communication including:
    - (A) ~~symbolic development;~~
    - (B) ~~transference of meaning, both cognitively and affectively;~~
    - (C) ~~nonverbal communication;~~ and
    - (D) ~~language, including social and cultural factors affecting language use;~~
    - (iii) (c) demonstrate understanding of context (practices) of human communication, including:
      - (A) ~~public speaking;~~
      - (B) ~~rhetoric;~~
      - (C) ~~argumentation;~~
      - (D) ~~persuasion;~~
      - (E) ~~oral interpretation;~~
      - (F) ~~interpersonal, small group, and organizational communication;~~
      - (G) ~~cross-cultural communication, including Montana American Indians and tribes in Montana;~~
      - (H) ~~mass media and society;~~ and
      - (I) ~~listening;~~
      - (iv) (d) demonstrate understanding of diagnostic techniques, progress assessment, and prescriptions for improving students' formal and informal communication skills and communicate with students about their performance in ways that actively involve them in their own learning;

~~(b) demonstrate knowledge of curriculum, lesson planning, and instructional strategies for interpersonal communication;~~

(e) design instruction that incorporates students' home and community languages to enable skillful control over their rhetorical choices and language practices for a variety of audiences and purposes;

~~(f) demonstrate positive attitudes for teaching communication and demonstrate knowledge and understanding of students' social, linguistic, and cultural backgrounds affecting symbolic cognition; and~~

(g) select, create, and use a variety of instructional strategies and teaching resources, including contemporary technologies and digital media.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.526 TRAFFIC EDUCATION (1) The program requires that successful candidates:

(a) demonstrate an understanding of the state requirements for approval of a traffic education program, (i.e., school and teacher, student age, scheduling, program length, and liability);

(b) demonstrate an understanding of the state requirements to be eligible as an approved teacher of traffic education, (i.e., educator license, driver's license, driving record, ~~and~~ specific coursework, and professional development);

(c) demonstrate an understanding of the state requirements regarding vehicle usage, (i.e., required and recommended equipment, maintenance, identification, vehicle use and restrictions, licensing, and insuring);

(d) demonstrate an understanding of the general administrative procedures and policies required for conducting an approved traffic education program, (i.e., approval and reimbursement forms);

(e) remains the same.

(f) demonstrate a working knowledge and administration of the cooperative driver testing program (CDTP) leading to instructor certification to administer the CDTP driver's license knowledge and road skills tests and issue the traffic education learner license;

(g) and (h) remain the same.

(i) demonstrate an understanding of the consequences resulting from violations, (i.e., driving record, loss of driving privilege, higher insurance premiums, license retesting);

(j) demonstrate the ability to effectively assist students in examining and clarifying their beliefs, attitudes, and values as they relate to ~~general~~ traffic safety;

(k) demonstrate an understanding of the importance of positive attitudes toward safe driving, (i.e., mental, social, and physical tasks performed through a decision-making process);

(l) demonstrate an understanding of the safe interaction of all elements of the highway transportation system, (i.e., pedestrians, bicyclists, passengers, motorcyclists, drivers, vehicles, and roadways);

(m) demonstrate an understanding of the responsibilities of vehicle ownership, (i.e., basic mechanical operation, maintenance, and insuring);

- (n) demonstrate an understanding of vehicle dynamics and balance as they relate to operator control, vehicle safety technology, and the effects of occupant restraint systems;
- (o) demonstrate an understanding of current traffic education issues; (i.e., parent involvement, zone control, reference points, distracted, drowsy, impaired, and aggressive driving, and graduated driver licensing);
- (p) remains the same.
- (q) design educational strategies for appropriate classroom and driving experiences for diverse learners;
- (r) develop a logical scope and sequence plan for training driving skills in the repeated safe operation of a motor vehicle; (i.e., controlled but varied situations and environments);
- (s) demonstrate knowledge, application, and evaluation of specific student competencies; (i.e., scanning, vehicle balance and control, roadway markings, maneuvers, intersections, and highways);
- (t) demonstrate an understanding of specific competencies as defined by recognized agencies and organizations; (i.e., Office of Public Instruction and American Driver and Traffic Safety Education Association);
- (u) design educational strategies for visual perceptual skill development; (i.e., scanning, zone control, limiting distractions, risk management, IPDE process, Smith system, and defensive driving principles);
- (v) experience and demonstrate an understanding of driving skills required to operate and control a vehicle from both the driver's and instructor's seats to successfully handle adverse and emergency situations;
- (w) demonstrate an understanding of accident crash facts, causation, and current crash avoidance and injury prevention strategies;
- (x) remains the same.
- (y) demonstrate skills and techniques using potential equipment; to assist learning for students with special needs;
- (z) through (ab) remain the same.
- (ac) demonstrate an understanding of current information on appropriate resources and how to establish an effective traffic education support network within the community.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.528 COMPUTER SCIENCE (1) The program requires that successful candidates:

- (a) demonstrate knowledge of computer science ~~prerequisites consistent with, and substantially beyond, that which a classroom teacher may be expected to teach;~~ content, models, important principles, and concepts through:
  - (i) knowledge of, and proficiency in, the use of primitive data types;
  - (ii) understanding of data representation;
  - (iii) knowledge of, and proficiency in, the use of static and dynamic data structures;
  - (iv) knowledge of, and proficiency in, the use of common data abstraction

mechanisms (e.g., abstract and generic classes such as stacks, trees, etc.); and

(v) effective use, manipulation, and explanation of external data stores – various types (text, images, sound) and various locations (local, server, cloud);

(b) demonstrate knowledge of algorithm design, analysis, and implementation in an object-oriented programming language; using data structures; and abstract data types covering:

~~(i) problem solving techniques and strategies;~~

~~(ii) algorithm problem solving techniques and strategies and design methodologies;~~

~~(iii) (ii) algorithm verification;~~

~~(iv) (iii) algorithm analysis; complexity and efficiency; and~~

~~(v) data structures and abstract data types;~~

~~(vi) (iv) knowledge of at least two one of the programming languages, including object-oriented programming and/or C++, Java, C#, or Ada, and one other current programming language and current programming language trends; and~~

~~(vii) program testing;~~

(c) demonstrate knowledge of the major subject areas of the discipline of computer science, including; effective design, development, and testing of programs by:

(i) using a modern high-level programming language; constructing correctly functioning programs involving simple and structured data types; using compound Boolean expressions; and sequential, conditional, iterative, and recursive control structures;

(ii) designing and testing programming solutions to problems in different contexts (i.e., textual, symbolic, numeric, graphic) using advanced data structures;

(iii) demonstrating knowledge of and skills regarding the syntax and semantics of two high-level programming languages other than those covered in (b)(iv), their control structures, and their basic data representation;

(iv) demonstrating knowledge of and skill regarding program correctness issues and practices (i.e., testing, test data design, and proofs of correctness);

(v) demonstrating knowledge of and skill regarding at least three different program development environments in widespread use;

(vi) demonstrating knowledge of and the ability to construct multi-threaded client-server applications;

(vii) demonstrating knowledge of and the ability to construct web sites that utilize complex data bases;

(viii) demonstrating knowledge of and the ability to construct artificial intelligence and robotic applications; and

(ix) demonstrating knowledge of the principles of usability and human-computer interaction and be able to apply these principles to the design and implementation of human-computer interfaces;

~~(i) algorithms and data structures;~~

~~(ii) programming languages;~~

~~(iii) architecture and machine-dependent programming;~~

~~(iv) numerical and symbolic computing;~~

~~(v) operating systems and networks;~~

~~(vi) software methodology and engineering;~~



- ~~(vii) database and information retrieval;~~
- ~~(viii) artificial intelligence and robotics; and~~
- ~~(ix) human-computer interaction;~~
- (d) demonstrate knowledge of computer systems and networks and be able

to:

- (i) ~~team software development; and~~ describe the operation of a computer system, CPU and instruction cycle, peripherals, network components, and applications, indicating their purposes and interactions among them;
- (ii) ~~personal written and oral communication skills~~ demonstrate an understanding of operating systems;
- (iii) demonstrate an understanding of computer networks; and
- (iv) demonstrate an understanding of the issues involved in building and fielding mobile services;
- (e) demonstrate an understanding of software engineering and be able to demonstrate an understanding of:
  - (i) the difference between computer science and software engineering;
  - (ii) software development methodologies and the software development life cycle; and
  - (iii) the purpose and contents of the software engineering body of knowledge;
- (f) demonstrate an understanding of the key concepts of computer/information security and be able to:
  - (i) demonstrate an understanding of the concept of "attack surface" and the various methods used to minimize an attack surface;
  - (ii) demonstrate an understanding of the importance of maintaining logs of all system activity related to security; and
  - (iii) demonstrate an understanding of the purpose and general functionality of a firewall;
- (g) demonstrate an understanding of the role computer science and software engineering plays in the modern world and be able to demonstrate an understanding of:
  - (i) significant historical events relative to computers and information systems;
  - (ii) the social, ethical, and legal issues and impacts of computing and information systems;
  - (iii) the contributions that computer and information science and software engineering make to science, the humanities, the arts, commerce, and entertainment;
  - (iv) and ability to teach social issues related to the use of computers and information systems in society and the principles for making informed decisions including, but not limited to, security, privacy, intellectual property, equitable access to technology resources, gender issues, cultural diversity, differences in learner needs, limits of computing, and rapid change; and
  - (v) the many different careers that are closely related to the development and use of computer and information systems;
  - (h) demonstrate effective content pedagogical strategies that make the discipline comprehensible to students and:
    - (i) design projects that require students to effectively describe computing artifacts and communicate results using multiple forms of media;

- (ii) identify problematic concepts and constructs in computer science and appropriate strategies to address them; and
- (iii) promote and model the safe, effective, and ethical use of computer hardware, software, peripherals, and networks and develop digital citizenship.
- ~~(e) demonstrate knowledge of computing issues, including:~~
  - ~~(i) the history of computing;~~
  - ~~(ii) current trends and future directions in computing;~~
  - ~~(iii) career opportunities in computing;~~
  - ~~(iv) ethical and moral obligations in the use of computer hardware and software;~~
  - ~~(v) impacts of computing on society;~~
  - ~~(vi) practical, hands-on experience with widespread software applications, including:~~
    - ~~(A) productivity tools;~~
    - ~~(B) communications and networking;~~
    - ~~(C) multimedia/authoring tools;~~
    - ~~(D) instructional software; and~~
    - ~~(E) operating systems software;~~
    - ~~(f) deal with computing issues unique to the classroom, including:~~
      - ~~(i) computer hardware and software management such as hardware setup, software installation, and user and network level hardware and software troubleshooting and maintenance;~~
      - ~~(ii) availability and use of resources such as journals, sources of computer hardware and software, relevant conference titles, and professional organizations;~~
      - ~~(iii) continual study of effective pedagogical uses of computers as a means to stay updated;~~
      - ~~(iv) hands-on use of hardware, software, and operating systems common in schools;~~
      - ~~(v) develop online/electronic class formats; and~~
      - ~~(vi) trends and innovations in computing curricula; and~~
      - ~~(g) apply assessment tools and practices that range from individual and group tests, to individual and group informal classroom assessment and strategies, including technology-based assessment tools.~~

AUTH: ~~20-4-102~~ 20-2-114, MCA

IMP: ~~20-4-103~~ 20-2-121, MCA

10.58.705 SCHOOL PRINCIPALS, SUPERINTENDENTS, SUPERVISORS, AND CURRICULUM DIRECTORS (1) The program requires that successful candidates:

(a) facilitate the development, articulation, implementation, and stewardship of a school or district vision of learning supported by the school community ~~in order to promote the success of all students;~~ and:

(i) collaboratively develop, implement, and promote a commitment to a shared vision and mission integrated throughout the school system through communication skills, including listening to multiple audiences, knowledge of school staff, and aligning decisions with organizational vision;

(ii) promote continuous and sustainable school and program improvement through the use of decision-making and problem-solving skills, an organized climate, application of change theory, and use professional leadership behaviors including self-awareness and reflective practice;

(iii) use data to inform goals, assess organizational effectiveness, and promote organizational learning through distributed leadership and data-informed decision making; and

(iv) design, implement, assess, and adjust plans to achieve goals through prioritization, flexibility, and adaption;

(b) promote a positive school culture, provide an effective instructional program, apply best practice to student learning, and design comprehensive professional growth plans for staff in order to promote the success of all students; the development of the full educational potential of each person through our public schools by advocating, nurturing, and sustaining positive school culture and instructional program conducive to student learning; staff professional growth based upon current brain-based research for effective teaching and learning; and exhibiting genuine concern for students and:

(i) advocate, nurture, and sustain a culture of collaboration, trust, learning, and high expectations to create a comprehensive, rigorous, and coherent curricular program which addresses postsecondary and life readiness through the use of a curriculum management process and learning theory;

(ii) develop the instructional and leadership capacity of staff in order to create a personalized and motivated learning environment for students through staff assessment and providing comprehensive professional learning opportunities;

(iii) appraise, support, and supervise instruction in accordance with state-adopted standards and associated accountability systems through fostering a culture of continuous improvement which promotes growth, informs practice, and promotes learning;

(iv) develop assessment and accountability systems to monitor and evaluate student progress and the impact of the instructional programs through a curriculum management process; and

(v) maximize instructional time and use appropriate and effective instructional strategies and technologies to support teaching and learning with effective instructional practices and knowledge of child development;

(c) manage the organization, operations, and resources in a way that promotes a safe, efficient, and effective learning environment in order to promote the success of all students; ensure proper management of the organization, operations, and resources for a safe, efficient, and effective learning environment to develop the full educational potential of each person with the use of data and time management and:

(i) develop the capacity for distributed leadership to ensure teacher and organizational growth to support quality instruction and student learning through the implementation of education policy;

(ii) efficiently and effectively use human, fiscal, and capital resources, applying fiscal and management theory; and

(iii) advocate, promote, and protect the social, emotional, and physical safety of students and staff with knowledge of Montana School Law and Special Education Law;

(d) collaborate with families and other community members, respond to diverse community interests and needs, including Montana American Indians and tribes in Montana communities, and mobilize community resources in order to ~~promote the success of all students~~; fully develop the educational potential of each person and:

(i) promote family engagement by fostering and sustaining positive relationships with parents, families, caregivers, community members, and partners by exhibiting human relations skills;

(ii) promote understanding, appreciation, and use of the community's diverse cultural, social, and intellectual resources to expand cultural proficiency; and

(iii) collect and analyze data and information pertinent to the educational environment by being an informed consumer of educational research;

(e) act with integrity, fairness, and in an ethical manner in order to ~~promote the success of all students~~; develop the full educational potential of each person through our public schools by exhibiting open-mindedness, integrity, consistency, and ethics and:

(i) ensure a system of accountability for every student's academic, social, and emotional success;

(ii) model principles of self-awareness, reflective practice, transparency, and ethical behavior;

(iii) safeguard the values of democracy, equity, and diversity; and

(iv) consider and evaluate the potential moral and legal consequences of decision making and promote social justice to ensure that individual student needs inform all aspects of schooling;

(f) understand, respond to, and influence the larger political, social, economic, legal, and cultural context in order to ~~promote the success of all students~~; and develop the full educational potential of each person through our public schools and assess, analyze, and anticipate emerging trends and initiatives in order to advocate for children, families, and caregivers by acting to influence local, district, state, and national decisions affecting student learning through the knowledge of community, understanding of political climate, and community relations and resources; and

(g) remains the same.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.707 SCHOOL PSYCHOLOGISTS (1) The program requires that successful candidates:

(a) demonstrate an understanding of the articulated integrated and comprehensive training philosophy; ~~mission statement, goals, and objectives,~~ program of study, and supervised practice;

~~(b) demonstrate knowledge of the unique history of American Indians as it relates to education, social and emotional development, and academic skills;~~

(c) demonstrate knowledge of these domains in the field of school psychology by:

(i) applying data-based decision making and accountability through varied models and methods of assessment and data collection for identifying strengths and needs, developing effective services and programs, and measuring progress and outcomes;

(ii) applying varied models and strategies of consultation, and collaboration, and communication applicable to individuals, families, groups, and systems, and methods to promote effective implementation of services;

(iii) applying effective interventions and instructional support to develop and development of cognitive/academic skills through a thorough understanding of biological, cultural, and social influences on academic skills; human learning, cognitive, and developmental processes; and evidence-based curricula and instructional strategies;

(iv) socialization and development of applying interventions and mental health services to develop social and life skills to promote social-emotional understanding of biological, cultural, developmental, and social influences on behavior and mental health, behavioral and emotional impacts on learning and life skills, and evidence-based strategies;

(v) student diversity in development and learning understanding individual differences, abilities, disabilities, and other individual student characteristics, principles, and research related to diversity factors for children, families, and schools, factors related to culture, including American Indians and tribes in Montana, context, and individual and role difference; and evidence-based strategies to enhance services and address potential influences related to diversity in development and learning;

(vi) applying schoolwide practices and systems organization, policy development, and climate to promote learning;

(vii) applying principles and research related to resilience and risk factors in learning and mental health, supporting services in schools and communities, prevention, crisis intervention, and mental health multi-tiered prevention, and evidence-based strategies for effective crisis response;

(viii) home/school/community collaboration applying principles and research related to family systems, strengths, needs, and culture; evidence-based strategies to support family influences on children's learning and mental health; and strategies to develop collaboration between families and schools;

(ix) applying research, and design, statistics, measurement, varied data collection and analysis techniques, and program evaluation sufficient for understanding research and interpreting data in applied settings;

(x) school psychology applying the history and foundations of school psychology; multiple service models and methods; ethical, legal, and professional standards; and other factors related to professional identity and effective practice as school psychologists legal, ethical, and professional practice and development; and

(xi) integrating information technology into school psychologist practice;

(d) demonstrate knowledge and understanding of:

(i) orientation to the educational process;

(ii) assessment for intervention;

~~(iii)~~ direct intervention; and

~~(iv)~~ indirect intervention.

(2) The provider shall ensure that:

~~(a)~~ practica experiences shall be are distinct from and occur prior to the internship;

~~(a)~~ (b) practica occur at scheduled time(s), ~~are in settings,~~ and are of sufficient length, and are in settings ~~to be~~ appropriate to the specific training objectives of the program;

(b) through (g) remain the same but are renumbered (c) through (h).

~~(h)~~ (i) ~~the program shall require successful candidates to demonstrate~~ knowledge of the roles, responsibilities, and functions of other pupil service personnel, including the operation of interdisciplinary teams; and

~~(i)~~ (j) ~~the program shall require successful candidates to demonstrate~~ knowledge of available school and community resources.

(3) remains the same.

(a) demonstrate, under supervision, their ability to integrate knowledge and skills in providing a broad range of school psychological services. ~~The~~ and the internship experience:

(i) through (iv) remain the same.

(v) occurs under conditions of appropriate supervision. ~~Field~~ (field-based internship supervisors shall hold a valid credential as a school psychologist for that portion of the internship that is in a school setting, and. ~~That~~ the portion of the internship, which appropriately may be in a nonschool setting, requires supervision by an appropriately credentialed psychologist);

(vi) is supervised. ~~Field~~ (field-based internship supervisors are responsible for no more than two interns at any given time, and. ~~U~~ niversity internship supervisors are responsible for no more than 12 interns at any given time);

(vii) is based on a positive working relationship and represents a collaborative effort between the university program and field-based supervisors to provide an effective learning experience for the student and. ~~U~~ niversity internship supervisors provide at least one on-site contact per semester with each intern and supervisor;

(viii) through (x) remain the same.

(xi) occurs on a full-time basis over a period of one academic year, or on a half-time basis over a period of two consecutive academic years. ~~At~~ and at least 600 hours of the internship are completed in a school setting;

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

~~School~~ The provider ensures that school psychology training programs employ systematic, valid evaluation of candidates, coursework, practica, internship, faculty, supervisors, and resources and use the resulting information to monitor and improve program quality. ~~School~~ The provider ensures that school psychology graduate programs shall:

(a) through (f) remain the same.

(g) include a full-time continuous residency or an alternate planned experience for all students. ~~Programs~~ and programs allowing alternate planned experiences as a substitute for full-time residency must demonstrate how those

experiences are equivalent to experiences commonly associated with residency requirements.

(5) ~~The standards for~~ provider ensures that specialist-level programs shall follow ~~these standards~~ described by the National Association of School Psychologists (NASP), and:

(a) through (d) remain the same.

(6) ~~The provider ensures that standards for~~ doctoral programs shall follow ~~those the standards~~ described by ~~the National Association of School Psychologists~~ NASP. Doctoral programs provide greater depth in multiple domains of school psychology training and practice as specified in these standards;. The provider ensures that:

(a) remains the same.

(b) ~~the program shall~~ includes a minimum of 90 graduate semester hours or the equivalent, at least 78 of which are exclusive of credit for the doctoral supervised internship experience and any terminal doctoral project (e.g., dissertation) and shall culminate in institutional documentation; and

(c) ~~the program shall~~ includes a minimum of one academic year of doctoral supervised internship experience consisting of a minimum of 1500 clock hours.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

10.58.802 STANDARDS FOR APPROVAL OF NEW CURRICULAR PROGRAMS (1) ~~The unit shall provide a clear statement justifying the provider may request for the approval of a new, innovative, or experimental curricular program. That statement shall include the program's assumptions, rationale, and objectives.~~

~~(2) Each program shall:~~

~~(a) be based on a statement of the purpose and objectives of teaching in this area and upon a well-formulated statement of the nature of the public school program that is needed to accomplish these objectives. These statements shall: by describing the purpose, need, and objectives of the program and the impact on P-12 education.~~

~~(2) The provider:~~

~~(i) be prepared cooperatively by the agencies concerned with teacher education;~~

~~(ii) be based on analyses of current practices and trends in this field of the public school curriculum; and~~

~~(iii) be available in writing;~~

(a) ensures that the program of study is based on current research, proven practice, and emerging trends in this field of P-12 school curriculum;

(b) works cooperatively with accredited school districts, education organizations, agencies, and P-20 stakeholders to design the program;

(c) implements, assesses, and evaluates the program's impact on the identified P-12 needs;

(d) submits regular and systematic reports of the program's impact on P-12 education to the state superintendent and the Board of Public Education; and

- ~~(e) updates and maintains program information on its Web page.~~
- ~~(b) include articulation of the competencies teachers need in this area. This statement of competencies shall:~~
  - ~~(i) include attitudes, knowledge, understanding, skills, and the degrees of expertise teachers need;~~
  - ~~(ii) be based on the program's statement of objectives outlined in (2)(a); and~~
  - ~~(iii) be available in writing;~~
- ~~(3) The provider:~~
  - ~~(a) articulates initial or advanced candidates' learning expectations pursuant to ARM Title 10, chapter 58, subchapters 3, 5, 6, and 7;~~
  - ~~(b) aligns learning expectations and outcome assessments to the program objectives;~~
    - ~~(c) include a description of the process used describes the professional learning process, plan, and timeline to prepare personnel;~~
    - ~~(d) develop provisions for keeping records of the students' establishes assessment and evaluation systems to collect, analyze, use, and report initial or advanced candidate's progress in the program;~~
    - ~~(e) make arrangements for systematic and scheduled program evaluation by both the unit and the Office of Public Instruction;~~
    - ~~(f) be ensures that the program is supported by identifiable human and physical resources that will be available throughout the duration of to the program. Any and resources not under the control of the institution shall be outlined and confirmed by the Board of Public Education;~~
      - ~~(g) (f) include creates a timetable setting forth that includes:~~
        - ~~(i) the program's beginning and ending dates proposed implementation date;~~
        - ~~(ii) the sequence of activities that will occur;~~
        - ~~(iii) selection and schedules of regular and systematic intervals for of competency candidate and program evaluations; and~~
        - ~~(iv) the approximate dates for submitting periodic the program plan, timeline, and reports for program approval to the appropriate institutional officials and to the Superintendent of Public Instruction; and~~
      - ~~(h) (g) ensures that program evaluations have definite provisions for performance criteria and follow-up at specified intervals. and the evaluations shall:~~
        - ~~(i) be guided by a plan that defines and specifies the kinds of evidence that will be gathered and reported align to initial or advanced standards pursuant to ARM Title 10, chapter 58, subchapters 3, 5, 6, and 7; and~~
        - ~~(ii) give information that identifies areas in the program that need strengthening; and~~
        - ~~(iii) be used to suggest new directions for ensure continuous program improvement by using data to inform decisions that provide positive impact on candidates' professional growth and on program development.~~
    - ~~(3) (4) The preparing institution provider shall be responsible for the administration of establish and administer the program. Within this responsibility it shall establish and designate the appropriate division, school, college, or department within the institution to act on all matters relating to such program, according to general institutional policies.~~



AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

5. The Board of Public Education proposes to amend and transfer the following rules:

10.58.508 (10.58.532) ELEMENTARY (1) The program requires that successful candidates:

(a) demonstrate knowledge and understanding of and use the major concepts, principles, theories, and research related to the development of children and young adolescents and apply these understandings to construct learning opportunities that support individual students' development, acquisition of knowledge, and motivation engagement in learning;

(b) demonstrate knowledge, and understanding, and use of the central concepts as outlined in Montana's student content and performance standards, tools of inquiry, and structures of content for students across grades K-8 and can engage students in meaningful learning experiences that develop students' competence in subject matter and skills for various developmental levels. Candidates: ;

~~(i) demonstrate a high level of competence in the use of English language arts and demonstrate knowledge, understanding, and use concepts from reading, language, literature, and child development to teach reading, writing, speaking, listening, and thinking skills, and to help students successfully apply their developing skills to many different situations, materials, and ideas;~~

(c) demonstrate knowledge and understanding of theory and research and apply knowledge in the areas of language, speaking and listening, reading and writing processes, literature, print and non-print texts, which are inclusive of texts from and about American Indians and tribes in Montana; and technology, and plan, implement, assess, and reflect on English/language arts and literacy instruction that promotes critical thinking and creates engagement;

~~(ii) (d) demonstrate knowledge, and understanding, of and use of the fundamental concepts in the subject matter of science, including of physical, life, earth, and space sciences, as well as to design and implement age-appropriate inquiry lessons to teach science, to build student understanding for personal and social applications, to convey the nature of science, the concepts in science and technology, science in personal and social perspectives, the history and nature of science, including American Indian scientific contributions of American Indians and tribes in Montana the unifying concepts of science, and the inquiry processes scientists use in discovery of new knowledge to build a base for scientific literacy;~~

(iii) (e) demonstrate knowledge, and understanding, of and use of the major concepts, and procedures, and reasoning processes of mathematics that define number systems and number sense operations, algebra, geometry, measurement, data analysis statistics and probability, and algebra, in order to foster student understanding and use of patterns, quantities, and spatial relationships that can represent phenomena, solve problems, and deal with data to engage elementary students in problem solving, reasoning, constructing arguments, communication, connections, and representation, including culturally inclusive lessons and examples relating to American Indians and tribes in Montana;

~~(iv)~~ (f) demonstrate knowledge, and understanding, of and use of the major concepts and modes of inquiry from the social studies, the integrated study of history, government, geography, economics, including personal financial literacy, and an understanding of the social sciences (e.g., anthropology, archaeology, psychology, and sociology), and other related areas (e.g., humanities, law, philosophy, religion, mathematics, science, and technology), to promote elementary students' abilities to make informed decisions as citizens of a culturally diverse democratic society, including the cultural diversity of American Indians and tribes in Montana, and interdependent world, ~~including meeting the requirements of 20-1-501, MCA;~~

~~(v)~~ (g) demonstrate knowledge, and understanding, of and use of the content, functions, and achievements of dance, music, theater, and the several visual arts as primary media for communication, inquiry, perspective, and insight engagement among elementary students, and culturally diverse performing and visual arts inclusive of the works of American Indian artists and art in Montana;

~~(vi)~~ (h) demonstrate knowledge, and understanding, of and use of the ~~comprehensive nature of students' physical, mental, and social well-being to create opportunities for student development and practice of skills that contribute to health enhancement; and major concepts in the subject matter of health education to create opportunities for student development and practice of skills that contribute to good health for all elementary students;~~

(i) demonstrate knowledge, understanding, and use of human movement and physical activity as central elements to foster active, healthy life styles and enhanced quality of life for all elementary students;

~~(vii)~~ (j) demonstrate knowledge, and understanding, of and use of interdisciplinary connections to integrate subject matter contents, employing inclusive ideas and issues that engage students' ideas, interests, concerns, and experiences;

~~(e)~~ (k) plan and implement instructional strategies based on knowledge of individual students, learning theory, subject matter content, connections across the curriculum, curricular goals, and community. ~~Candidates;~~

~~(i)~~ (l) demonstrate understanding of how elementary students, within different populations, including Montana American Indians and tribes in Montana, differ in their development and approaches to learning and ~~create demonstrate the ability to differentiate instructional opportunities that are adapted to diverse learners for learners of all cognitive abilities;~~

~~(ii)~~ (m) demonstrate understanding knowledge of proven instructional and use a variety of teaching routines and strategies that encourage and use this knowledge to develop elementary students' development of ability to use critical thinking, problem solving, and performance skills, including the appropriate use of current and emerging technologies;

~~(iii)~~ (n) apply demonstrate knowledge and understanding of individual and group motivation and behavior among students and apply this knowledge and understanding to develop foster active engagement in learning, self-motivation, and positive interaction and to create supportive learning environments; and

~~(iv)~~ (o) apply use knowledge and understanding of effective verbal, nonverbal, and electronic media communication techniques to develop in elementary

learning environments to foster active inquiry, collaboration, and supportive interaction among students; and

(d) (p) demonstrate knowledge and understanding of ~~and use formal and informal~~ formative and summative assessment strategies and use this knowledge and understanding to evaluate and ensure the continuous intellectual, social-emotional, and physical development of each elementary students.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.512 (10.58.610) SCHOOL COUNSELING K-12 (1) The program requires that successful candidates:

(a) demonstrate knowledge of school counseling program models, the history, development, current trends, philosophy, ~~current and emerging computer technology~~ leadership, advocacy, qualities and styles of effective leadership in schools, and professional activities related to the practice of professional school counseling K-12;

(b) demonstrate understanding of models of school-based collaboration and consultation, as well as competence in developing relationships with ~~service agencies~~ community resources such as ~~community,~~ public, private, medical, employment, and educational agencies for referral and collaborative service delivery to promote student success;

(c) remains the same.

(d) demonstrate knowledge of educational philosophies, curriculum development, school organization, and management to facilitate student success in the areas of academic, career, and personal/social development, as well as the school counselor's role in student support and school leadership teams;

(e) demonstrate knowledge of the role of ethnic and cultural heritage, nationality, socioeconomic status, family structure, age, gender, sexual orientation, religious and spiritual beliefs, occupation, physical and mental status, and equity issues in school counseling, including ~~Montana~~ American Indians and tribes in Montana;

(f) demonstrate competence in the coordination of school counseling program components and understand how they are integrated within the school community in collaboration with the efforts of other educators and agencies, as well as the roles of leaders, advocates, and systems change agents in schools;

(g) remains the same.

(i) planning, designing, implementing, and evaluating a comprehensive and developmental school counseling program that includes mission statements and objectives;

(ii) appraising and interpreting interviews, observations, and formal assessments (e.g., aptitude, interest, achievement, and personality tests) and other assessments relevant to K-12 education;

(iii) promoting student success using ~~developmental approaches to assist all students and parents at points of educational transition (e.g., home to elementary school, elementary to middle to high school, high school to postsecondary education and career options)~~ strategies and interventions that address academic

development, career counseling, school and life transitions, promotion and graduation rates, college and career readiness, equity in academic achievement, as well as skills to critically examine the connections between social, familial, emotional, and behavioral issues and academic achievement;

(iv) utilizing a variety of developmentally appropriate intervention strategies in individual, family, and group counseling contexts such as personal/social counseling, parent conferences, teaching guidance curriculum lessons using lesson planning and classroom management strategies, training and overseeing peer intervention programs, and other strategies that foster collaboration and teamwork in schools;

(v) consulting with educators, family members, school personnel, community agencies, and other professionals regarding assessment and intervention to enhance the physical, academic, psychological, cognitive, and social development of all students;

(vi) utilizing prevention and intervention programs that address issues such as drugs and alcohol, wellness, conflict/anger/violence management, eating disorders, child abuse and neglect, teenage pregnancy, family relations, childhood depression and suicide, school drop-outs, grief/separation/loss issues, and crisis management programs related to emergency management plans, crises, disasters, and other trauma-causing events;

(vii) managing, school counseling programs by using, accountability data to inform decision making to advocate for students and programs, analyzing, and presenting educational research, performance, and evaluation data (e.g., standardized test scores, grades, retention, and placement) that advocate for students and programs;

(viii) acquiring demonstrating new knowledge and skills, and refining existing skills through professional renewal (i.e. e.g., self-reflection, continuing education, and professional development); and

(ix) acquiring demonstrating knowledge of special education laws, rules, and regulations and demonstrated competence in the knowledge of developmental and educational issues of exceptional students and their families;

(x) demonstrating knowledge of the characteristics, risk factors, and warning signs of students at risk for mental health and behavioral disorders including the signs and symptoms of substance abuse in children and adolescents as well as the signs and symptoms of living in a home where substance use occurs;

(xi) demonstrating knowledge of common medications that affect learning, behavior, and mood in children and adolescents; and

(xii) demonstrating knowledge of professional organizations, preparation standards, and credentials that are relevant to the practice of school counseling;

(h) demonstrate knowledge of, and apply the laws (state and federal), policies, and legislation that affect student placement, follow-up and program planning, as well as the ethical issues related to the school counseling field, specifically the ethical standards of the American School Counselor Association (ASCA); and

(i) demonstrate knowledge of the ASCA national standards for student development (academic, career, and personal/social developmental domains) and demonstrate competence integrating the national standards throughout the school counseling program;.

~~(j)~~ (2) The candidate will successfully complete a supervised counseling practicum and internship experience, which includes observation and practice of counseling and other professional skills related to professional school counseling. The counseling practicum and internship experience shall include with the following requirements:

~~(i)~~ (a) ~~The counseling a~~ practicum must total with a minimum of 100 hours, which includes 40 hours of supervised direct service to K-12 students providing individual counseling and group work;

~~(ii)~~ (b) ~~The counseling a~~ practicum must be supervised by a program faculty member or a supervisor under the supervision of a program faculty member, a minimum of one hour per week in an individual supervision session and one and one-half hours per week in a group supervision session; ~~by a program faculty member or a supervisor under the supervision of a program faculty member.~~

~~(iii)~~ (c) ~~The an~~ internship is begun that begins after the successful completion of a counseling practicum and ~~must consist of~~ a minimum of 600 hours in a school setting;

~~(iv)~~ (d) ~~The an~~ internship must include of 240 hours of supervised direct service to K-12 students performing a variety of school counseling activities related to a school counseling program that may include delivering guidance curriculum (classroom teaching), student planning (academic, career, or personal/social), responsive services (counseling and referral), and system support (management and consultation);

~~(v)~~ (e) ~~The an~~ internship must be that is supervised at a minimum of one hour per week in an individual supervision session (provided by a site supervisor) and one and one-half hours per week in a group supervision session (provided by a program faculty member);

~~(vi)~~ (f) ~~Each regular or~~ and adjunct program faculty member who provides individual or group practicum and/or internship supervision ~~must~~ have a doctoral degree and/or appropriate clinical preparation, ~~preferably~~ from an accredited school counselor education program, relevant professional experience and demonstrated competence in counseling, and relevant training and supervision experience; and

~~(vii)~~ (g) ~~Site supervisors must who~~ have a minimum of a master's degree in counseling or a related profession with equivalent qualifications, including appropriate certifications ~~and/or licenses or licensure,~~ a minimum of two years of experience as a school counselor, and knowledge of the program's expectations, requirements, and evaluation procedures for trainees.

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

6. The Board of Public Education proposes to repeal the following rules:

10.58.210 CONCEPTUAL FRAMEWORK(S)

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

10.58.304 CANDIDATE KNOWLEDGE, SKILLS, AND DISPOSITIONS

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.305 ASSESSMENT SYSTEM AND UNIT EVALUATION

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.306 FIELD EXPERIENCES AND CLINICAL PRACTICES

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.307 DIVERSITY

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.308 FACULTY QUALIFICATIONS, PERFORMANCE, AND DEVELOPMENT

AUTH: 20-2-114, MCA  
IMP: 20-1-501, 20-2-121, MCA

10.58.309 UNIT GOVERNANCE AND RESOURCES

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.525 TRADES AND INDUSTRY

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.527 AREAS OF PERMISSIVE SPECIAL COMPETENCY

AUTH: 20-2-114, MCA  
IMP: 20-1-501, 20-2-121, MCA

10.58.601 PROGRAM PLANNING AND DEVELOPMENT

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.602 TEACHING AREAS: ADVANCED PROGRAMS

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.603 ASSESSMENT OF ADVANCED PROGRAMS

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.801 TYPES OF PROGRAMS

AUTH: 20-2-114, MCA  
IMP: 20-2-121, MCA

10.58.901 STANDARDS FOR APPROVING COMPETENCY-BASED OR PERFORMANCE-BASED PROGRAMS

AUTH: 20-2-114, MCA

IMP: 20-2-121, MCA

7. The effective date of these rules is July 1, 2015.

8. **Statement of Reasonable Necessity:** The Office of Public Instruction staff facilitated a comprehensive process to review and revise Title 10, chapter 58 with involvement from Montana P-20 education stakeholders, including Montana Council of Deans of Education, Certification Standards and Practices Advisory Council, professional education organizations and associations, and content-specific professionals.

The proposed new and amended rules are necessary to provide clear guidance to Montana educator preparation providers regarding program requirements to prepare educator candidates to meet the teaching, learning, and leading expectations in Montana's P-12 accredited schools. National accrediting standards have been modified to reflect research-based practice and improvements in instructional strategies. Montana must incorporate necessary changes to ensure that our educator preparation providers will continue to be in compliance. Rules were amended for clarity, consistency, and currency. Content areas were updated to address evidence-based instructional practice.

Revisions required the repeal of some rules with standards no longer necessary. ARM 10.58.508 and 10.58.512 were transferred to more appropriate locations.

9. 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: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., November 6, 2014.

10. Peter Donovan has been designated to preside over and conduct this hearing.

11. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies 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 9 above or may be made by completing a request form at any rules hearing held by the board.

12. 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.

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

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

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Sharon Carroll  
Sharon Carroll  
Board Chair  
Board of Public Education

Certified to the Secretary of State September 29, 2014.



BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULES I through XV pertaining to ) PROPOSED ADOPTION  
preschool programming for public )  
schools )

TO: All Concerned Persons

1. On November 3, 2014, at 11:00 a.m., the Board of Public Education will hold a public hearing in the Office of Public Instruction conference room at 1300 11th Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Board of Public Education 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 Board of Public Education no later than 5:00 p.m. on October 21, 2014, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

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

NEW RULE I PROCEDURES (1) The trustees of a school may establish a public preschool program to meet the unique developmental needs for children between the ages of 3 and 5 years. When preschool programs are established they must be an integral part of the public school and must be governed according to the following accreditation standards for the preschool standards of early learning content and accreditation in coordination with the standards outlined for schools within ARM Title 10, chapter 55, excluding 10.55.601, 10.55.602, 10.55.603, 10.55.704, 10.55.705, 10.55.709, 10.55.710, 10.55.712, 10.55.715, and ARM Title 10, chapter 55, subchapters 10 through 21. For the purposes of the accreditation process detailed in ARM 10.55.606, preschool programs will be assessed on the program's assurance standards only.

(2) Preschool programs shall meet this chapter's curriculum, instruction, and program delivery standards, supporting children's development of the knowledge and skills outlined in the content standards in subchapter 3, which describe the expectations for what young children should know and be able to do across the four core developmental domains of learning upon entrance to kindergarten.

AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE II DEFINITIONS (1) For the purposes of this chapter, the following terms apply:

(a) "Accreditation" means certification by the Board of Public Education that a school meets the adopted standards of the Board of Public Education for a specified school year.

(b) "Assessment" means the gathering, organizing, and evaluation of information about student learning in order to monitor and measure student learning, the effectiveness of the instructional program, and to inform local policies and decisions.

(c) "Collaborative inquiry" means a teaching strategy in which teachers and students engage in joint learning, discovery, or intellectual effort, or when groups of students work together to search for understanding, meaning, or solutions.

(d) "Developmental domain" means the broad, interrelated categories or dimensions of early childhood development reflective of preschool children's learning and growth. The four core domains include emotional/social, physical, communication, and cognitive.

(e) "Early childhood curriculum" means an articulated educational plan for young children, which is grounded in research-based understandings of child development and developmentally appropriate practices. Curriculum guides the teaching process from identifying what to teach, including early content standards in each of the four developmental domains and how to teach, including developing learning experiences based upon individual and group outcomes, and assessing what was learned then using this data to inform future planning and teaching.

(f) "Experiential learning" means to engage in learning through exploration, experimentation, and discovery.

(g) "Paraprofessional, assistant teacher, or teacher aide" means an adult with the qualifications detailed in [New Rule V] who works under the direct supervision of a teacher and who may work independently in a teacher's absence, but for the majority of the time works directly with the teacher in the same space with the same group of students.

(h) "Teacher" means a licensed individual as defined in ARM 10.55.602, with primary responsibility for a group or class of preschool students.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

NEW RULE III LEADERSHIP (1) The program leadership shall effectively implement policies, procedures, and systems that support stable staff and strong personnel, fiscal, and program management so all students, families, and staff have high-quality experiences.

(2) Professional development for preschool educators as required by ARM 10.55.714 should be tailored to early childhood development and learning.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

NEW RULE IV TEACHER ASSIGNMENTS AND QUALIFICATIONS

- (1) Teachers shall be assigned at the levels for which they are licensed and endorsed in accordance with state statutes and Board of Public Education rules.
- (2) Teachers with an Early Childhood Education Special Permissive Competency shall be considered to be appropriately licensed, endorsed, and assigned to teach in an accredited preschool program until July 1, 2018, at which time those teachers will need to be appropriately licensed and endorsed pursuant to ARM Title 10, chapter 57.
- (3) All other teachers or individuals with background, training, or experience in early childhood that are interested in teaching in a public school preschool program may apply for a Class 5 provisional license pursuant to ARM 10.57.424, if they do not have the proper endorsement.

AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE V EARLY CHILDHOOD PARAPROFESSIONAL QUALIFICATIONS

- (1) Early childhood paraprofessionals must have:
- (a) completed two years of study at an institution of higher education; or
  - (b) obtained an associate's (or higher) degree; or
  - (c) a high school diploma and meet a rigorous standard of quality and be able to demonstrate knowledge of and the ability to assist in the delivery of the curriculum, instruction, and program delivery standards to support students' development of the knowledge and skills outlined in the early learning content standards.

AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE VI EARLY CHILDHOOD PARAPROFESSIONAL SUPERVISION

- (1) Early childhood paraprofessionals shall be under the direct supervision of a licensed teacher who is responsible for instruction and assessment of students.
- (2) Early childhood paraprofessionals assigned to assist students with special education needs shall be under the supervision of the teacher.
- (3) The supervising teacher shall be available while an early childhood paraprofessional is fulfilling his or her responsibilities and shall not be simultaneously assigned to another teaching duty or preparation time.

AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE VII CLASS SIZE

- (1) There must be one appropriately licensed and endorsed teacher for ten students, with an early childhood paraprofessional for

any additional students over ten, for up to no more than 18 total students in a classroom with two adults.

(2) Class size of 18 preschoolers is the maximum number of students, regardless of the number of staff.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

NEW RULE VIII AGGREGATE HOURS (1) Trustees may designate the preschool program as either a half-time or full-time program with a minimum of 720 hours. Outdoor play, snack, and meal time are included in the aggregate hours. Nap time and daily transportation to and from the classroom do not count as part of the 720 hour preschool program hours.

(2) The trustees of a school district shall set the number of days in the school term, the length of the school day, and the number of school days in a week.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

NEW RULE IX ENROLLMENT ELIGIBILITY (1) A child must have reached three years of age before the district's official start date of the preschool program or have been enrolled by special permission by the board of trustees.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

NEW RULE X EARLY LEARNING CONTENT STANDARDS DEVELOPMENTAL DOMAINS (1) The emotional and social domain requires instruction which incorporates and includes:

- (a) culture, family, and community, wherein students learn to develop:
  - (i) an awareness of and appreciation for similarities and differences between themselves and others;
  - (ii) an awareness of the functions and diverse characteristics of families; and
  - (iii) an understanding of the basic principles of how communities function, including work roles and commerce.
- (b) emotional development wherein students:
  - (i) develop an awareness and appreciation of self as a unique, competent, and capable individual;
  - (ii) demonstrate a belief in their abilities;
  - (iii) manage internal states, feelings, and behavior, and develop the ability to adapt to diverse situations and environments; and
  - (iv) express a wide and varied range of feelings through facial expressions, gestures, behaviors, and words.
- (c) social development which helps students:
  - (i) develop trust, emotional bonds, and interact comfortably with adults;
  - (ii) interact and build relationships with peers; and
  - (iii) develop skills in cooperation, negotiation, and empathy.

(2) The physical domain requires development of motor skills and instruction in health, safety, and personal care.

(a) Development of motor skills includes:

- (i) small muscle strength, coordination, and skills;
- (ii) large muscle strength, coordination, and skills; and
- (iii) use of their senses to explore the environment and develop skills through sight, smell, touch, taste, and sound.

(b) Health, safety, and personal care standards for early childhood education are that students:

- (i) develop personal health and hygiene skills as they develop and practice self-care routines;
- (ii) eat a variety of nutritional foods and develop healthy eating practices;
- (iii) develop healthy behaviors through physical activity; and
- (iv) develop an awareness and understanding of safety rules as they learn to make safe and appropriate choices.

(3) The communication domain includes communication, language, and literacy development.

(a) Standards for early childhood communication and language include:

(i) receptive communication, wherein students use listening and observation skills to make sense of and respond to spoken language and other forms of communication; enter into the exchange of information around what is seen, heard, and experienced; and they begin to acquire an understanding of the concepts of language that contribute to learning;

(ii) expressive communication, wherein students develop skills in using sounds, facial expressions, gestures, and words, such as to help others understand their needs, ask questions, express feelings and ideas, and solve problems;

(iii) social communication wherein students develop skills to interact and communicate with others in effective ways; and

(iv) for dual language speakers, students receive support in their home language(s) while becoming proficient in English.

(b) Literacy standards for early childhood education are that students develop:

(i) an understanding, skills, and interest in the symbols, sounds, and rhythms of written language and develop awareness that the printed word can be used for various purposes;

(ii) interest and skills in using symbols as a meaningful form of communication;

(iii) an understanding that print carries a message through symbols and words and that there is a connection between sounds and letters (the alphabetic principle); and

(iv) an awareness of the sounds of letters and the combination of letters that make up words and use this awareness to manipulate syllables and sounds of speech.

(4) The cognitive domain requires instruction which incorporates and includes:

(a) approaches to learning which help students develop:

- (i) curiosity through imagination, inventiveness, originality, and interest as they explore and experience new things;
  - (ii) initiative and self-direction through engagement in new tasks and to take risks in learning new skills or information;
  - (iii) persistence and attentiveness with the ability to focus their attention and concentration to complete tasks and increase their learning; and
  - (iv) reflection and interpretation skills in thinking about their learning in order to inform their future decisions.
- (b) development of reasoning and representational thought skills in causation, critical and analytical thinking, problem solving, and representational thought;
- (c) instruction in creative arts, including:
- (i) creative movement wherein students produce rhythmic movements spontaneously and in imitation with growing technical and artistic abilities;
  - (ii) drama, wherein students show appreciation and awareness of drama through observation, imitation, and participation in simple dramatic plots;
  - (iii) music, wherein students engage in a variety of musical or rhythmic activities; and
  - (iv) visual arts, wherein students demonstrate a growing understanding and appreciation for the creative process and visual arts.
- (d) mathematics and numeracy standards for early childhood education are that students:
- (i) develop number sense and operations through the ability to think and work with numbers, to understand their uses, and describe their relationships through structured and everyday experiences;
  - (ii) develop an awareness of measurement concepts through use of measurement instruments to explore and discover measurement relationships and characteristics, such as length, quantity, volume, distance, weight, area, and time;
  - (iii) apply mathematical skills in data analysis, such as counting, sorting, and comparing objects;
  - (iv) develop an awareness of initial algebraic thinking and operations through counting, sorting, and comparing objects; and
  - (v) build the foundation for geometric and spatial reasoning through recognition, creation, and manipulation of shapes, and learning spatial reasoning and directional words as they become aware of their bodies and personal space in their physical environment.
- (e) science standards for early childhood education are that students:
- (i) engage in scientific thinking and the use of scientific methods through investigation using their senses to observe, manipulate objects, ask questions, make predictions, and develop conclusions and generalizations;
  - (ii) develop an understanding of and compassion for living things;
  - (iii) develop an understanding of the physical world, the nature and properties of energy, and nonliving matter;
  - (iv) develop an understanding of the earth and planets; and
  - (v) develop an understanding of engineering as the process that assists people in designing and building.
- (f) social studies for early childhood education are that students:

- (i) develop an understanding of the concept of historical time, including past, present, and future;
- (ii) develop knowledge of geographical places and regions by understanding that each place has its own unique characteristics and the reciprocal effect individuals have with the world around them;
- (iii) become aware of their natural world, including the environment and our interdependence on the natural world; and
- (iv) develop an understanding of technology with awareness of technological tools and developmentally appropriate exploration of the ways to use these resources.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

NEW RULE XI CURRICULUM AND ASSESSMENT (1) The early childhood curriculum, as defined in [New Rule II], shall:

(a) contain a written philosophy and framework, grounded in research-based understandings of child development, to provide a clear, coherent focus for planning students' experiences;

(b) guide the learning process and daily plans for learning through the selection of materials and equipment to enhance development and learning in each core domain, including emotional/social, physical, communication, and cognition; and encourage integration of early childhood content areas, including social, emotional, physical, health, safety, language, literacy, mathematics, science, social studies, creative expression and the arts, and technology;

(c) include planned opportunities for active exploration, discovery, and social interaction;

(d) plan for students' engagement in play each day; and

(e) be implemented in a manner reflective of students' family and community lives while being responsive to diversity, including gender, age, language, culture, and ability, including opportunities for students and families to learn about the distinct and unique heritage of American Indians, particularly Montana Indian tribes, in a culturally responsive manner (20-1-501, MCA).

(2) School districts shall develop preschool programs to include an ongoing and systematic written assessment plan which includes protocols for:

(a) monitoring the progress of students toward achieving content standards and learning in the developmental domains using formative and summative approaches that include universal screening, progress monitoring, and diagnostic assessments;

(b) administration of assessments and interpretation of assessment results;

(c) providing disaggregated data to educators and teams to inform instructional planning and decision making;

(d) involving families as partners in linguistically and culturally responsive ways to inform decisions about students' needs; and

(e) assessing the effectiveness of the instructional program that guides adjustments for improvement.

AUTH: 20-7-101, MCA  
IMP: 20-1-501, 20-7-117, MCA

NEW RULE XII INSTRUCTION (1) The preschool program shall ensure developmentally, culturally, and linguistically appropriate and effective teaching strategies that enhance students' development and learning of the early learning content standards [New Rule X] through the program's curriculum.

(2) The preschool instructional program shall:

(a) use both content and child development knowledge to create learning opportunities and to engage young learners in meaningful, planned, and purposeful experiences related to the curriculum goals and content standards;

(b) use a variety of effective approaches and strategies which include opportunities for both teacher and student-initiated interactions and activities;

(c) use knowledge of each student's development to enhance instruction, modify strategies and materials, and adjust supports and challenges as students gain competence, understanding, and skills;

(d) build upon student's language, understanding of concepts, and increase vocabulary;

(e) integrate knowledge of students' families and the community to build relationships that foster integral connections with the curriculum and learning experiences;

(f) use cultural and community resources in the classroom to enhance student learning and development; and

(g) work as a team to implement learning plans, including plans for students with special needs.

AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE XIII PHYSICAL AND LEARNING ENVIRONMENT (1) The preschool program shall ensure an appropriate and well-maintained safe and healthful physical environment that:

(a) is designed to protect student health and safety;

(b) allows for supervision of students primarily by sight;

(c) provides sanitization according to state and federal health standards;

(d) follows state and federal guidelines for meals and snacks; and

(e) provides safe, supervised, and adequate outside play space with age-appropriate equipment and safe, adequate indoor space for each child.

(2) The preschool program shall ensure a safe and healthful learning environment by:

(a) providing a written predictable but flexible schedule that provides intentionally planned routines and transitions; and

(b) providing daily indoor and outdoor activities, including:

(i) planned time where students have individual choice of activities;

(ii) opportunities to learn and play individually, in small groups, and as a whole group; and

(iii) use of developmentally appropriate materials and equipment.



AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE XIV CHILD GUIDANCE (1) Child guidance means employing a variety of strategies to foster self-regulation, respect for others, problem solving, and emotional and social development in an ongoing interactive process and helps students learn how to communicate with others in developmentally appropriate ways. To ensure appropriate child guidance, the preschool program shall:

- (a) use positive behavior supports to ensure the social, emotional, and cultural development of each student;
- (b) provide a positive climate to ensure equality, inclusion, and citizenship;
- (c) develop relationships with the student and the student's family in ways that are linguistically and culturally sensitive;
- (d) provide opportunities for students to be contributing members of the classroom community;
- (e) provide clear behavioral expectations, including the use of effective methods to prevent and redirect misbehavior; and
- (f) partner with families and other professionals for students with challenging behavior to develop and implement an individualized plan that fosters the child's inclusion and success.

AUTH: 20-7-101, MCA  
IMP: 20-7-117, MCA

NEW RULE XV FAMILY AND COMMUNITY ENGAGEMENT (1) The program staff shall establish and maintain collaborative relationships with each child's family and community to foster student's development in all settings.

- (2) To ensure collaborative relationships between the community, school, and families, preschool programs shall have protocols which:
- (a) establish intentional practices designed to foster strong reciprocal relationships with families;
  - (b) ensure that families are an integral part of the decision-making team through communication and family conferences which promote dialogue and partnership regarding their student's educational goals and services;
  - (c) collaborate with families to help students participate successfully in early childhood settings;
  - (d) ensure that all families, regardless of family structure, socioeconomic, racial, religious, and cultural diversity, gender, abilities, or preferred languages are included in their child's educational experience;
  - (e) assist families in locating, contacting, and using community resources that support the student's well-being, development, and goals;
  - (f) promote awareness and understanding of the unique legal and political structures of Montana Tribal Nations in order to best meet the needs of Indian students and families;

(g) collaborate with community-based programs to ensure that parents and families have the resources they need to be involved in their student's education, growth, and development; and

(h) provide access to health screenings and referrals for all students in the program.

AUTH: 20-7-101, MCA

IMP: 20-7-117, MCA

4. **Statement of Reasonable Necessity:** The Governor has announced an early childhood initiative, Early Edge, for the coming legislative session. It is necessary to have rules to ensure that programming and accreditation standards meet the needs of the state, reflect current and best practice, and are consistent with related laws and chapters of ARM Title 10.

The Board of Public Education has determined it is reasonable and necessary to adopt rules relating to preschool program standards for public schools. The Office of Public Instruction staff facilitated a comprehensive process to draft these new rules with input from Montana P-20 education stakeholders.

5. The effective date of these rules is July 1, 2015.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail [pdonovan@mt.gov](mailto:pdonovan@mt.gov) and must be received no later than 5:00 p.m., November 6, 2014.

7. Peter Donovan has been designated to preside over and conduct this hearing.

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

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

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

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

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

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Sharon Carroll  
Sharon Carroll  
Board Chair  
Board of Public Education

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PROPOSED
Rules I and II, amendment of ARM	)	ADOPTION, AMENDMENT, AND
18.7.102, 18.7.104, 18.7.105, and	)	REPEAL
repeal of ARM 18.7.101, 18.7.103,	)	
18.7.105A, 18.7.106, 18.7.107, and	)	NO PUBLIC HEARING
18.7.108 pertaining to Highway Right-	)	CONTEMPLATED
of-Way Encroachment Permits	)	

TO: All Concerned Persons

1. On November 9, 2014, the Department of Transportation proposes to adopt, amend, and repeal the above-stated rules.

2. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Transportation no later than 5:00 p.m. on October 30, 2014, to advise us of the nature of the accommodation that you need. Please contact Doug McBroom, Maintenance Division, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-6157; fax (406) 444-7684; TDD/Montana Relay Service 1-800-335-7592; or e-mail dmcmbroom@mt.gov.

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

NEW RULE I GENERAL REQUIREMENTS (1) The construction of new or modified device or object encroachments shall be the responsibility of the permittee and shall be constructed in conformance with the applicable regulations and manuals, as approved by the department, at the permittee's sole expense.

(2) During the progress of right-of-way work or occupancy, the permittee must erect and maintain such barricades, signs, and other traffic control devices as may be deemed necessary by the department.

(3) The permittee is responsible for completing any environmental documentation required by the department at the permittee's sole expense.

(4) The permittee is responsible for any changes, maintenance, or repairs to existing encroachments deemed necessary by the department at the permittee's sole expense.

(5) The permittee must furnish all materials necessary for the construction of the device or object encroachment authorized by the permit. All materials must be of satisfactory quality, and are subject to inspection and approval by the department.

(6) It is the responsibility of the permittee to supply, place, and properly construct an approved device or object encroachment, or upgrade a retroactively approved encroachment, in accordance with department design and safety standards, and all appropriate department manuals.

(7) Drainage in highway ditches must not be altered or impeded except as authorized and approved by the department. The permittee is responsible for any damage to highway right-of-way or adjacent landowners' property caused by unapproved drainage encroachments into highway right-of-way, at the permittee's sole expense.

(8) The permittee is responsible for any changes, maintenance, or repairs to existing encroachments deemed necessary by the department, at the permittee's sole expense.

(9) The department may make any changes, additions, repairs, or relocations to any encroachment or its appurtenances within the highway right-of-way, at the permittee's sole expense.

(10) Existing device or object encroachments which are granted either a retroactive new permit, or a permit for a change in condition, may be inspected by the department for compliance with department design and safety standards.

(11) Any device or object encroachment which does not meet department design and safety standards is subject to removal by the owner at the owner's sole expense, after department revocation of the encroachment permit.

(12) The permittee is responsible for all repairs to the highway or within the right-of-way resulting from the activities of the encroachment, at the permittee's sole expense. Additionally, the permittee must reimburse the department for any expense incurred in repairing the surface of the roadway or right-of-way due to any damage as a result of the occupancy or work performed under the permit (e.g., settlement at installation site).

(13) If the department makes changes, additions, repairs, or relocations to the highway within the highway right-of-way, which conflict with a permitted encroachment, the encroachment permit may be temporarily or permanently revoked by the department, at the department's sole discretion.

(14) The permittee is responsible for any damage or injury to a third party or department facilities caused by the permittee's installation, maintenance, repair, or actions under a department-issued encroachment permit, at the permittee's sole expense.

AUTH: 60-2-201, MCA

IMP: 60-2-201, 60-5-101, 60-5-104, 60-5-105, 60-6-101, MCA

REASON: The proposed new rule is necessary to establish encroachment general requirements which must be followed by the permit holder when constructing or upgrading an encroachment. The proposed new rule will allow the public to ascertain the department's requirements for construction of an encroachment as well as future maintenance. The proposed new rule will also clarify that the department may revoke the encroachment permit if a future highway project requires use of that portion of the right-of-way.

NEW RULE II ENFORCEMENT (1) The permittee shall hold harmless the department and its agents and employees against any action for personal injury or property damage sustained by reason of exercise of the permit.

(2) A decision to grant, deny, or revoke an encroachment permit is solely within the discretion of the department.

(3) The owner of an existing private encroachment who does not have a department-issued encroachment permit may retroactively apply for an encroachment permit.

(4) If a retroactive encroachment permit application is denied by the department, the existing encroachment must be removed, at the encroachment owner's sole expense, within two days after the permit denial.

(5) Any person proposing a change in encroachment use of highway right-of-way must obtain a new encroachment permit from the department.

(6) A non-permitted encroachment, not affixed permanently to the land, must be removed by the encroachment owner within two days after notice from the department, unless a retroactive permit is applied for by the encroachment owner and approved by the department.

(7) A non-permitted encroachment, which is affixed to the land, must be removed by the encroachment owner within five days after notice from the department, unless a retroactive permit is applied for by the encroachment owner and approved by the department.

(8) A non-permitted encroachment, whether or not affixed to the land, and not timely removed by the owner after notice, may be removed by the department under 60-6-104 and 60-6-105, MCA.

(9) If a non-permitted encroachment obstructs or prevents the use of the highway for vehicles, or constitutes a safety hazard to the traveling public, the department may immediately remove the encroachment without giving notice to the encroachment owner.

AUTH: 60-2-201, MCA

IMP: 60-2-201, 60-6-101, 60-6-102, 60-6-103, 60-6-104, 60-6-105, 61-8-706, MCA

REASON: The proposed new rule is necessary to set forth the enforcement abilities of the department. The rule will clarify for the public that the permit holder must hold the department harmless for any damage or injuries which may result from the presence of the encroachment. The rule will also set forth the ability to apply for a permit retroactively, when an encroachment is later discovered on highway right-of-way, or when a change in use of the encroachment occurs. The rule will also outline the department's authority to give notice and remove non-permitted encroachments, as well as immediately remove those non-permitted encroachments which constitute an obstruction or safety hazard to the public.

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

18.7.102 APPLICATION OF POLICY ENCROACHMENT PERMITS ~~(1) This policy applies to all private structures, devices, and facilities placed upon, over, or under the right-of-way of highways under the jurisdiction of the Department of Highways except:~~

(1) Any person or entity proposing to encroach on a highway right-of-way within the jurisdiction of the department must obtain an encroachment permit from the department.

(2) An encroachment is any installation, device, object, or occupancy that is located at, above, or below the grade lines of the highway and within the right-of-way limits, and that is not installed as part of the highway facility by the department.

(3) Encroachment permits are not required for the following uses, which require a separate department-issued permit for the appropriate use:

(a) Utility facilities occupying right-of-way pursuant to regulations, department-issued utility encroachment permits or utility occupancy agreements; or

(b) Private driveways, road approaches, and curb cuts administered pursuant to "Approach Standards for Montana Highways." occupying right-of-way pursuant to department-issued approach permits.

~~(c) Other occupancy of right-of-way as presently permitted and covered by revocable encroachment permit. Examples of occupancy allowed under revocable permit include private water, sewer, electric, natural gas, and communications lines and private irrigation facilities and related installations.~~

~~(d) Individual facilities, (farm fences), specifically permitted to occupy highway right-of-way under existing use permit procedures.~~

(4) Encroachment permits may be issued for uses including:

(a) devices or objects placed within right-of-way limits (e.g., fence encroachment permits, landscaping encroachment permits); or

(b) physical occupancy of the right-of-way by persons or groups of persons (e.g., special use permits, foraging permits).

(5) Application for an encroachment permit must be made to the appropriate district or area office. The form may be found on the department's web site at [www.mdt.mt.gov](http://www.mdt.mt.gov). Paper copies of the application may also be obtained by request to the appropriate district office.

(6) Applicants must be the owner of the property abutting the right-of-way at the encroachment's proposed location, a government agency, the contractor proposing to conduct work in the right-of-way, or an individual or designated group leader of persons who will temporarily occupy the right-of-way. The application must be signed by the applicant or representative.

(7) For device or object encroachment permits, a site plan drawing with sufficient detail must be provided to show the location of the proposed encroachment. The site plan must be tied to the nearest highway milepost or station marker.

(8) For device or object encroachment permits, the applicant must:

(a) submit a detailed drawing of the proposed encroachment;

(b) submit an environmental checklist contained within the form; and

(c) agree to the terms and conditions on the permit.

(9) Each application must be complete and accompanied by all required supplemental materials. The department will not review or approve a permit application until all necessary information has been provided. The department reserves the right to reject ineligible, incomplete, or otherwise improper applications.

(10) The department may set a time limit for placement of the requested encroachment. Failure to construct the encroachment or occupy the right-of-way

within the specified time limit will terminate the encroachment permit and require the applicant to re-apply.

(11) Construction work of the encroachment within highway right-of-way limits must not commence until an approved permit has been issued.

AUTH: 60-3-101, 61-8-203, ~~61-8-706(1)~~, ~~61-8-712~~, MCA

IMP: 60-3-101, 61-8-203, ~~61-8-706(1)~~, ~~61-8-712~~, MCA

REASON: The proposed amendment is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the need to update archaic language and procedures which are no longer in use by the department. The proposed rule amendments will clarify the requirement that an encroachment permit must be obtained, as well as the two categories of possible right-of-way occupants which will require separate permits from the department. The proposed rule amendments are also necessary to establish a process for application for encroachment of highway right-of-way via department-issued encroachment permits. The current process is scattered throughout current administrative rules, some of which are now proposed for repeal. The proposed rule amendments will allow the public to understand and follow the encroachment permit application and review process.

18.7.104 ENCROACHMENTS ON CONTROLLED ACCESS HIGHWAY RIGHT-OF-WAY (1) No private use of right-of-way of highways under the jurisdiction of the ~~Department of Highways~~ department shall be allowed within and between the access control limits of a controlled access highway except ~~as noted below~~:

(a) ~~The Director of Highways or his assign~~ the department may approve individual private encroachments within the controlled access right-of-way, ~~provided with~~ prior concurrence is obtained from the Federal Highway Administration, ~~for each such encroachment.~~;

(b) ~~As a minimum requirement, encroachment~~ encroachments within controlled access right-of-way must conform to ~~the~~ all department statutes, rules, and design standards set forth in ARM 18.7.201 through 18.7.241.; and

(c) ~~the facility~~ encroachment must be constructed, and maintained, and be ~~capable of being removed~~ allow removal from the area outside of the access control limits.

AUTH: 60-3-101, 61-8-203, ~~61-8-706(1)~~, ~~61-8-712~~, MCA

IMP: 60-3-101, 61-8-203, ~~61-8-706(1)~~, ~~61-8-712~~, MCA

REASON: The proposed amendments are necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the need to update archaic language in the rule and clarify for the public the situations in which encroachments on a controlled-access highway would be allowed.



18.7.105 ENCROACHMENTS ON NON-CONTROLLED ACCESS

HIGHWAY RIGHT-OF-WAY (1) No private use of non-controlled access highway right-of-way shall be allowed, except as ~~specified below:~~ under department-issued encroachment permits.

(a) remains the same but is renumbered (2).

~~(i)~~(a) the overhanging device is within an incorporated city, or is under the jurisdiction of another local unit of government which has ~~ordinance~~ ordinances or regulations allowing such overhang, and the overhanging device is in compliance with such ordinances or regulations;

~~(ii)~~(b) the overhanging device does not conflict with, or interfere with, traffic control signs, signals, or other devices, or with highway construction or maintenance ~~operation~~ operations, or with the public's use of the right-of-way;

~~(iii)~~(c) ground-mounted structures supporting the overhanging device must be located entirely off the public right-of-way; and

(iv) remains the same but is renumbered (d).

~~(b)~~(3) Underground Encroachments - Private underground facilities other than utilities, such as vaults, access and transportation tunnels, and sidewalk freight entrances may be allowed within the public highway right-of-way, provided:

~~(i)~~(a) the underground facility is located within an incorporated city, or is under the jurisdiction of another local unit of government which allows such use under promulgated ordinances or regulations, or by special agreements;

~~(ii)~~(b) the underground facility is in compliance with ~~such~~ the local jurisdiction's ordinances, regulations, or special agreements;

~~(iii)~~(c) the ordinance, regulation, or special agreement allowing such underground use of the public right-of-way contains a revocation clause requiring that the owner shall either remove the encroaching facility at ~~his~~ the owner's sole expense, or pay any difference in costs of construction upon receiving appropriate notice that removal or adjustment is deemed necessary and must be accomplished; and

~~(iv)~~(d) the facility does not ~~incommode~~ or interfere with highway construction or maintenance operations, or with the use of the right-of-way by the traveling public.

~~(c)~~(4) Above Ground Use At-grade Encroachments and Maintenance of Area Adjacent to Traveled Way - Private and public noncommercial use and maintenance of at-grade highway right-of-way may include, but is not limited to the following:

(a) General object or device encroachment permits may be allowed in the right-of-way provided the design is reviewed and approved by the department. At-grade objects or devices may include, but are not limited to, fences, gates, buildings, signs, markers, or other structures.

(b) Landscaping may be allowed in the right-of-way when the area between the property line and the curb line is proposed by abutting property owners for planting trees, shrubs, grass, and similar uses may be allowed, provided:

(i) ~~Such~~ the use is generally allowed within the city or other area under the jurisdiction of a local unit of government;

(ii) the use is not commercial or for profit and does not ~~incommode~~ or interfere with highway construction or maintenance operations, or with the public use of the right-of-way;

(iii) ~~Such the trees, shrubs, or other vegetation are of species that will not injure damage the street, curbs, or sidewalks;~~ and

(iv) ~~Such the use complies with applicable safety policies or standards adopted and promulgated by the American Association of the State Highway and Transportation Officials (AASHTO). A copy of the AASHTO standards may be obtained from the department.~~

~~(v) Additional desired objectives are:~~

~~(A) Such plantings should be sufficiently deep-rooted to prevent injury to sidewalks and curbs.~~

~~(B) Trees should not be allowed in areas where the posted speed limit exceeds twenty-five (25) miles per hour.~~

~~(C) The diameter of tree trunks should not exceed six (6) inches when measured at a point two (2) feet above the base of the tree at ground level.~~

~~(D) Trees should be pruned or trimmed so that they will not obscure traffic signs and signals nor overhang the traveled way below an elevation of thirteen feet, eight inches (13 ft., 8 in.) above the traveled way of the highway.~~

~~(E) Bushes and shrubs should not be allowed in areas where the posted speed limit exceeds thirty-five (35) miles per hour.~~

~~(F) Bushes and shrubs should not exceed eighteen (18) inches in height in the vicinity of intersections, railroad grade crossings, or in other areas where unimpaired lateral sight distance is an important consideration.~~

~~(G) Bushes and shrubs should be maintained so they do not overhang curbs or sidewalks.~~

(c) Bus shelters may be allowed in the right-of-way in urban areas provided the design is reviewed and approved by the department. Commercial advertising on bus shelters must comply with department outdoor advertising control rules.

(d) Mailboxes may be allowed in the right-of-way, but must meet standards defined and reviewed by the department.

(d)(e) Mail boxes and newspaper deliver ~~Other delivery~~ boxes that such as newspaper boxes may be allowed in the right-of-way, but must comply with the department standards and rules in this sub-chapter.

(5) ~~Occupancy Encroachments - Private and public noncommercial occupancy and use of highway right-of-way by individuals or groups of individuals may include, but is not limited to:~~

(a) special use permits (e.g., parades, pedestrian, or bicycle events);

(b) encroachment permits for work to be conducted within highway right-of-way limits; or

(c) foraging permits, for harvesting of agricultural crops within the highway right-of-way limits.

(6) Other types of encroachments not listed in the rules may be reviewed on a case-by-case basis and the department may issue an encroachment permit as appropriate.

AUTH: 60-3-101, 60-6-101, 61-8-203, ~~61-8-706(1), 61-8-712~~, MCA

IMP: 60-3-101, 60-6-101, 61-8-203, ~~61-8-706(1), 61-8-712~~, MCA

REASON: The proposed rule amendments are necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the need to update archaic language in the rule. The proposed rule language will categorize the various types of encroachment permits which are issued by the department, to better assist the public in understanding when an encroachment permit may be required for occupancy or placement of objects within the highway right-of-way. The proposed amendments will also delete technical information on tree and shrub planting as encroachments, as this information is already contained in the other department manuals. The proposed amendments are also necessary to specifically address the addition of bus shelters and the presence of mail boxes and newspaper delivery boxes on highway right-of-way.

5. The department proposes to repeal the following rules:

18.7.101 GENERAL POLICY

AUTH: 60-3-101, MCA  
IMP: 60-3-101, MCA

REASON: The proposed repeal is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the rule as archaic. Regulation and authority for removal of highway right-of-way encroachments is already set forth in statute at Title 60, chapter 6, part 1, MCA.

18.7.103 ADMINISTRATION OF ENCROACHMENT POLICY

AUTH: 60-3-101, 61-8-203, 61-8-706(1), 61-8-712, MCA  
IMP: 60-3-101, 61-8-203, 61-8-706(1), 61-9-712, MCA

REASON: The proposed repeal is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the rule as archaic. The department no longer follows the procedure outlined in ARM 18.7.103 for control of right-of-way encroachments.

18.7.105A MAILBOXES AND NEWSPAPER DELIVERY BOXES

AUTH: 60-6-101, MCA  
IMP: 60-6-101, MCA

REASON: The proposed repeal is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the rule as archaic. The department's standards for mailbox and newspaper delivery boxes in the right-of-way are contained in the department's detailed drawings. The department no longer uses the construction standards set forth in this outdated rule.

18.7.106 HARDSHIP CASES

AUTH: 60-3-101, 61-8-203, 61-8-706(1), 61-8-712, MCA  
IMP: 60-3-101, 61-8-203, 61-8-706(1), 61-8-712, MCA

REASON: The proposed repeal is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the rule as archaic. The department's issuance of encroachment permits is no longer subject to hardship exceptions or term-limited encroachment agreements.

#### 18.7.107 CONDITIONAL AGREEMENT FOR BUILDINGS AND FUEL PUMPS

AUTH: 60-3-101, 61-8-203, 61-8-706(1), 61-8-712, MCA  
IMP: 60-3-101, 61-8-203, 61-8-706(1), 61-8-712, MCA

REASON: The proposed repeal is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the rule as archaic. The department no longer issues conditional agreements for building and fuel pump encroachments, but instead uses the same standards for evaluation of all encroachment permit applications, regardless of type of encroachment.

#### 18.7.108 APPLICATIONS AND PERMITS

AUTH: 60-3-101, 61-8-203, 61-8-706(1), 68-8-712, MCA  
IMP: 60-3-101, 61-8-203, 61-8-706(1), 68-8-712, MCA

REASON: The proposed repeal is necessary because the Montana Department of Transportation's biennial rule review under 2-4-314, MCA, identified the rule as archaic. The department no longer uses the forms contained in this rule, as the current encroachment permit application is located on the department's web site for availability to the public.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Doug McBroom, Maintenance Division, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-6157; fax (406) 444-7684; or e-mail [dmcbbroom@mt.gov](mailto:dmcbbroom@mt.gov), and must be received no later than 5:00 p.m., November 6, 2014.

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

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

having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 25 persons based on the approximately 250 encroachment permits issued in 2014.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department. An Administrative Rules Notice Interested Person's List request form is located at the Department of Transportation's web site at the following address:  
[http://www.mdt.mt.gov/publications/docs/forms/mdt-leg-003\\_interested-persons-list.pdf](http://www.mdt.mt.gov/publications/docs/forms/mdt-leg-003_interested-persons-list.pdf).

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

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

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

/s/ Carol Grell Morris  
Carol Grell Morris  
Rule Reviewer

/s/ Michael T. Tooley  
Michael T. Tooley  
Director  
Department of Transportation

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the repeal of ARM	)	NOTICE OF PROPOSED REPEAL
24.117.101 board organization,	)	
24.117.401 general information,	)	NO PUBLIC HEARING
24.117.1001, 24.117.1002,	)	CONTEMPLATED
24.117.1005 through 24.117.1007	)	
club boxing, 24.117.1101 through	)	
24.117.1108 kickboxing, 24.117.1202	)	
through 24.117.1208 wrestling,	)	
24.117.1301 Australian tag team	)	
wrestling, 24.117.1501, 24.117.1504,	)	
24.117.1507, 24.117.1510,	)	
24.117.1513, 24.117.1516,	)	
24.117.1519, 24.117.1522, and	)	
24.117.1525 mixed martial arts, and	)	
24.117.2303 license suspension and	)	
revocation	)	

TO: All Concerned Persons

1. On November 10, 2014, the Department of Labor and Industry proposes to repeal the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Athletics Program no later than 5:00 p.m., on October 24, 2014, to advise us of the nature of the accommodation that you need. Please contact Adam de Yong, Athletics Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2243; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdate@mt.gov (program's e-mail).

3. REASONABLE NECESSITY: The 2009 Montana Legislature enacted House Bill 171, an act that eliminated the department's regulation of professional and semiprofessional combative events and retaining only the regulation of professional boxing in Montana. Although the department has not licensed or regulated these athletic events and participants since 2009, it is reasonably necessary to repeal all administrative rules related to club boxing, kickboxing, wrestling, and mixed martial arts to align with the statutory changes.

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

24.117.101 BOARD ORGANIZATION located at page 24-8511, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 2-4-201, MCA

REASON: The department is repealing this rule as unnecessary, since legislation in 2007 changed the board of athletics to a department program.

24.117.401 GENERAL INFORMATION located at page 24-8531, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

REASON: The department is repealing this rule as unnecessary, since it contains only the address of the former board, which was changed to a program in 2007.

24.117.1001 INTRODUCTION located at page 24-8701, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1002 CLUB BOXING CONTESTANTS located at page 24-8701, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-603, MCA

24.117.1005 CLUB BOXING--CONTEST REGULATIONS located at page 24-8701, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1006 CLUB BOXING--WEIGHTS AND CLASSES located at page 24-8702, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1007 CLUB BOXING--REQUIRED EQUIPMENT located at page 24-8702, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1101 GENERAL RULES APPLICABLE located at page 24-8721, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1102 CONDUCT OF ATHLETIC EVENTS located at page 24-8721, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1103 SWEEPS located at page 24-8721, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1104 FOULS located at page 24-8722, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1105 KICKING REQUIREMENTS located at page 24-8723, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1106 CONTESTANT'S EQUIPMENT located at page 24-8724, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1107 WEIGHT CLASSES located at page 24-8725, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1108 KICKBOXING OFFICIALS located at page 24-8726, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA



24.117.1202 WRESTLING CONTESTANT located at page 24-8751, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-404, 23-3-405, MCA

24.117.1203 REFEREE located at page 24-8751, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-603, MCA

24.117.1204 TIME LIMITATIONS located at page 24-8752, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1205 HOLDS located at page 24-8752, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1206 FALLS AND DECISIONS located at page 24-8753, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1207 DELAYS IN CONTEST located at page 24-8753, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1208 RING EQUIPMENT located at page 24-8753, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, MCA

24.117.1301 AUSTRALIAN TAG TEAM WRESTLING located at page 24-8771, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.1501 RING AND ARENA REQUIREMENTS located at page 24-8783, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1504 DURATION OF CONTESTS AND EXHIBITIONS located at page 24-8789, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1507 WEIGHT CLASSES OF UNARMED COMBATANTS - WEIGHT LOSS AFTER WEIGH-IN located at page 24-8789, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1510 PROPER ATTIRE located at page 24-8797, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1513 METHOD OF JUDGING located at page 24-8797, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1516 ACTS CONSTITUTING FOULS located at page 24-8801, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1519 DEDUCTION OF POINTS FOR FOULS located at page 24-8805, Administrative Rules of Montana.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.1522 ACCIDENTAL FOULS located at page 24-8805, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-404, 23-3-405, MCA

24.117.1525 CONTEST RESULTS located at page 24-8806, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-404, 23-3-405, MCA

24.117.2303 LICENSE SUSPENSION AND REVOCATION located at page 24-8855, Administrative Rules of Montana.

AUTH: 23-3-405, MCA  
IMP: 23-3-405, 37-1-131, 37-1-136, 37-1-303, 37-1-307, 37-1-308, 37-1-309, 37-1-310, 37-1-311, 37-1-312, 37-1-313, 37-1-314, MCA

REASON: The department is repealing this rule, since it references provisions in Title 37, chapter 1, part 3, MCA, that only apply to licensing boards, not department programs.

5. Concerned persons may submit their data, views, or arguments concerning the proposed repeal in writing to the Athletics Program, Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsath@mt.gov](mailto:dlibsath@mt.gov), to be received no later than 5:00 p.m., November 7, 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 Adam de Yong at the above address no later than 5:00 p.m., November 7, 2014.

7. If the board receives requests for a public hearing on the proposed repeals from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be five persons based on the average number of active licensees over the past three fiscal years.

8. An electronic copy of this notice is available at [www.athletics.mt.gov](http://www.athletics.mt.gov) (department and program's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the

event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the repeal of ARM 24.117.101, 24.117.401, 24.117.1001, 24.117.1002, 24.117.1005, 24.117.1006, 24.117.1007, 24.117.1101 through 24.117.1108, 24.117.1202 through 24.117.1208, 24.117.1301, 24.117.1501, 24.117.1504, 24.117.1507, 24.117.1510, 24.117.1513, 24.117.1516, 24.117.1519, 24.117.1522, 24.117.1525, and 24.117.2303 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination(s) is available upon request to the Athletics Program, Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2243; facsimile (406) 841-2305; or e-mail [dlibsdate@mt.gov](mailto:dlibsdate@mt.gov).

/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 29, 2014

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.138.402 fee schedule ) PROPOSED AMENDMENT

TO: All Concerned Persons

1. On October 31, 2014, at 9:00 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Dentistry (board) no later than 5:00 p.m., on October 24, 2014, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdden@mt.gov (board's e-mail).

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

24.138.402 FEE SCHEDULE (1) through (6) remain as proposed.

(7) Active renewal fee for dentists	<del>153</del> <u>306</u>
(8) Active renewal fee for dental hygienists	<del>70</del> <u>140</u>
(9) Active renewal fee for denturists	<del>100</del> <u>200</u>
(10) Inactive renewal fee for dentists	<del>153</del> <u>306</u>
(11) Inactive renewal fee for dental hygienists	<del>70</del> <u>140</u>
(12) Inactive renewal fee for denturists	<del>100</del> <u>200</u>
(13) through (17) remain the same.	

AUTH: 37-1-131, 37-1-134, 37-4-205, 37-4-340, 37-4-341, 37-4-405, 37-29-201, MCA

IMP: 37-1-134, 37-1-141, 37-4-301, 37-4-307, 37-4-340, 37-4-341, 37-4-402, 37-4-405, 37-29-303, MCA

REASON: The board determined it is reasonably necessary to amend the fee schedule. The board is proposing a license renewal fee increase to achieve financial solvency. Current cash balance for the board will be depleted before the end of calendar year 2014 and the board is statutorily required to maintain fiscal solvency. The cash balance for the board as of mid-July, 2014 was slightly more than \$48,000. As of mid-September, 2014 it was approximately \$17,000.

The board has traditionally maintained a cash balance carryover of approximately \$200,000 from fiscal year to fiscal year, although board expenses have regularly exceeded revenue. Revenues for the board (from all sources) have risen from \$200,500 in fiscal year 2009 to over \$219,000 in fiscal year 2013, while board expenses have risen from \$220,300 to over \$270,000 over the same period.

At the end of fiscal year 2013, the board's cash balance was \$96,516. In comparison, the cash balance at the end of fiscal year 2012 was approximately \$147,000 and fiscal year 2011 approximately \$216,000. Staff provided a comprehensive fee increase proposal in the spring of 2010 (fiscal year 2010) when it appeared cash balance may dip below \$200,000, and the financial projection showed a steady erosion of the cash balance in the future. The board determined not to proceed with a fee increase, but to monitor the financial status. The final cash balance after fiscal year 2010 ended was \$226,446.

A number of factors have seen the board's cash balance erode significantly since fiscal year 2012. Primarily, starting in fiscal year 2012, the board incurred an increase in cost of contracting for an impairment program as required by 37-4-311, MCA, Rehabilitation. The board was responsible for paying a portion of the cost of a new licensing database purchased by the Business Standards Division of the Department of Labor and Industry for use by all licensing boards; an increase in personal service costs due to increases in employee wages and benefits as previously approved by the Legislature; the contracting of an independent investigator for dental office sanitation complaints in fiscal year 2013; and additional department legal and associated staffing fees to address a lawsuit against the board in fiscal year 2014. Additionally, there was an overall increase in costs for processing complaints and investigations over the past five fiscal years and there have also been increases in the cost of doing business that all licensing boards are required to pay, such as rent, information technology maintenance fees, postage, and mailing, etc.

The current board renewal fees have been in place since 1995 and the board is statutorily required to assess fees commensurate with costs. The board agreed it is highly unlikely a person would still be paying the same fee for a professional service for over 18 years. The average rate of inflation alone for this period has been approximately 2.52 percent per year or 45.4 percent.

The board estimates the increase in renewal fees will affect approximately 1620 licensees and will result in a total of \$363,350 revenue by June 30, 2015.

DENTISTS: 815 licensees at \$306 each renewal fee = \$249,390

DENTAL HYGIENISTS: 784 licensees at \$140 each renewal fee = \$109,760

DENTURISTS: 21 licensees at \$200 each renewal fee = \$4,200

The total revenue for fiscal year 2015, including the renewal fee increase, is estimated at \$404,034. The total expenses for the same period are estimated at \$291,023.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to

dlibsdden@mt.gov, and must be received no later than 5:00 p.m., November 7, 2014.

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

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

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.138.402 will significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdden@mt.gov](mailto:dlibsdden@mt.gov).

9. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY  
DR. 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 29, 2014



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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.168.2301 unprofessional ) PROPOSED AMENDMENT,  
conduct, the adoption of NEW RULE I ) ADOPTION, AND REPEAL  
nonroutine applications, and the )  
repeal of ARM 24.168.2115 renewals )

TO: All Concerned Persons

1. On November 5, 2014, at 1:00 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Optometry (board) no later than 5:00 p.m., on October 31, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdopt@mt.gov.

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

24.168.2301 UNPROFESSIONAL CONDUCT (1) Unprofessional conduct by licensees or license applicants includes, but is not limited to, the following items or combination thereof:

(a) through (p) remain the same.

(q) ~~for any person to sell,~~ selling or offer offering to sell, any eyeglasses or lenses for the correction of refractive error, except for over-the-counter readers between the powers of +.75 dioptors to +5.50 dioptors, except on prescription of a licensed optometrist or licensed physician;

(r) and (s) remain the same.

AUTH: 37-1-131, 37-1-319, 37-10-202, MCA

IMP: 37-1-131, 37-1-316, 37-1-319, 37-10-301, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the scope of unprofessional conduct. Following board counsel's recommendation, the board is amending (1)(q) to accurately reflect the board's jurisdiction over its licensees, and not any person.

The board is further amending (1)(q) to clarify the board's intent that selling certain over-the-counter readers does not qualify as unprofessional conduct, as these products are routinely sold in retail stores.

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

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

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

AUTH: 37-1-131, 37-10-202, MCA

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

REASON: It is reasonably necessary to adopt this new rule to further implement 37-1-101, MCA, which provides that the department shall process routine license applications on behalf of the professional and occupational licensing boards. Although the board has previously relied on the department's definitions for routine and nonroutine applications in ARM 24.101.402, this new rule will provide licensing staff further clarification and guidance from the board on differentiating between routine and nonroutine applications.

5. The rule proposed to be repealed provides as follows:

24.168.2115 RENEWALS found at ARM page 24-18242.

AUTH: 37-1-141, 37-10-202, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to

dlibsdopt@mt.gov, and must be received no later than 5:00 p.m., November 14, 2014.

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

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

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

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.168.2301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rule I will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.168.2115 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail [dlibsdopt@mt.gov](mailto:dlibsdopt@mt.gov).

11. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OPTOMETRY  
DOUG KIMBALL, 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 29, 2014

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.171.401 fees, 24.171.407	)	PROPOSED AMENDMENT,
inspection, 24.171.408 outfitter	)	ADOPTION, AND REPEAL
records, 24.171.412 safety	)	
provisions, 24.171.413 watercraft	)	
identification, 24.171.501 application	)	
for outfitter license, 24.171.502	)	
outfitter qualifications, 24.171.504	)	
successorship, 24.171.507 outfitter	)	
examination, 24.171.520 amendment	)	
to operations plan, 24.171.601 guide	)	
qualifications, 24.171.602 guide	)	
license, 24.171.701 NCHU	)	
categories, transfers, and records,	)	
24.171.2101 renewals, and	)	
24.171.2301 unprofessional conduct,	)	
the adoption of NEW RULE I booking	)	
agents and advertising, NEW RULE II	)	
outfitter assistants, and NEW RULE	)	
III nonroutine applications, and the	)	
repeal of ARM 24.171.402 effect of	)	
fee for expansion of net client hunter	)	
use, and 24.171.503 outfitter	)	
application	)	

TO: All Concerned Persons

1. On October 31, 2014, at 10:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Outfitters no later than 5:00 p.m., on October 24, 2014, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Executive Officer, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsout@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2013 Montana Legislature enacted Chapter 241, Laws of 2013 (House Bill 187), an act

allowing and defining outfitter's assistants, and providing rulemaking authority. The bill became effective September 1, 2013. The board is adopting New Rule II and amending certain existing rules to coincide with the 2013 legislative changes and further implement the legislation by specifying standards for outfitter's assistants and the documentation required to prove employment and retention of the assistants.

Additionally, the 2013 Montana Legislature enacted Chapter 341, Laws of 2013 (House Bill 274), an act revising laws related to the licensing of outfitters and guides. The bill became effective October 1, 2013. Among other changes, HB 274 eliminated the professional guide license type. The board is amending several existing rules to coincide with the 2013 legislative changes and implement the legislation by striking reference to professional guides.

Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.171.401 FEES (1) Fees for outfitters, operations plan, guide, or ~~professional guides use of outfitter assistants~~ shall be as set forth below. The following fees are nonrefundable.

(a) through (d) remain the same.

(e) ~~Fee per hunting client served per year~~ \_\_\_\_\_ 2

Fee per outfitter assistant employed or contracted \_\_\_\_\_ 25

(f) remains the same.

~~(g) Professional guide license~~

~~(i) initial license (inclusive of application processing)~~ \_\_\_\_\_ 250

~~(ii) renewal of license~~ \_\_\_\_\_ 150

(h) remains the same but is renumbered (g).

~~(i)~~ (h) Fee for replacement or additional watercraft identification \_\_\_\_\_ 5

(j) remains the same but is renumbered (i).

~~(k) Notwithstanding the foregoing, the following fees will control for the 2012 license year:~~

~~(i) outfitter annual license~~ \_\_\_\_\_ 400

~~(ii) outfitter inactive status~~ \_\_\_\_\_ 225

~~(iii) initial and renewal guide license~~ \_\_\_\_\_ 175

(l) remains the same but is renumbered (j).

AUTH: 37-1-131, 37-1-134, 37-47-201, 37-47-306, MCA

IMP: 37-1-134, 37-1-141, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, ~~37-47-316, 37-47-318~~, MCA

REASON: The board determined it is reasonably necessary to amend (1)(e) and remove the fee per hunting client because HB 274 eliminated this fee from statute. The board is establishing a new fee for a licensed outfitter's use of assistants that is commensurate with associated costs of data gathering and administration. The board estimates that approximately 45 outfitter's assistants will be utilized by licensed outfitters per year, resulting in a \$1125 increase in annual revenue.

The board is striking (1)(g) to remove fees associated with professional guides, as this license type was eliminated in 2013 through HB 274. The board estimates no fiscal impact with this fee elimination, as there are fewer than ten professional guides in Montana, and they will likely obtain licensure as guides.

The board is amending (1)(h) to clarify that the \$5 fee applies to requests for both replacement and additional watercraft identification. Because ARM 24.171.413(8) provides that a fee will be assessed for both replacement and additional sets of identification, it is reasonably necessary to amend this rule to align provisions in both rules.

The board is deleting (1)(k) to remove reference to fees applicable only in the 2012 license year, which has passed.

The implementation citations are amended to delete reference to statutes repealed in 2013.

24.171.407 INSPECTION (1) Inspections of outfitter, ~~and guide and professional guide~~ operations may be made by a representative of the board at all reasonable times. The purpose of the inspection is to periodically examine the premises, equipment, and/or procedures of a licensed individual to determine whether the individual's practice is being conducted in a manner consistent with the laws and rules of the board, and the public health, safety and welfare.

AUTH: 37-47-201, MCA

IMP: 37-47-301, 37-47-302, MCA

REASON: The board is striking professional guides from this rule, as this license type was eliminated in 2013 through HB 274.

24.171.408 OUTFITTER RECORDS (1) remains the same.

(2) Outfitter records shall be maintained on forms prescribed by the ~~board~~ department and shall contain information as required by the board. The information required, in addition to information for operations plans under ARM 24.171.520 and employment records relative to outfitter assistants under [NEW RULE II], shall include:

(a) the outfitter's name and license number;

~~(a) (b) names and addresses of clients, except that fishing outfitters may omit client addresses~~ each client's name and automated licensing system number;

~~(b) remains the same but is renumbered (c).~~

~~(c) (d) big game animals, except fish, taken by clients, specifying the species and sex of each big game animal and stating for each big game animal whether it was taken on public or private land within the outfitter's operations plan;~~

~~(d) clients' hunting or fishing license numbers;~~

~~(e) districts hunted and rivers and lakes~~ water bodies, including section of a river or stream, fished by clients;

(f) category of NCHU applicable for each client; and

~~(f) the actual leased acreage actively used by clients during that year;~~

~~(g) the actual leased acreage unused by clients during that year; and~~

(h) ~~(g)~~ the name of the outfitter assistant or the name and license number of the guide who accompanied the client.

(3) Amendments to ~~logs~~ records shall be made immediately when errors are discovered. Amendments that only supplement records with information that arose after license renewal are always proper. However, cases of amendments to records for any other reason shall be brought to the screening panel for a decision as to whether an investigation should follow.

(4) ~~Submitted~~ In general, submitted outfitter ~~client~~ records, including but not limited to the operations plans, shall be maintained as confidential information and shall not be released to any person or organization without ~~approval of the board~~, written permission of the outfitter, subpoena or order of a court, or written request of a state or federal agency for law enforcement purposes ~~the purpose of furthering investigation of criminal activities~~. A specific outfitter's number of NCHU is confidential information, but whether an outfitter has NCHU of a particular category is public information. Also, while total acreage of private lands where any outfitter is authorized to operate is a matter of public record, where a particular outfitter is authorized to operate is a confidential matter between the landowner and the outfitter. The Department of Fish, Wildlife and Parks or the Private Land/Public Wildlife Council may use board data to create a map depicting all private land where any outfitter is authorized to operate. All inquiries for outfitter records shall be reviewed and considered in relation to this rule and the competing interests between the public's right to know and the rights of privacy involved in the particular records requested.

AUTH: 37-1-131, 37-47-201, MCA  
IMP: 37-47-301, MCA

REASON: The board is amending this rule for clarity and better organization, and to include provisions relating to outfitter's assistants and further implement HB 187. Additionally, the board is amending this rule to align with and further implement legislative changes in HB 274.

The board determined it is reasonably necessary to amend (4) and specifically describe the board's intent regarding public and private information maintained by the board. After receiving and processing several public records requests, staff brought these issues to the board. Following several full board discussions, the board is amending this rule to more clearly delineate information the board determined to be confidential or public, and the process used for public records requests.

24.171.412 SAFETY AND FIRST AID PROVISIONS (1) Outfitters and guides are required to hold a current basic first aid card at all times actively licensed.

(2) Basic first aid certification must be obtained through a provider ~~or~~ and course approved by the board ~~on a case-by-case basis~~. For purposes of initial licensure, the board will only accept basic first aid certification that involves the direct, hands-on application of first aid materials and techniques. A list of approved providers and courses shall be maintained on the board web site. An applicant may also meet basic first aid certification if the applicant provides proof of a certification,



license, or other credential that is equivalent to or greater than basic first aid certification, approved on a case-by-case basis by the board. The board may also maintain on its web site a list of certifications, licenses, and other credentials that will be routinely accepted as equivalent to or greater than basic first aid.

~~(3) Guides and professional guides are required to hold a current basic first aid card while actively licensed.~~

(4) through (6) remain the same but are renumbered (3) through (5).

AUTH: 37-47-201, MCA

IMP: 37-47-201, MCA

REASON: The board is amending (2) to clarify that for basic first aid certification, both the provider and course must be board approved. While the board has never approved providers on their own and without associated courses, this amendment is necessary to clarify the standard and avoid any confusion.

Additionally, the board is amending this rule to require that applicants obtain basic first aid certification for initial licensure through hands-on courses. While acknowledging that online courses are acceptable as refreshers on a biennial basis, the board concluded that an original hands-on course is necessary for a solid foundation of basic first aid that may be needed to preserve life in the field.

24.171.413 WATERCRAFT IDENTIFICATION (1) A person holding a valid outfitter, ~~professional guide~~, or guide license who utilizes any type of watercraft while providing services shall prove evidence of licensure by displaying, at all times, a Montana Board of Outfitters board-issued watercraft identification ~~on each watercraft to be occupied by the licensee.~~

(2) The tag shall display the outfitter, ~~professional guide~~ or guide license number for identification purposes.

(3) An unlicensed outfitter assistant shall display a board-issued watercraft identification on each watercraft to be occupied by the outfitter assistant, showing the license number of the employing outfitter.

(3) through (5) remain the same but are renumbered (4) through (6).

~~(6) Requests for watercraft identification shall be made as part of the annual license and renewal application.~~

(7) remains the same.

(8) Licensees shall be provided with one set of watercraft identification at the time of application for licensure or renewal, upon request. A fee will be assessed for any replacement ~~or additional sets of identification needed~~, in accordance with ARM 24.171.401.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-134, 37-47-201, 37-47-301, 37-47-302, 37-47-303, 37-47-304,  
MCA

REASON: The board is striking professional guides from (1), as this license type was eliminated in 2013 through HB 274.

The board is adding (3) to specify watercraft identification provisions applicable to outfitter's assistants, pursuant to 2013's HB 187.

The board frequently receives requests for additional sets of watercraft identification. However, a licensee may occupy only one watercraft at a time, and the cost of preparing and providing additional sets of watercraft identification exceed the amount being charged by the board. Because licensees should only need one set of watercraft identification, and can request replacements at any time, the board is amending this rule to no longer allow licensees to order "additional" sets, thereby reducing unnecessary board costs.

24.171.501 APPLICATION FOR OUTFITTER LICENSE (1) An application for an outfitter license shall be on forms prescribed by the department and shall be accompanied by the required fee.

(2) A complete application, which is required prior to being allowed to take the examination, shall consist of two parts:

(a) the department's license application form, including all supporting documentation as required by that form; and

(b) an operations plan application form, accompanied by a NCHU transfer request form, if applicable.

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

(b) successfully passed the required examinations pertaining to those categories described in ARM 24.171.507; filed an outfitter license application with the board office;

(c) filed an operations plan that has been approved by the board;

(d) filed a completed outfitter license application with the board office; successfully passed the required examinations pertaining to those categories described in ARM 24.171.507; and

(e) received an approved equipment inspection; and

(f) if applicable, filed a NCHU application that has been approved by the board.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-101, 37-47-201, 37-47-301, 37-47-302, 37-47-305, 37-47-307, 37-47-308, MCA

REASON: It is reasonably necessary to combine all outfitter application provisions into a single rule. Therefore, the board is moving into this rule all relevant provisions from ARM 24.171.503 OUTFITTER APPLICATION, which is proposed for repeal in this notice.

The board is also amending this rule to streamline and simplify the outfitter application process. After amendment, the outfitter application will have two parts, as the NCHU application is being eliminated to align legislative changes in 2011 that eliminated NCHU expansions.

24.171.502 OUTFITTER QUALIFICATIONS (1) An applicant for an outfitter license shall have:

(a) 100 days of verified experience as a licensed guide or professional guide working for a licensed outfitter in this state, guiding clients in pursuing the types of game and using methods for which licensure is sought by the applicant (hunting or fishing); or

(b) through (4) remain the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-302, 37-47-304, 37-47-307, 37-47-308, MCA

REASON: The board is striking language associated with professional guides, as this license type was eliminated in 2013 through HB 274.

24.171.504 SUCCESSORSHIP (1) ~~The decision of whether to approve or conditionally approve a successor designated by the family of a deceased or incapacitated outfitter pursuant to 37-47-310, MCA, lies in the sole discretion of the board. However, the board chairperson may approve or conditionally approve a person designated by the family to outfit in place of the outfitter until the next regularly scheduled board meeting.~~

~~(2) Prior to approval, a successor must meet all qualifications for licensure aside from the experience and testing requirements. Among other conditions, approval may be granted upon the condition that documentation of licensure requirements will be received by the board no later than a specified date. If the documentation of licensure requirements is not received in a timely manner, board staff shall immediately place the license on inactive status until the board is able to reconsider the conditional approval.~~

~~(3) A successor stands in the shoes of the outfitter for purposes of the board's power to administer and enforce the statutes and rules applicable to outfitters. Notwithstanding any agreement to the contrary, a successor is jointly and severally liable with the estate of the successor for all fines and fees owed in relation to the outfitter license. The successor continues to outfit, subject to the authority of the board, to the same extent as if the successor were the outfitter.~~

~~(4) A successor must appear before the board on an annual basis to request continuation of the successorship and to report the progress made toward licensure of the successor or sale of the business. In addition to all other powers of the board, the board may terminate a successorship at any time, and in the sole discretion of the board.~~

~~(5) NCHU allocated to the outfitter may be transferred only by a successor. The successor is authorized to transfer NCHU on behalf of the outfitter. NCHU of the outfitter is not "transferred" to the successor for purposes of 37-47-316, MCA, unless and until the successor becomes licensed.~~

~~(6) A successor seeking licensure must meet all the qualifications of an outfitter, successfully complete the required examination, and submit to the board all required applications, fees, and other documents and information no later than the date that is three years from the date the successorship was approved under this rule. If a successor obtains licensure, the NCHU is transferred to the successor as a newly licensed outfitter.~~

~~(7) If the successor does not timely meet the foregoing requirements, then the license must be immediately placed on inactive status until one of the following occurs:~~

- ~~(a) the board refuses to continue the successorship;~~
- ~~(b) the successor qualifies for licensure; or~~
- ~~(c) the license terminates or is revoked.~~

~~(8) In the discretion of the board, and in addition to all other waivers that the successor may qualify for, a successor may request a waiver of up to 50 days of experience for each license function (hunting and fishing) by sufficiently documenting the successor's past experience and involvement with the particular outfitting business that occurred prior to the date the successorship was approved, and the successor may also use experience gained as a successor toward the licensure requirements.~~

~~(9) The family of the outfitter designates a successor when a written application for successorship, along with all other documents showing compliance with this rule, is received by the board on a form prescribed by the department. The form must be completed by someone who is at least 18 years old.~~

(1) A successorship is the permission granted to a person to renew the license of a deceased or incapacitated outfitter for a limited period of time for the purposes of operating or selling the business. Only a successor may renew the license of an outfitter who has deceased.

(2) A successor acceptable to the board must be designated by the family of a deceased outfitter within six months of the date that the outfitter becomes deceased. If a successor for a deceased outfitter is not designated within those six months, then no successor will be approved.

(3) The family of an outfitter designates a proposed successor by submitting the fee required for a successor under ARM 24.171.401; an application completed by the proposed successor on a form provided by the department; a sworn statement by the proposed successor explaining how the proposed successor has been involved with the outfitting industry, in general, and how the successor has been involved with the outfitting business for which the successorship is sought, in particular; and a sworn statement by someone on behalf of the family of the deceased or incapacitated outfitter, affirming the person's authority and how the authority was obtained to designate a successor on behalf of the family, and that the person so acting is at least 18 years of age. A successorship application must specify whether the successor will operate the business or will only seek to sell it.

(4) An application for the purpose of selling the business shall require the name; phone number; e-mail address, if available; social security or foreign ID number; date of birth; and sex of the proposed successor; as well as the mailing address where the successor will accept formal service of board documents. When a successorship is approved for the purpose of selling the business, the outfitter license is placed on inactive status and may be renewed only on inactive status and only until the successorship terminates or until the business sells, whichever occurs earlier. No clients may be contracted with or served under authority of an inactive license. All requests for successorship for the sole purpose of selling the business shall be routinely approved by staff upon the board's receipt of all the required information.

(5) An application for the purpose of operating the business shall require the same information that is required of an outfitter applicant. The decision of whether to approve a successorship for the purpose of operating the business shall be processed by the department unless the application is nonroutine under [NEW RULE III], in which case the matter will be brought to the board.

(6) Prior to approval, a successor must meet all qualifications for licensure aside from the experience and testing requirements. Approval may be granted upon the condition that documentation of licensure requirements will be received by the board no later than a specified date. If the documentation of licensure requirements is not received in a timely manner, board staff shall immediately place the license on inactive status and all outfitting under that license shall immediately cease until the board is able to reconsider the approval.

(7) A successor stands in the shoes of the outfitter for purposes of the board's power to administer and enforce the statutes and rules applicable to outfitters. Notwithstanding any agreement to the contrary, a successor and the original licensee, or the estate if the original licensee is deceased, are jointly and severally liable and responsible for all conduct affecting the outfitter license occurring during that successor's service as the successor. The successor may operate the license subject to the authority of the board to the same extent as if the successor were the outfitter. An action addressing unprofessional conduct may be taken against an outfitter license regardless of the status of the successorship, and regardless of whether the conduct was that of the deceased or incapacitated outfitter or of one or more successors. Each living outfitter and successor who is alleged to be responsible for misconduct may be made a party to the action.

(8) A successor shall report to the board each year at its December board meeting or at the next regularly scheduled meeting if no meeting is held in December. To report, the successor shall either personally appear for the meeting or shall submit a written report to the board no less than 15 days before the meeting. The report shall inform the board of the progress made toward licensure of an outfitter for the business, or of the progress made toward sale of the business.

(9) If the board wishes to revoke a successorship for unprofessional conduct or for failing to appear or report, the public health, safety, or welfare is more likely to imperatively require emergency action because a successor is presumed to be less qualified than an outfitter and to be less invested in the protection of the public. If a successorship is revoked, then the outfitter license status becomes the status applicable to it as if the original licensee had deceased or become incapacitated on the date of the revocation. A successor shall not perform any outfitter functions if the successorship or the license is suspended or revoked.

(10) A successorship terminates the earlier of the date that is two years from the date that the successorship was approved under this rule, or the date that the successorship is revoked or voluntarily surrendered, or the date that the successor becomes a licensed outfitter.

(11) While operating the business as a successor, the successor may accumulate verified experience days in the same manner that a guide accumulates experience days to satisfy the requirements of ARM 24.171.502. In the discretion of the board, and in addition to all other waivers that a successor may qualify for, a successor may request a waiver of up to 50 days of experience for each license

function (hunting and fishing) by sufficiently documenting the successor's past experience and involvement with the particular outfitting business that occurred prior to the date the successorship was approved.

AUTH: 37-1-131, 37-47-201, MCA  
IMP: 37-1-131, 37-47-310, MCA

REASON: The board adopted this rule in 2011 to address issues with respect to how successors may be appointed, how long successors would be allowed to continue, how successorships would be terminated, and how disciplinary matters involving successors would be handled. Many of the new provisions were quickly put to the test as they applied to a number of existing successorships. Since then, the board has reviewed the rule as a whole and determined that while many of the principles are sound, it is reasonably necessary to amend the mechanics of how successors are created, monitored, and terminated. This is necessary to reflect the applicable law, and better describe and implement the principles regarding the regulation of successors. The board is proposing these amendments in an attempt to clarify how successorships will function.

24.171.507 OUTFITTER EXAMINATION (1) remains the same.

~~(2) The examination shall be given in Helena, Montana, on the second Tuesday of January, April, July, and October of each year.~~

~~(3) (2)~~ The following list is not intended to be exhaustive in detail. A wide range of issues and subtopics exist within each broad topic. The examination categories are include:

(a) through (d) remain the same.

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

~~(6) An applicant who has failed the examination shall be eligible to take the next scheduled examination, after submitting an updated application and new examination fee.~~

(5) Before taking the outfitter examination, an applicant must submit a complete application, as defined in ARM 24.171.501. An applicant may not repeat any failed portion of the outfitter examination sooner than 30 days from the date of failing.

AUTH: 37-1-131, 37-47-201, MCA  
IMP: 37-47-201, 37-47-305, MCA

REASON: The board is amending this rule to be consistent with proposed amendments to ARM 24.171.501 and the repeal of ARM 24.171.503 in this notice.

24.171.520 AMENDMENT TO OPERATIONS PLANS AND AMENDMENTS

(1) An operations plan consists of the following:

(a) an affidavit by the outfitter to the board that the amount and kind of equipment that is owned, leased, or contracted for by the applicant is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(b) for fishing outfitters, a written description of the boundaries of the outfitter's operation, provided in the following terms, except as otherwise provided in ARM 24.171.505:

(i) the name of each water body, including the section of each river or stream, that may be utilized by the applicant while providing services; and

(ii) a description of private land, by name of ranch and county where located, over which access is allowed;

(c) for hunting outfitters a written description of the boundaries of the outfitter's operation, which is where the outfitter is authorized to operate, provided in the following terms:

(i) the name of each owner of private property;

(ii) contact information for the owner or the agent of each private property where the outfitter is authorized to operate, including, but not limited to, the owner's or agent's phone number and address;

(iii) total acreage on a per-owner basis of the private land where the outfitter is authorized to operate for any duration of time and for any species of game; and

(iv) the legal description of the private acreage where the outfitter is authorized to operate, either by geo-code number assigned by the Montana Department of Revenue, or by aliquot parts. If less than the entire section or parcel is reported, then the boundary shall be described down to the quarter-quarter section or the government lot number;

(d) the number of NCHU per category; and

(e) copies of leases and permits for public property where the outfitter is authorized to operate.

(4) (2) An outfitter may amend the operations plan by submitting the additional or replacement information to the board, except that when adding a service identified in (3), the outfitter must apply for an amendment to the outfitter's operations plan by stating in writing the proposed changes and submitting it to the board, along with the fee required in ARM 24.171.401.

(3) As part of renewal, each outfitter shall attest that the private lands information required as part of the outfitters operations plan on file with the board is current and accurate.

(4) Whenever the outfitter gains permission to use additional private property, the outfitter shall update the operations plan the earlier of:

(a) the end of the license year during which the outfitter first became authorized to use it, and

(b) before actually using it.

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

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-304, MCA

REASON: It is reasonably necessary to amend this rule to align with and further implement legislative changes in HB 274.

24.171.601 ~~GUIDE OR PROFESSIONAL~~ GUIDE QUALIFICATIONS (1) An applicant for a guide ~~or professional guide~~ license shall have:

(a) through (c) remain the same.

~~(2) An applicant for a professional guide's license shall meet the following qualifications in addition to the qualifications in (1):~~

~~(a) have held a guide license in the state of Montana for at least three years;~~

~~(b) have not had disciplinary action taken against the applicant's guide license in this or any other state; and~~

~~(c) have spent at least 300 days guiding clients in the field as evidenced by:~~

~~(i) employment records, or~~

~~(ii) client report logs of endorsing outfitters.~~

~~(d) The applicant shall produce, on a form provided by the board, character references from:~~

~~(i) three clients the guide has guided,~~

~~(ii) one licensed outfitter, and~~

~~(iii) one licensed guide.~~

~~(e) A professional guide shall present evidence of 15 hours of training or education obtained in the year previous to application in addition to guiding experience, in topics relevant to guiding as approved by the board.~~

~~(3) (2) An outfitter whose license is currently suspended or revoked is not qualified for a guide or professional guide license.~~

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-101, 37-47-201, 37-47-303, 37-47-307, MCA

REASON: The board is striking provisions relating to professional guides from this rule, as this license type was eliminated in 2013 through HB 274.

~~24.171.602 GUIDE OR PROFESSIONAL GUIDE LICENSE (1) An applicant may apply for a guide or professional guide license on forms provided by the board department, and accompanied by the required fee. The application must include a signature of the endorsing outfitter confirming that, to the knowledge of the outfitter, the guide or professional guide meets all the qualifications of a guide or professional guide.~~

~~(2) An applicant must submit proof of current basic first aid certification with the application.~~

~~(3) Basic first aid certification must be obtained through a provider or course approved by the board on a case-by-case basis. A list of approved providers and courses shall be maintained on the board web site. An applicant may meet basic first aid certification if the applicant provides proof of a certification, license, or other credential that is equivalent to or greater than basic first aid certification, approved on a case-by-case basis by the board. The board may also maintain on its web site a list of certifications, licenses, and other credentials that will be routinely accepted as equivalent to or greater than basic first aid.~~

~~(4) (3) Each outfitter who uses the services of the guide during the license year shall sign and date the guide's license before allowing the guide to accompany a client, and, following completion of the guide's service on behalf of the outfitter, shall specify dates on which the guide or professional guide provided service for the outfitter.~~



~~(5)~~ (4) An applicant for a guide or professional guide license who delivers a completed application and application fee to the board office will receive the license at that time.

AUTH: 37-1-131, 37-47-201, MCA  
IMP: 37-47-101, 37-47-201, 37-47-301, 37-47-303, 37-47-307, 37-47-308,  
MCA

REASON: The board is striking professional guides from this rule, as this license type was eliminated in 2013 through HB 274. Additionally, the board is striking (3) and relocating all provisions on basic first aid certification to a single location in ARM 24.171.412.

24.171.701 NCHU CATEGORIES, TRANSFERS, AND RECORDS (1) remains the same.

~~(2) In cases where a federal agency limits an outfitter's use of federal lands by some means other than NCHU, an outfitter is not required to have NCHU to perform services on those lands and may not use clients served on those lands in order to establish NCHU.~~

~~(3) An outfitter's total authorized NCHU includes both established NCHU and nonestablished NCHU.~~

~~(4) An outfitter's "client base" is the NCHU that has been established in accordance with this rule. NCHU is established only if one of the following applies to it:~~

~~(a) Board records show the outfitter was licensed on or before April 28, 2001, and had established the NCHU through use of it on or before December 31, 2004.~~

~~(b) Board records show the NCHU was obtained through an approved expansion request. However, if the approved expansion was granted to an outfitter newly licensed after April 28, 2001, then it was established only if used by that outfitter within five and a half years after the expansion.~~

~~(c) Board records show the NCHU was transferred to the outfitter from another licensed outfitter and was used in any license year during the five and a half years following the transfer. An outfitter may elect an early adjustment of NCHU by:~~

~~(i) submitting a completed form prescribed by the board for the purpose of establishing NCHU prior to the expiration of the five and a half year time period; and~~

~~(ii) consenting to an adjustment of the client base to reflect the highest number of clients served in any category in any license year, since the date of the transfer.~~

(3) NCHU owned by a licensee is part of the operations plan and may be transferred only with notice to the board. Transfers between or among licensees are routinely processed by the department unless the department has received a complaint against the licensee who is the transferor in a NCHU transfer request. If the transferor is a respondent to a complaint, the request will not be processed until after the case is resolved. In addition, a license that has expired may not be part of a NCHU transfer, and any NCHU that is recorded as part of the operations plan of a license that terminates or is revoked ceases to exist upon termination or revocation.

~~(5) (4) An outfitter transferring NCHU to another~~ Each outfitter entering into a transfer of NCHU with one or more other outfitter outfitters must do so by completing a transfer request form prescribed by the board department. Prior to being processed by the department, a NCHU transfer request is not complete or valid for any purpose and may be cancelled by any licensee that is a party to it. Only NCHU that has been established in accordance with this rule may be transferred, and a transfer of established NCHU may not occur if the licensee holds any nonestablished NCHU.

~~(6) NCHU adjustments shall occur based on the most clients served during the five and a half years after the board's receipt of a valid form transferring NCHU.~~

~~(7) (5) The records of the board comprise the official records of NCHU and each purported transfer of NCHU is invalid and void that is not reflected in the board's records, unless and until the date that the proper and completed form is received by the board office.~~

(6) NCHU allocated to a deceased outfitter may be transferred only by a successor if an approved successorship has not terminated under ARM 24.171.504. NCHU will expire and shall not be revived if it is not transferred the earlier of the date that the license terminates from nonrenewal, or the date that a successorship terminates, or, if no successor has been designated, the date that is one year following the death of the outfitter unless an extension is approved by the board based upon good cause appearing in a written request received by the board within one year. In cases where the outfitter dies and no successor is designated, someone authorized by the estate or the family of the outfitter must submit a NCHU transfer request form to the board within one year following the death of the outfitter. Authorization by the estate is shown by a certified copy of letters of appointment as a personal representative or by any other procedure allowed under Title 72, MCA, for the transfer of intangible personal property.

~~(8) When NCHU is transferred to a license applicant, the transfer is not valid and the time period for establishing the NCHU does not begin until the date the application is approved.~~

~~(9) An outfitter who is subject to an adjustment of NCHU under 37-47-316, MCA, that would otherwise occur on or before December 31, 2014, shall have up to and including December 31, 2014, to establish the NCHU. The category definitions under this rule may be applied retroactively for purposes of establishing NCHU.~~

~~(10) Upon an adjustment of NCHU, all of the outfitter's nonestablished NCHU subject to the adjustment ceases to exist.~~

~~(11) When the board adjusts an outfitter's NCHU, the board will provide the outfitter notice and the right to a hearing in the manner provided in disciplinary matters.~~

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-316, MCA

REASON: It is reasonably necessary to amend this rule to align with and further implement legislative changes in HB 274 and also to clarify how NCHU is transferred in the event of the death of an outfitter.

24.171.2101 RENEWALS (1) The provisions of ARM 24.101.408 and 24.101.414 apply.

(2) License renewal applications for outfitters shall be made on forms provided by the ~~board~~ department and shall be accompanied by:

- (a) the required renewal fee;
- ~~(b) the annual "hunting client served" fee required under ARM 24.171.401;~~
- ~~(c) (b)~~ a copy of the licensee's valid and current first aid certification;
- ~~(d) (c)~~ a copy of the licensee's current insurance certificate with the licensee as the named insured;
- ~~(e) (d)~~ complete client report logs; and
- ~~(f) any amendments to an operations plan required by ARM 24.171.520.~~
- ~~(g) fishing and/or hunting statistical outfitter use level sheets, depending on the services provided by the outfitter in the preceding license year.~~

(3) An outfitter, ~~guide,~~ or ~~professional guide~~ must submit a completed renewal application with the required fee on or before the date set by ARM 24.101.413 of each license year.

(4) remains the same.

(5) License renewal applications for guides ~~and professional guides~~ shall be made on forms provided by the ~~board~~ department and shall be accompanied by the required fee.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-104, 37-1-141, 37-47-201, 37-47-302, 37-47-304, 37-47-306, 37-47-307, 37-47-318, MCA

REASON: The board is striking professional guides from this rule, as this license type was eliminated in 2013 through HB 274. Additionally, the board is striking (2)(f) and relocating all provisions on record keeping to a single location in ARM 24.171.408.

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT (1) A violation of (1)~~(a) through (p)~~ or (3)~~(a) through (e)~~ by an outfitter, or (2)~~(a) through (d)~~ or (3)~~(a) through (e)~~ by a guide ~~or professional guide~~ is misconduct, specified as a basis for disciplinary action under 37-47-341, MCA. Such violation is also determined by the board to be unprofessional conduct, as provided in 37-1-319, MCA, specified as a ground for disciplinary action under 37-1-312, MCA. A violation of this rule may result in any sanction provided by 37-1-312 or 37-47-341, MCA. An outfitter shall:

(a) remains the same.

(b) not conduct any services or allow services to be conducted by a supervised guide ~~or professional guide~~ on private or public land, except legal transportation across such lands, without first having obtained written permission from the landowner or written authorization from the agency administering public land, unless the landowner or agency does not require such permission;

(c) not provide services or allow services to be conducted by a supervised guide ~~or professional guide~~ to clients outside the boundaries of the outfitter's approved operations plan;

(d) not endorse a guide ~~or professional guide~~ license until the outfitter has made reasonable inquiry and determined that the guide ~~or professional guide~~ is qualified for licensure;

(e) through (h) remain the same.

(i) set all contract terms and conditions with clients;

(j) through (l) remain the same.

(m) obtain and maintain a reasonable degree of supervision over ~~the guide or professional~~ each guide to ensure that the services offered are being provided in accordance with the laws and rules, with particular regard to those laws and rules pertaining to the health, safety, and welfare of the participants, the public, and landowners;

(n) not employ or retain a guide ~~or professional guide~~ without first confirming that the guide ~~or professional guide~~ has current basic first aid certification;

(o) and (p) remain the same.

(q) not use a guide with an inactive license, ~~unless the proper fee is mailed within the time provided by rule; or and~~

(r) ~~not fail to return any inactive guide license that is not activated during the license year~~ when advertising services, clearly designate the outfitter's registered business name or personal name and the outfitter's license number.

(2) A guide and professional guide shall:

(a) not advertise outfitting services to the general public, but may advertise their services directly to outfitters;

(b) ~~not only~~ make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, without the express consent of the supervising outfitter, and only as expressly provided in [NEW RULE I];

(c) not provide services to clients who have not been specifically referred to the guide ~~or professional guide~~ from the endorsing outfitter; and

~~(d) not provide guiding services during the same license year in which an outfitter also sponsors the guide or professional guide for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks;~~

~~(e) (d)~~ not act as a guide under a guide license, unless and until the guide and the outfitter have first signed and dated the guide license, evidencing that the license is active; and

~~(f) not act as a guide under a guide license, unless the proper fee is mailed within the time provided by rule.~~

(3) through (3)(h) remain the same.

(i) produce their current license at the request of law enforcement or a representative of the board;

~~(j) clearly designate who the responsible outfitter is in any advertisement of outfitting, guiding, or professional guiding services;~~

(k) and (l) remain the same but are renumbered (j) and (k).

~~(m) (l)~~ not act beyond the scope of activities for which the individual is licensed;

~~(n) clearly designate the business name and personal name, address, telephone number, and license number of the outfitter, when advertising outfitter and guide services. In cases where a guide owns the outfitting business, the guide must identify the endorsing and supervising outfitter in any advertisement for the business;~~

(o) and (p) remain the same but are renumbered (m) and (n).

~~(q) (o)~~ not fail to respond to board inquiries and requests; ~~or~~

~~(r) (p)~~ not remit a "nonsufficient fund check" or a check on a closed account for board fees or fines; and

(q) not fail to comply with the statutes and rules applicable to licensees of the board.

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA

IMP: 37-1-312, 37-1-316, 37-1-319, 37-47-201, 37-47-341, MCA

REASON: The board is striking professional guides from this rule, as this license type was eliminated in 2013 through HB 274. The board is also amending this rule for clarity, simplicity, and better organization throughout.

It is reasonably necessary to amend several sections of this rule to clarify provisions regarding advertising. These changes align with amendments made via HB 274 that allow outfitters to engage booking agents and clarify that the services advertised must be the outfitter's services. Also, as provided in 37-47-404(3), MCA, a person may not use the services of a guide, and a guide may not offer services unless the services are obtained through an endorsing outfitter. Thus, guides may only advertise their guiding services directly to outfitters.

The board is amending (1)(q) and deleting (2)(f) regarding fees for emergency and provisional guides, as these are no longer valid guide types.

The board is amending (1)(r) regarding return of inactive guide licenses since only outfitters can obtain inactive license status.

The board is eliminating (2)(d) regarding outfitter-sponsored licenses to align with the 2011 ballot initiative I-161 that abolished outfitter-sponsored nonresident big game and deer combination licenses and replaced them with general nonresident big game licenses.

The board is amending (3)(i) to clarify the board's intent that licensees must produce their current licenses when requested by Montana Fish, Wildlife and Parks personnel who are considered law enforcement.

It is reasonably necessary to add (3)(q) to remind licensees that the board considers failure to comply with all requirements and standards in statute and rule as unacceptable unprofessional conduct, and not just those enumerated in this rule.

5. The proposed new rules provide as follows:

NEW RULE I BOOKING AGENTS AND ADVERTISING (1) Any person authorized by the outfitter may schedule trips, provide clients with information regarding refunds and services, receive client fees on behalf of the outfitter, secure a guide who is employed by or with whom the outfitter has an existing contractual

relationship, and take other steps to establish contracts for services, as long as these activities are at the direction of the outfitter and as long as the terms and conditions of the contracts are directly between the outfitter and the client.

(2) Outfitters may enter into an arrangement with a person whereby the outfitter's services are advertised by or at the direction of that person or whereby clients are referred to the outfitter, but the outfitter is accountable to the board for the appearance and propriety of all such advertising and for all interactions between the other person and the clients and potential clients. All advertising regarding outfitting services must comply with the rules applicable to outfitters.

(3) Guides advertising to outfitters using media or methods that the general public may also view shall include a clear and conspicuous disclaimer that advises the general public that the advertisement is for outfitters only, not the general public.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-301, MCA

REASON: The board is proposing NEW RULE I to align with HB 274 amendments to 37-47-301, MCA. The bill clarified that licensed outfitters may contract with others to provide advertising, booking, and other services. This new rule will provide guidance regarding these services and further implement the legislation.

NEW RULE II OUTFITTER ASSISTANTS (1) For each outfitter assistant employed or contracted with by an outfitter, the following documentation procedures shall be followed:

(a) An outfitter shall document the employment or retention of each outfitter assistant in writing. The writing shall include each of the following characteristics:

(i) the name, license number, address, phone number, and, if available, e-mail address of the outfitter;

(ii) an explanation for the emergency replacement of a licensed guide with the outfitter assistant;

(iii) the signature of the outfitter;

(iv) the name, date of birth, address, telephone number, and, if available, e-mail address of the outfitter assistant; and

(v) the beginning and ending dates of the service period.

(b) The outfitter assistant shall keep a copy of the documentation at all times during the service period.

(c) Within 15 days of the first date the outfitter assistant serves any client for the outfitter under the particular emergency use, the outfitter shall send the documentation to the board's official e-mail address or facsimile number, or shall deposit it in the U.S. mail to the board's address, or shall personally deliver it to the board office.

(2) Before an outfitter assistant serves a client, the outfitter shall disclose to each client that the outfitter assistant is not a licensed guide or outfitter and shall also disclose whether the outfitter assistant has received first aid certification.

(3) Unless otherwise authorized under [NEW RULE I], regarding booking agents and advertising, an outfitter assistant may not:

(a) be designated by an outfitter to collect fees from clients;

- (b) make agreements with participants concerning monetary consideration of services provided; or
- (c) advertise outfitting services.
- (4) Except where an outfitter assistant's conduct is further limited by statute or rule, the standards of conduct set forth in ARM 24.171.2301 applicable to guides shall also be observed by the outfitter assistant.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-301, 37-47-325, 37-47-405, MCA

REASON: It is reasonably necessary to adopt NEW RULE II to further implement 2013's HB 187 by specifying standards for outfitter's assistants and the documentation required to prove employment and retention of assistants.

NEW RULE III NONROUTINE APPLICATIONS (1) A nonroutine application means an application submitted to the board in which the applicant has one or more of the following:

- (a) past convictions or pending charges of state or federal laws relative to fish, wildlife, or parks, but only if those convictions:
  - (i) ever resulted in the loss of privileges to hunt or fish;
  - (ii) totaled two or more for which the applicant was sentenced no earlier than five years before the board received the application; or
  - (iii) total more than three regardless of when the applicant was sentenced;
- (b) a total of three or more currently pending charges or past convictions of misdemeanor crimes if the applicant was sentenced for the past convictions no earlier than five years before the board received the application;
- (c) a diagnosis or other information indicating physical or mental impairment by mental illness or chronic physical illness that may adversely affect the applicant's ability to provide services safely, but only if either the treatment for which is ongoing or the symptoms of which currently exist;
- (d) a pending charge of any felony crime or a past conviction of any felony crime for which the applicant was either sentenced no earlier than ten years before the date the board received the application or for which the sentence has not been fully satisfied and discharged;
- (e) traffic-related convictions if the applicant is deemed a habitual offender on or after the date the board first received the application; or
- (f) an outfitter or guide license in this or any other state that was ever suspended, revoked, surrendered, or subjected to restrictions or other sanctions of a similar gravity.

(2) The department may, but is not required to, submit any routine application for board review if the department finds inconsistencies, irregularities, or other matters of concern in the application or in the documentation related to the application.

(3) For the purposes of this rule, any reference to "pending charges" shall include, but not be limited to, deferred prosecutions that have not been dismissed as of the date that the application is first submitted to the board.

(4) Applications that are nonroutine for an outfitter license for the same reason that they were nonroutine as a guide license are, nonetheless, nonroutine for the outfitter license, which is a privilege to practice at a higher level of public trust.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-101, 37-1-131, 37-47-201, MCA

REASON: It is reasonably necessary to adopt this new rule to further implement 37-1-101, MCA, which requires the department to process routine licensure applications on behalf of the professional and occupational licensing boards. Nonroutine applications requiring board review and approval are generally defined in department rule at ARM 24.101.402. The board is proposing NEW RULE III to identify additional criteria determined by the board to characterize nonroutine applications which require the board's consideration for processing. In adopting this rule, the board seeks to facilitate timely licensing processes, while ensuring that licensing decisions are based on sound principles and the public is adequately protected.

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

24.171.402 EFFECT OF FEE FOR EXPANSION OF NET CLIENT HUNTER USE found at page 24-18516, Administrative Rules of Montana.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-316, MCA

REASON: It is reasonably necessary to repeal this rule to align with and further implement legislative changes in HB 274.

24.171.503 OUTFITTER APPLICATION found at page 24-18547, Administrative Rules of Montana.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-304, 37-47-307, MCA

REASON: It is reasonably necessary to repeal this rule as the relevant provisions are being incorporated into ARM 24.171.501 elsewhere in this notice.

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsout@mt.gov](mailto:dlibsout@mt.gov), and must be received no later than 5:00 p.m., November 7, 2014.

8. An electronic copy of this notice of public hearing is available at [www.outfitter.mt.gov](http://www.outfitter.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice,



as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on April 26, 2013 [Rep. Flynn/HB 187] by electronic mail, and on May 7, 2013 [Rep. Greef/HB274], by regular mail.

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.171.401, 24.171.407, 24.171.408, 24.171.412, 24.171.413, 24.171.501, 24.171.502, 24.171.504, 24.171.507, 24.171.520, 24.171.601, 24.171.602, 24.171.701, 24.171.2101, and 24.171.2301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I, NEW RULE II, and NEW RULE III will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.171.402 and 24.171.503 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination(s) is available upon request to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail [dlibsout@mt.gov](mailto:dlibsout@mt.gov).

12. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OUTFITTERS  
ROBIN CUNNINGHAM, 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 29, 2014

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.3.221, special requirements	)	AMENDMENT
for alternative livestock as defined in	)	
87-4-406, MCA; 32.3.227 elephants;	)	NO PUBLIC HEARING
32.3.602A change of ownership test;	)	CONTEMPLATED
32.3.1001 handling of live animals;	)	
and 32.3.1002 handling of carcasses	)	
and carcass parts of anthrax-infected	)	
animals	)	

TO: All Concerned Persons

1. On November 8, 2014, the Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process 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 October 31, 2014, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

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

32.3.221 SPECIAL REQUIREMENTS FOR ALTERNATIVE LIVESTOCK AS DEFINED IN 87-4-406, MCA (1) remains the same.

(2) ~~Non-cervid~~ Noncervid alternative livestock ~~originating from a tuberculosis accredited free or modified accredited advanced U.S. state or zone~~ require a negative tuberculosis test on all animals two months of age and older within 60 days prior to importation.

(3) All cervids ~~six months of age and older originating from a tuberculosis accredited free or tuberculosis modified accredited advanced U.S. state or zone and all alternative livestock~~ two months of age and older ~~originating from a tuberculosis modified accredited U.S. state or zone~~ require one of the following:

(a) one negative approved tuberculosis single cervical test on all sexually intact animals within 90 days prior to importation and part of a whole herd test within the last 12 months; or

~~(b) two negative single cervical tests on all sexually intact animals 90-120 days apart, with the second test occurring within 90 days prior to importation; or~~

~~(c)~~ (b) one negative approved tuberculosis single cervical test on all sexually intact animals within 90 days prior to importation and must originate directly from an accredited tuberculosis free herd.

(4) Animals less than two months of age ~~originating from a tuberculosis modified accredited U.S. state or zone~~ must be quarantined for testing between two and four months of age.

(5) Tuberculosis tests must be a type approved by the state veterinarian.

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

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

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

REASON: Historically, the department's cervid import tuberculosis (TB) test requirements were set to be consistent with the federal interstate test requirements. This proposed rule change sets Montana's import requirements for TB testing of cervids to be consistent with federal requirements. State classification regarding state tuberculosis status of captive cervids is defined in Title 9 of the Code of Federal Regulations. At this time, all states are classified as Modified Accredited. It is unlikely that any state will become classified at a level higher than Modified Accredited; therefore, it is not necessary to qualify importation requirements based upon the TB state status classification of the state of origin, thereby greatly simplifying Montana's rules.

32.3.227 ELEPHANTS (1) remains the same.

(2) All elephants require an ~~Elephant TB STAT PAK Assay~~ negative screening test approved by the state veterinarian within 12 months prior to importation into Montana. ~~If the results of the test are positive, a negative Multi-Antigen Print Immuno-Assay (MAPIA) or a Dual Path Platform VetTB Assay is also required.~~

(3) Elephants with no known exposure to TB culture-positive animals in the previous five years require three negative trunk washes and culture within 12 months prior to importation.

(4) and (5) remain the same.

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

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

REASON: The recommended screening test, the Elephant TB Stat Pak, is no longer manufactured. Recommendations for testing elephants have received considerable discussion at the United States Animal Health Association (USAHA) and the USDA. Recommended testing is expected to change. The proposed rule change would allow the state veterinarian to require an alternate appropriate test.

32.3.602A CHANGE OF OWNERSHIP TEST (1) Before change of ownership into Montana all cervidae must undergo an official test for tuberculosis and must be determined to be negative. The test must be performed not more than

90 days prior to the date they are sold or moved and the results must be entered on a department official test form.

(2) and (3) remain the same.

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

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

REASON: The TB test requirement referred to in this rule was intended to be an intrastate test requirement for movement and change of ownership. This proposed rule change is simply a clarification of the administrative rule and is consistent with Department of Livestock's current interpretation of the rule.

32.3.1001 HANDLING OF LIVE ANIMALS; VACCINATION (1) All animals ~~remaining on the premises where animals have died or are infected with anthrax~~ has been confirmed and all animals exposed to anthrax must be quarantined ~~for a period of at least 42 days following the last death from anthrax.~~ Release of quarantine will occur when all carcasses have been appropriately disposed of and 14 days have elapsed since the last death from anthrax.

(2) remains the same.

~~(3) Anthrax spore vaccine must not be used in any district unless a positive diagnosis of anthrax has been made by competent authorities, and then only by a deputy state veterinarian.~~

~~(4) Food-producing animals that have been vaccinated with anthrax spore vaccine may not be shipped to market or slaughtered for human consumption less than 42 days following vaccination.~~

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

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

32.3.1002 HANDLING OF CARCASSES AND CARCASS PARTS OF ANTHRAX-INFECTED ANIMALS (1) remains the same.

~~(2) Hides from carcasses of animals that have died of anthrax shall not be removed. Hides which have been removed prior to diagnosis of anthrax shall be burned or buried.~~

~~(3)~~ (2) Carcasses and hides of animals that have died of anthrax must be completely burned, covered with ~~quick lime~~ a disinfectant approved by the state veterinarian, and buried 6 feet deep from the tip of the carcass, or sterilized in a licensed rendering plant under the immediate supervision of a deputy state veterinarian.

~~(4)~~ (3) If it is necessary to move the carcass of an animal that has died of anthrax, ~~the natural openings must be plugged with cotton or other suitable material.~~

(a) The carcass must only ~~be rolled onto a stone boat or skid and hauled to the nearest spot suitable~~ moved the minimum distance necessary for burning or burial; or

~~(b) The stone boat or skid must be burned or thoroughly disinfected.~~

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

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

IMP: 81-2-102, 81-2-103, 81-2-108, MCA

REASON: During the 2008 outbreak of anthrax in Gallatin and Madison counties, it became apparent that the department's anthrax rules needed to be updated. As an example, ARM 32.3.1002 currently requires that animals that died from anthrax must be covered by quick lime, but recent research suggests that quick lime can actually promote the formation of anthrax spores which can increase the chance of future anthrax events in the area of burial. At present, ARM 32.3.1001 requires a quarantine of 42 days after cases are resolved, but there is little evidence supporting maintaining this requirements and the 42-day period originated from the "meat withholding" time on the anthrax vaccine label. The proposed changes to ARM 32.3.1001 and 32.3.1002 align the department's rules with current research and eliminate unsupported requirements when addressing anthrax.

4. Concerned persons may submit their data, views, or arguments in writing to Christian Mackay, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone (406) 444-9321; fax (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov and must be received no later than 5:00 p.m., November 6, 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 a written request for a hearing and submit this request along with any written comments to Christian Mackay at the above address no later than 5:00 p.m. November 6, 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 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 directly affected has been determined to be more than 250, based upon the rural population of Montana; the number of veterinarians in the state that could be affected from an anthrax outbreak; the alternative livestock producers; and the number of owners importing elephants into the state.

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

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

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

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced 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/ Cinda Young-Eichenfels  
Cinda Young-Eichenfels  
Rule Reviewer

Certified to the Secretary of State September 29, 2014.

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

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rules I through XVI, pertaining to ) PROPOSED ADOPTION  
implementing the new program )  
Community First Choice Services )

TO: All Concerned Persons

1. On October 29, 2014, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on October 22, 2014, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: DEFINITIONS (1) "Activities of daily living" (ADL) means basic personal everyday activities limited to bathing, personal hygiene, transferring, positioning, eating, dressing, toileting, assistance with exercise routine performed in home, self-administered medication, including medication reminders, and meal preparation.

(2) "Agency-based services" means services provided by a qualified personal care provider agency. The agency works with the member to establish the schedule for service provision and provides the trained staff necessary for the delivery of care.

(3) "Annual review" means a member review conducted by a licensed nurse from the designated quality improvement organization once every 365 days. The review of the member's health status includes the completion of a functional assessment and service profile.

(4) "Case manager" means a nurse or social worker who is responsible for managing services provided to eligible members under the Home and Community Based Services (HCBS Waiver) Program. These case managers plan, implement, and monitor the delivery of services available through the program to the member.

(5) "Community First Choice Program" (CFCP) means a program developed in accordance with 1915(k) of the Social Security Act, which allows states the option



of providing home and community-based attendant services and supports through an approved state plan. The CFC Program is developed to deliver attendant-based services through the use of a person-centered planning process that includes service coordination and member involvement to provide long-term services and supports (LTSS) to individuals in their homes or communities rather than in institutional settings.

(6) "Community First Choice Services" (CFCS) means the delivery of medically necessary in-home services provided to Medicaid eligible members whose health conditions cause them to be functionally limited in performing activities of daily living.

(7) "Department" means the Montana Department of Public Health and Human Services.

(8) "Direct-Care Wage" means funding which is a supplemental payment made to Community First Choice service providers for the purpose of providing direct-care wage increases, benefits, or lump-sum payments to workers that provide direct services. These funds are distributed proportionately based on a pro rata share of appropriated funding to participating providers of CFCS. The distribution is based on the number of units of Medicaid CFCS provided by each provider agency for the distribution year relative to the total number of units provided statewide by all providers of CFCS.

(9) "Functional assessment" means an assessment that is performed by the designated quality improvement organization licensed nurse to determine if the member qualifies for CFCS and requires assistance with activities of daily living, instrumental activities of daily living, and health-related tasks.

(10) "Health Care for Health Care Workers" means funding which is designated for the purpose of Medicaid provider rate increases when health insurance is provided for direct-care workers in the Community First Choice, personal assistance services and private duty nursing programs. The funds must be used to cover premiums for health insurance that meet defined benchmark criteria established by the department. These funds are distributed proportionately based on a pro rata share of appropriated funding to participating providers of CFCS based on the number of units of Medicaid CFCS provided by each provider for the distribution year relative to the total number of units provided statewide by all providers of service.

(11) "Health care professional" means a medical doctor, certified physician assistant, nurse practitioner or registered nurse, occupational therapist or a medical social worker, who is familiar with the member's activities of daily living. The health care professional may not be a paid employee of the CFCS provider agency.

(12) "Health maintenance activities" means health-related tasks that may be reimbursed through the Nurse Practice Act exemption in accordance with ARM 24.159.1616 and 37-8-103, MCA. These tasks are limited to bowel programs, wound care, urinary system management, and administration of medication. These activities are delivered by the member's personal care attendant when the activities, in the opinion of the physician or other health care professional, can be performed by the person if the person were physically capable and if the procedure could be safely performed in the home. A member is only able to receive these services from a personal care attendant using the self-direct model.

(13) "Instrumental activities of daily living" means activities which are limited to activities provided in accordance with the service plan, which are directly related to the member's person-centered needs. These activities are limited to the following:

- (a) household tasks which are limited to cleaning the area used by the member, changing the member's bed linens, and doing the member's laundry;
  - (b) shopping;
  - (c) community integration which provides assistance so the member can participate in recreational and community activities;
  - (d) yard hazard removal which provides safe access to the member's home;
- and

(e) correspondence assistance which provides a member, capable of directing the service, with assistance opening mail, filing records, and completing paperwork.

(14) "Level of care" means a functional assessment performed by the department or the department's designee to determine if an individual requires nursing facility or intermediate care facility for person with intellectual disabilities level of service. Level of care process is defined in ARM 37.40.201.

(15) "Member" means a person eligible for and enrolled as a participant in the Montana Medicaid Program.

(16) "Nurse supervisor" means a licensed nurse employed by an agency-based CFCS provider agency who completes the service plan with the member and oversees the training and orientation of personal care attendants in the delivery of CFCS.

(17) "Personal Assistance Services" (PAS) means the delivery of medically necessary in-home services provided to Medicaid eligible members whose health conditions cause them to be functionally limited in performing activities of daily living. A member must have a medical need for hands-on assistance in order to receive PAS.

(18) "Personal care attendants" means individuals who assist members with their activities of daily living, instrumental activities of daily living, and other health care needs.

(19) "Person-centered plan" means a department-generated form that is utilized in the identification of the member's goals, strengths, and preferences for service delivery. The form is developed using a person-centered planning process that focuses on learning what is important to a member and how they want to live. The ultimate goal of the person-centered planning process is increased member choice, participation, and independence, while also ensuring health and safety.

(20) "Personal Emergency Response System" (PERS) means a service which provides members with an electronic, telephonic, or mechanical system used to summon assistance in an emergency situation. The system alerts medical professionals, support staff, or other designated individuals to respond to the member's emergency request.

(21) "Personal representative" means an individual designated by a member to act on the member's behalf to hire, direct, schedule, and train personal care attendants in performing self-directed CFCS.

(22) "Plan Facilitator" means the person designated by the department to be responsible for developing and coordinating the member's person-centered plan. The plan facilitator is either a qualified case manager, when one exists, or an individual appointed by the provider agency who is responsible for development of the plan in situations where there is no qualified case manager.

(23) "Oversight staff" means the person employed by a self-directed CFCS provider agency that completes the service plan with the member and oversees the member's participation in the program.

(24) "Provider agency" means a Medicaid-enrolled provider who provides attendant-based services.

(25) "Quality Improvement Organization" (QIO) means a department-contracted entity who is responsible for completing the functional assessments for members accessing CFCS.

(26) "Self-directed services" means a service delivery option for CFCS. In this option the member, or a personal representative, takes responsibility of managing the CFCS. Under the self-directed option, the member or personal representative must hire, fire, supervise, and manage the personal care attendants.

(27) "Service Delivery Record" means a form used to document the personal care attendants' delivery of CFCS on a daily basis. The form includes:

- (a) dates;
- (b) times;
- (c) location, when not in the home; and
- (d) types of tasks provided by the personal care attendant.

(28) "Service plan" means a department-generated form that captures the scope and frequency of CFCS based on the functional assessment of a member's needs for service and support.

(29) "Service profile" means a form that summarizes the member's functional need for CFCS. A licensed quality improvement organization nurse completes the service profile form. The service profile identifies the member's level of impairment, frequency and need for assistance with activities of daily living, instrumental activities of daily living, and health maintenance activities. The profile also provides the member's total authorization for CFCS on a biweekly basis.

(30) "Skill acquisition advocate" means someone who has the capacity to assess the necessity and appropriateness of a member to acquire the skills necessary to achieve independence in performing a CFCS. The skill acquisition advocate may be an occupational therapist, speech therapist, physical therapist, physician, nurse practitioner, physician assistant, registered nurse, behavior specialist, or any other qualified professional approved by the department.

(31) "Skill acquisition letter of endorsement" means a department-generated letter that is signed by a skill acquisition health advocate. The letter outlines the member's plan for receiving skill acquisition service and provides endorsement by the skill acquisition health advocate that the member is capable of achieving independence in performing the service.

(32) "Skill acquisition, maintenance, and enhancement" means a service that may be authorized in the CFCP and is designed to promote member independence. The service enables a member to receive additional support from a personal care

attendant to acquire the skills necessary to achieve independence in performing a CFCS.

AUTH: 53-2-201, MCA

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

NEW RULE II AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: ELIGIBILITY, SERVICES PROVIDED, AND LIMITATIONS

(1) To qualify for Community First Choice Services (CFCS), a person must:

- (a) be Medicaid eligible;
- (b) meet the level of care criteria found at ARM 37.40.205(1); and
- (c) demonstrate a medical and functional need for assistance with activities

of daily living.

(2) CFCS includes assistance with the following activities:

- (a) activities of daily living;
- (b) instrumental activities of daily living;
- (c) medical escort services;
- (d) skill acquisition, maintenance, and enhancement; and
- (e) personal emergency response systems.

(3) Instrumental activities of daily living are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living. Instrumental activities of daily living may not account for more than one-third of the total time allocated per two-week period for CFCS or a maximum of ten hours per two-week time period, whichever is less.

(4) Medical escort services are only authorized when the member has demonstrated a medical and functional need for CFCS. Medical escort services must be directly related to a member's medical and functional need for assistance en route to, or at the Medicaid reimbursable medical service, and are available when a family member or caregiver is unable to accompany the member.

(5) Skill acquisition, maintenance, and enhancement services are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living. The service may be authorized if a member is expected to achieve full independence in skill acquisition within a 90-day time period. A skill acquisition letter of endorsement signed by a skill acquisition advocate is required prior to authorization of the service.

(6) Personal emergency response system services (PERS) are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living.

(7) CFCS, except for medical escort services, shopping, laundry, and community integration, will be provided in the member's home.

(8) CFCS may not typically be provided in group home settings unless prior authorized by the department. Group home settings include licensed youth foster homes, mental health group homes, and adult intensive community home services. CFCS may be authorized when the person's medical needs are beyond the scope of services normally provided by programs funding services in the group setting. For example, a person requiring additional assistance because of an acute medical

episode or post-hospitalization period may receive CFCS in a youth foster home setting.

(9) CFCS is not available to the following:

(a) persons who reside in a hospital, hospitals providing long-term care, or a long-term care facility as defined in 50-5-101, MCA, and licensed under 50-5-201, MCA;

(b) persons who reside in assisted living or adult foster homes, as defined in 50-5-225, MCA, and licensed under 50-5-227, MCA;

(c) persons who live in homes which are not safely accessible by normal modes of transportation.

(10) CFCS may not include any skilled services that require professional medical training unless otherwise permitted under 37-8-103, MCA, or ARM 24.159.1616.

(11) CFCS do not include services which maintain an entire household.

CFCS do not include:

(a) cleaning floors and furniture in areas that members do not use or occupy;

(b) laundering clothing or bedding that members do not use;

(c) supervision, respite care, babysitting, or visiting;

(d) maintenance of animals unless the animal is a certified service animal specifically trained to meet the health and safety needs of the member;

(e) home and outside maintenance; and

(f) meal preparation for other family members.

(12) CFCS provided by a member of the member's immediate family is not CFCS for the purposes of the Medicaid program, and is not eligible for reimbursement. Immediate family member includes the following:

(a) a spouse; and

(b) a natural, adoptive, or foster parent of a minor child.

(13) In addition to the CFCS provided through these rules, a member may receive CFCS through the Medicaid Home and Community-Based Services Program for elderly and physically disabled persons, persons with severe and disabling mental illness, or persons with developmental disabilities.

(14) CFCS must be delivered by a CFCS personal care attendant employed by an enrolled Medicaid provider that has met the criteria established by the department for the delivery of CFCS as referenced in [New Rules X and XI].

(15) CFCS may not be provided to relieve a parent of child-caring or other legal responsibilities. CFCS for children with disabilities may be appropriate when the parent is unqualified or otherwise unable to provide services and the child is at risk of institutionalization unless the services are provided.

AUTH: 53-2-201, MCA

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

### NEW RULE III AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PERSON-CENTERED PLAN REQUIREMENTS

(1) In order to receive Community First Choice Services (CFCS), the member must be capable of making choices about activities of daily living and instrumental activities of daily living. The member must be able to understand the impact of these

choices and assume responsibility for the choices. If the member is unable to meet these criteria, the member may have someone assist them in decision making and directing their activities. The CFCS person-centered planning process includes multiple steps to protect a member's health and safety while ensuring that member choice and control are an integral component of service delivery. Prior to delivering CFCS, the following person-centered planning requirements must be met:

(a) a licensed contract nurse must complete a functional assessment and service profile;

(b) a plan facilitator must complete the person-centered plan; and

(c) a nurse supervisor or program oversight staff must complete the service plan.

(2) The Person-Centered Planning requirements in (1) may be delayed in the circumstances outlined in (6).

(3) The quality improvement organization will define the member's medical and functional needs in a functional assessment and service profile. The functional assessment and service profile must meet the following criteria:

(a) a licensed contract nurse will develop and review the member's functional assessment and service profile initially and will renew it at least annually; and

(b) the service profile will establish the maximum authorization for CFCS in a two-week time period.

(4) The member and plan facilitator must meet to complete a person-centered plan that identifies, in writing, member-specific goals and objectives for the delivery of CFCS. The plan facilitator must ensure the person-centered plan is completed prior to service and renewed at least annually. The person-centered plan will be based on the member's functional assessment and service profile as provided by the quality improvement organization.

(a) In agency-based CFCS, the CFCS provider agency nurse supervisor must participate in the initial and annual person-centered planning visit.

(b) In self-directed CFCS, the CFCS provider agency oversight staff must participate in the initial and annual person-centered planning visit.

(5) The service plan will identify the type and amount of CFCS and will govern the delivery of service. The service plan must meet the following criteria:

(a) in agency-based CFCS, the agency nurse supervisor must approve the service plan initially, and must recertify the service plan every six months;

(b) in self-directed CFCS, the provider agency oversight staff must approve the service initially, and must recertify the service plan every six months;

(c) the plan must address the member's medical and functional need for service; and

(d) the plan must not exceed the service profile authorization for hours delivered in a two-week time period.

(6) A member will not receive CFCS beyond the service profile authorization unless one of two conditions is met:

(a) The provider agency implements a temporary service plan as outlined in (6).

(i) in agency-based CFCS, the provider agency nurse supervisor must sign the temporary service plan and prescribe in writing the member's needs for the increase in services.

(ii) in self-directed CFCS, the provider agency oversight staff must sign the temporary service plan and prescribe in writing the member's needs for the increase in services.

(b) The provider agency approves medical escort service during the time period. The provider agency must provide documentation to ensure the escort was provided according to program parameters.

(7) If a member is at high risk for institutionalization or in need of temporary CFCS, the provider agency may implement services immediately that include activities of daily living without the functional assessment, service profile, and person-centered plan in place. In this case the provider agency must implement a temporary service plan. The provider agency must use a department-approved form to document the temporary service plan. The temporary service plan must prescribe in writing the member's medical and functional need for service. The provider must refer the member to the quality improvement organization for a functional assessment by the 28th day of the temporary service plan or they must discharge the member.

(a) In self-directed CFCS, the health care professional must complete the health care professional authorization form prior to the delivery of services and the provider agency oversight staff must complete and sign the service plan prior to the delivery of services.

(b) In agency-based CFCS, the provider agency nurse supervisor must complete and sign the temporary service plan prior to the delivery of services.

(8) The member must agree to accept the provision of CFCS as specified in the person-centered service plan.

(9) The CFCS provider must have a written complaint process. The member may receive a copy upon request. The provider must adhere to the process for any member complaints related to the person-centered planning and service-delivery process.

(10) The delivery of agency-based CFCS must be supervised by a licensed agency nurse. Supervision includes oversight of the training and orientation of direct-care workers.

AUTH: 53-2-201, MCA

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

NEW RULE IV SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: DESCRIPTION AND PURPOSE (1) Self-directed Community First Choice Services (CFCS) are services provided to Medicaid members who choose to take the responsibility or have a representative take the responsibility of managing the CFCS. Self-directed CFCS allow the member to direct CFCS, including health maintenance tasks.

(2) Health maintenance tasks include the following:

(a) urinary systems management;

(b) bowel care;

(c) wound care; and

(d) medication management.

(3) Members must provide their physician or health care professional evidence of ability to manage their CFCS and health maintenance tasks.

(a) The scope and detail of the evidence will be determined by the physician or health care professional.

(4) Members who are unable to utilize self-directed CFCS may receive services through the agency-based CFCS program managed by provider agencies under agreement with Medicaid.

AUTH: 53-2-201, MCA

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

NEW RULE V SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: GENERAL REQUIREMENTS (1) Self-directed Community First Choice Services (CFCS) may only be delivered by an attendant who is the employee of a Medicaid-enrolled provider and who is selected by the member or their personal representative.

(2) Agency-based CFCS managed by provider agencies under agreement with Medicaid are not available to members who are participating in the self-directed CFCS program. The use of CFCS managed by provider agencies may be permissible in the event that the member's backup plan fails.

(3) Home health and home and community-based waiver skilled nursing services are not available to members for the completion of health maintenance activities which the member has been authorized to manage. The use of home health and home and community-based waiver skilled nursing services may be permissible in the event that the member's backup plan fails. In this case the service must be prior authorized.

(4) Members who have been terminated from the self-directed program may apply for agency-based CFCS through the Medicaid CFCS program managed by approved provider agencies.

AUTH: 53-2-201, MCA

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

NEW RULE VI SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: MEMBER REQUIREMENTS (1) To qualify for self-directed Community First Choice Services (CFCS), the member:

(a) must be capable of assuming the management responsibilities of self-directed CFCS or have a personal representative willing to assume this responsibility. Management responsibilities include the following:

(i) recruit, hire, schedule, train, and dismiss all personal care attendants;

(ii) develop a backup plan for when a personal care attendant is unable to provide services. The backup plan identifies the process for addressing the member's functional need for service as identified on the service plan should the personal care attendant be unable to deliver services;

(iii) review, approve, sign, and date all service delivery records to provide assurance that the service plan has been followed; and

(iv) assume medical and related liability regarding the delivery of CFCS.



- (b) must obtain authorization from a physician or health care professional to participate in the program;
  - (c) must obtain authorization prior to service delivery and annually thereafter;
- and
- (d) must be capable of making choices about activities of daily living, understand the impact of these choices, and assume the responsibility of the choices.
- (2) The member may have a personal representative assume some or all of the responsibilities imposed by this rule. The personal representative is an immediately involved representative who meets the following criteria:
- (a) is a person who is directly involved in the daily care of the member;
  - (b) is available to assume the responsibility of managing the member's care, including directing the care as it occurs in the home; and
  - (c) will not be employed by the member's CFCS provider agency.

AUTH: 53-2-201, MCA

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

NEW RULE VII AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: TERMINATION FROM SERVICES

(1) Community First Choice Services (CFCS) may be terminated for any of the following reasons:

- (a) the member, or other persons in the household, subjects the direct-care worker to physical or verbal abuse, sexual harassment, exposure to the use of illegal substances, or to threats of physical harm;
- (b) the member requests termination of services or refuses to accept help;
- (c) the environment of the member is unsafe for the provision of CFCS;
- (d) the member is engaging in illegal activity in the home;
- (e) the member's physician requests termination of services;
- (f) the member no longer has a medical need for CFCS;
- (g) the member refuses the services of a direct-care worker based solely or partly on the attendant's race, creed, religion, sex, marital status, color, age, handicap, or national origin;
- (h) the member refuses to accept services in compliance with the service plan;
- (i) the member refuses to participate in the functional assessment, recertification, and person-centered planning visits; or
- (j) the member falsifies the service delivery record.

(2) The department may terminate or reduce CFCS when funding for services is unavailable.

(3) The provider must give at least ten days advance notice to a member when CFCS are terminated for reasons listed in (1)(d) through (1)(j).

(4) The provider may immediately, but temporarily, suspend services for the reasons listed in (1)(a) through (1)(c). Following the temporary suspension of services the provider may enter into an agreement with the member to ensure that the violations of (1)(a) through (1)(c) do not reoccur. If the member fails to abide by the terms of the agreement, services may be permanently terminated.

(5) The department will provide written notice to an applicant when CFCS are initially denied to the applicant.

(6) A person may request a fair hearing for any adverse determination made by the department. Fair hearings will be conducted as provided for in ARM 37.5.304, 37.5.307, 37.5.310, 37.5.313, 37.5.316, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, and 37.5.337.

AUTH: 53-2-201, MCA

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

NEW RULE VIII AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PROVIDER ENROLLMENT

(1) Providers will enroll as a Community First Choice Services (CFCS) personal care attendant provider, a CFCS personal emergency response system (PERS) provider, or both. Providers must enroll through the department's fiscal intermediary.

(2) CFCS providers must be businesses incorporated under the laws of the state of Montana.

(3) CFCS providers must submit a description of the proposed service area which must include, at a minimum, coverage of the entire area of at least one county or Indian reservation.

(4) CFCS personal care attendant service providers must comply with onsite visit requirements both before and after enrollment to verify information submitted to the department.

(5) CFCS personal care attendant service providers must provide the documentation to demonstrate the following:

(a) general liability insurance with a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate;

(b) motor vehicle liability insurance with split limits of \$500,000 per person for personal injury, \$1,000,000 per accident occurrence for personal injury, and \$100,000 per accident occurrence for property damage; or, combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the provider or its agents, officers, representatives, assigns, or subcontractors;

(c) current unemployment insurance and workers' compensation coverage; and

(d) verification of completion of the department's mandatory CFCS training.

(6) CFCS attendant-based providers will select to deliver either agency-based or self-directed CFCS option. Once a provider has completed a successful compliance review the provider may enroll in the other service option.

(7) The department may contract with out-of-state agencies to provide CFCS for Montana Medicaid members temporarily living out of state.

AUTH: 53-2-201, MCA

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

NEW RULE IX AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: CONFLICT OF INTEREST CRITERIA (1) In order to

perform the duties of an agency-based nurse supervisor, self-directed program oversight staff, or the Community First Choice Services (CFCS) provider person-centered plan facilitator the person cannot:

- (a) be related by blood or marriage to the member or to any paid caregiver for the member;
- (b) be financially responsible to the member;
- (c) have authority to make financial or health-related decisions on behalf of the member;
- (d) benefit financially from the provision of assessed need for services;
- (e) be employed as a direct-care worker at the agency; or
- (f) have a majority ownership stake in the agency.

AUTH: 53-2-201, MCA

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

NEW RULE X AGENCY-BASED COMMUNITY FIRST CHOICE SERVICES:  
PROVIDER REQUIREMENTS

(1) Providers may enroll as a Community First Choice Services (CFCS) personal care attendant provider, a CFCS personal emergency response system provider, or both.

(2) CFCS attendant providers will maintain staff resources, including a nurse supervisor and person-centered plan facilitator, to perform the necessary CFCS duties as referenced in [New Rule III]. The nurse supervisor and plan facilitator may be the same person.

(3) CFCS nurse supervisors must meet the following criteria:

- (a) be a licensed nurse;
- (b) have at least one year's experience in aging and disability services;
- (c) receive training in CFCS; and
- (d) be free of conflict-of-interest criteria as referenced in [New Rule IX].

(4) CFCS plan facilitators must meet the following criteria:

- (a) have at least one year's experience in aging and disability services;
- (b) receive certification in the person-centered planning process; and
- (c) be free of conflict-of-interest criteria as referenced in [New Rule IX].

(5) The CFCS provider agency must provide documentation to verify the nurse supervisor and plan facilitator credentials, certification, and training.

(6) CFCS personal emergency response system service providers will provide a service, which includes electronic, telephonic, or mechanical system to assist the member in an emergency situation. The system must be connected to a local emergency response system with the capacity to activate local emergency medical personnel.

AUTH: 53-2-201, MCA

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

NEW RULE XI SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES:  
PROVIDER REQUIREMENTS

(1) Self-directed Community First Choice Services (CFCS) providers must employ program oversight staff to perform the following self-directed oversight activities:

- (a) assist members to identify resources for personal assistants;
  - (b) advise the member regarding program requirements;
  - (c) complete compliance documentation and follow-up if the member does not comply with program requirements; and
  - (d) provide documentation to ensure that the personal representative meets the participation criteria described in [New Rule VI].
- (2) Self-directed CFCS providers must maintain staff resources, including a program oversight staff and person-centered plan facilitator, to perform the necessary CFCS duties as referenced in [New Rule III]. The program oversight staff and person-centered plan facilitator may be the same person.
- (3) Self-directed program oversight staff must meet the following criteria:
- (a) have at least one year's experience in aging and disability services;
  - (b) receive training in CFCS; and
  - (c) be free of conflict-of-interest criteria as referenced in [New Rule IX].
- (4) Self-directed plan facilitators must meet the following criteria:
- (a) have at least one year's experience in aging and disability services;
  - (b) receive certification in the person-centered planning process; and
  - (c) be free of conflict-of-interest criteria as referenced in [New Rule IX].
- (5) The CFCS provider agency must provide documentation to verify program oversight staff and plan facilitator credentials, certification, and training.
- (6) Self-directed CFCS provider agencies must act as the employer of record for direct-care workers for the purposes of payroll and federal hiring practices.
- (7) Effective January 1, 2015, self-directed CFCS provider agencies must provide quarterly reports for all self-directed personal care attendants employed by the agency, in the format specified by the department. The quarterly report must include the names, addresses, and phone numbers, wages, years of experience in aging and disability services, availability of employee-sponsored health insurance, whether a background check was conducted, and, if so, whether it was a fingerprint criminal background check.

AUTH: 53-2-201, MCA

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

#### NEW RULE XII AGENCY-BASED COMMUNITY FIRST CHOICE

SERVICES: PROVIDER COMPLIANCE (1) Providers of Community First Choice Services (CFCS) will be subject to compliance reviews to provide assurance to the department that services are being provided within the rules and policy of the program.

(2) The department will conduct compliance reviews on the provider's premises and through documentation requests. The provider must supply documentation requested by the department in a reasonable time frame and no later than 30 days following the request.

(3) The reviews will take place at times determined by the department.

(4) The department will determine compliance in the following service delivery areas:

- (a) service authorization documentation;
- (b) high-risk authorization;

- (c) amendments and temporary authorization;
  - (d) service plan and member choice;
  - (e) service delivery;
  - (f) nurse supervision and oversight; and
  - (g) health and welfare and serious occurrence reports.
- (5) The department will determine compliance in the following administrative areas:

- (a) attendant training;
- (b) staff credentials, certification, and training;
- (c) principles of charting;
- (d) maintenance of serious occurrence reports;
- (e) member satisfaction surveys;
- (f) required documentation;
- (g) agency manuals and handouts, including complaint process;
- (h) workers' compensation, liability, and automobile coverage; and
- (i) service billing.

(6) The department will determine compliance in the following person-centered planning delivery areas:

- (a) plan facilitator certification documentation;
- (b) member and plan facilitator rights and responsibility documentation;
- (c) person-centered plan and member choice; and
- (d) risk assessment and mitigation.

(7) The department will examine a minimum of three cases or five percent of the provider's case load for the purpose of the compliance review, whichever is greater. The department will review additional cases, when necessary.

(8) The provider will meet all standards in ninety percent of the cases to be considered in compliance. If ninety percent compliance is not met, a second compliance review will be scheduled.

(9) The provider must meet all standards in ninety percent of the cases in the second review or will be subject to department sanctions as provided in ARM 37.85.401.

AUTH: 53-2-201, MCA

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

NEW RULE XIII SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PROVIDER COMPLIANCE (1) Providers of Community First Choice Services (CFCS) will be subject to compliance reviews to provide assurance to the department that services are being provided within the rules and policy of the program.

(2) The department will conduct compliance reviews on the provider's premises and through documentation requests. The provider must supply documentation requested by the department in a reasonable time frame and no later than 30 days following the request.

(3) The reviews will take place at times determined by the department.

(4) The department will determine compliance in the following service delivery areas:

- (a) service authorization documentation;
  - (b) health-care professional authorization;
  - (c) high-risk authorization;
  - (d) amendments and temporary authorization;
  - (e) service plan and member choice;
  - (f) service delivery;
  - (g) agency program oversight; and
  - (h) health and welfare and serious occurrence reports.
- (5) The department will determine compliance in the following administrative areas:
- (a) staff credentials, certification, and training;
  - (b) principles of charting;
  - (c) maintenance of serious occurrence reports;
  - (d) member satisfaction surveys;
  - (e) required documentation;
  - (f) agency manuals and handouts, including complaint process;
  - (g) workers' compensation, liability, and automobile coverage; and
  - (h) service billing.
- (6) The department will determine compliance in the following person-centered planning delivery areas:
- (a) plan facilitator certification documentation;
  - (b) member and plan facilitator rights and responsibility documentation;
  - (c) person-centered plan and member choice; and
  - (d) risk assessment and mitigation.
- (7) The department will examine a minimum of three cases or five percent of the provider's case load for the purpose of the compliance review, whichever is greater. The department will review additional cases, when necessary.
- (8) The provider must meet all standards in ninety percent of the cases to be considered in compliance. If ninety percent compliance is not met, a second compliance review will be scheduled.
- (9) The provider must meet all standards in ninety percent of the cases in the second review or it will be subject to department sanctions as provided in ARM 37.85.401.

AUTH: 53-2-201, MCA

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

NEW RULE XIV AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: REIMBURSEMENT

(1) Community First Choice Services (CFCS) may be provided up to, but not more than, 84 hours of attendant service per two-week time period per person as defined by the service profile. The department may, within its discretion, authorize additional hours in excess of this limit. Any services exceeding this limit must be prior authorized by the department. Prior authorization for excess hours may be authorized if additional assistance is required for:

- (a) a period of time not to exceed three months and as the result of an acute medical episode;

- (b) a period of time not to exceed three months and to prevent institutionalization during the absence of the normal caregiver; or
- (c) a period of time not to exceed three months and during a post-hospitalization period.

(2) Add-on payments for direct-care wage, bonus, and health care for health care workers are as described in [New Rules XV and XVI].

(3) CFCS include the following:

(a) personal care attendant service is a 15-minute unit and means an onsite visit specific to a member. Personal care attendant services include the performance of activities of daily living, instrumental activities of daily living, skill acquisition, maintenance, and enhancement services. The personal care attendant service rate is an all-inclusive rate and includes the provider agency's administrative, person-centered planning, supervision, and oversight duties;

(b) medical escort is a 15-minute unit and means transportation time and appointment time so the person can access an approved medical appointment;

(c) mileage is a unit of one mile and means reimbursement for mileage when an attendant uses their vehicle to transport a person on an approved shopping, community integration, or medical escort trip; and

(d) personal emergency response is a unit of service that covers the initial installation fee and monthly rental fee of the unit.

(4) The department will not reimburse a member for in-home services delivered by a privately retained attendant.

(5) Reimbursement is not available for CFCS provided by immediate family members as described in [New Rule II].

(6) The agency-based and self-directed CFCS fee schedules are effective July 1, 2014. Copies of the department's current fee schedules are posted at <http://medicaidprovider.hhs.mt.gov> and may be obtained from the Department of Public Health and Human Services, Senior and Long Term Care Division, 1401 East Lockety, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 53-2-201, MCA

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

#### NEW RULE XV ADD-ON PAYMENTS AND REPORTING REQUIREMENTS FOR DIRECT-CARE WORKERS' WAGE AND LUMP-SUM PAYMENTS

(1) In addition to the reimbursement fee as provided in ARM 37.40.1105, 37.85.105, [New Rule XIV], and [New Rule XVI], the department will pay Medicaid personal assistance service and Community First Choice Services (CFCS) providers located in Montana who submit an approved request to the department, an add-on payment. Add-on payment is used only for wage and benefit increases or lump-sum payments for direct-care workers who deliver Medicaid personal assistance or CFCS.

(a) The department will determine the add-on payments, commencing July 1, 2014, as a pro rata share of appropriated funds available for increases in direct-care worker wages, lump-sum direct-care worker bonus payments, or both. A provider agency is eligible to receive a portion of the total funds based on their percentage of total utilization of personal assistance services and CFCS over the previous fiscal year.

(b) To receive the direct-care services workers' add-on payment, a provider must submit for approval an application request to the department stating how the direct-care workers' wage increase, add-on payment, or both will be spent to comply with the requirements outlined in the application. The provider must submit all of the information required on a department-approved form in order to continue to receive subsequent add-on payment amounts for the entire year.

(c) A provider must submit a qualifying request for the funds distributed under (1). The request must include all required information, within the deadlines established by the department. Providers who do not submit the qualifying request, or do not wish to participate in the add-on funding, may not be entitled to their pro rata share of the funds available for wage and benefit increase or lump-sum payments for direct-care workers.

(2) A provider that receives funds under this rule must maintain appropriate records documenting the expenditures of these funds. This documentation must be maintained and made available to authorized governmental entities and their agencies to the same extent as other required records and documentation under applicable Medicaid record requirements.

(a) Effective for the period beginning July 1, 2014, personal assistance services providers or CFCS providers must report to the department actual hourly wage and benefit rates paid for all direct-care workers or the lump-sum payment amounts for all direct-care workers who will receive these funds.

AUTH: 53-2-201, MCA

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

NEW RULE XVI ADD-ON PAYMENTS AND REPORTING REQUIREMENTS FOR HEALTH CARE WORKERS

(1) The department will pay Medicaid Personal Assistance Services and Community First Choice Services (CFCS) providers located in Montana, who submit an approved request to the department, an add-on payment in addition to the reimbursement fee as provided in ARM 37.40.1105, 37.85.105, [New Rule XIV], and [New Rule XV]. The add-on payment is to be used only to cover health insurance payments for direct-care workers who spend a majority of their time serving Medicaid personal care members.

(a) The department will determine the add-on payments, commencing July 1, 2014, as a pro rata share of appropriated funds allocated for health care for health care worker coverage. A provider agency is eligible to receive a portion of the total funds based on their percentage of total utilization of personal assistance services and CFCS over the previous fiscal year.

(b) To receive the health care for health care worker payment, a provider must submit for approval an application request to the department stating how the health care for health care worker add-on payment will be spent to comply with the application's requirements. The provider must submit all of the information required on a department-approved form in order to continue to receive subsequent add-on payment amounts for the entire year.

(c) A provider must submit an application request for the funds distributed under (1)(b). The request must include all required information, within the deadlines established by the department. Providers who do not submit the application request



or do not wish to participate in the add-on funding may not be entitled to their pro rata share of the funds available for health care for health care worker coverage.

(2) A provider that receives funds under this rule must maintain appropriate records documenting the expenditures of these funds. This documentation must be maintained and made available to authorized governmental entities and their agencies to the same extent as other required records and documentation under applicable Medicaid record requirements.

(a) Effective for the period beginning July 1, 2014, personal assistance services or CFCS providers must submit quarterly reports to the department. The report must include the names of eligible direct-care workers receiving health insurance coverage, the monthly cost of the insurance plan, and the total cost to the agency to provide health insurance coverage.

AUTH: 53-2-201, MCA

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

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) proposes to adopt New Rules I through XVI for the Community First Choice Program.

The purpose for proposing to create these new rules is to develop the program requirements for the Community First Choice Program (CFCP). The CFCP is a Medicaid state plan option for home-based services. It includes a service delivery model based on person-centered planning and self-directed service options. The proposed rules include sections that pertain to Community First Choice agency-based and self-directed service options. The rule subsections provide guidance specific to the functional areas of the program: services provided and limitations; service requirements; provider enrollment; conflict-of-interest criteria; self-directed description and purpose; self-directed general requirements; self-directed consumer requirements; person-centered plan requirements; provider requirements; provider compliance; and reimbursement.

The proposed new rules will establish the program requirements and procedures necessary to implement the Community First Choice state plan amendment. Community First Choice provides an expansion of the services traditionally provided under the personal assistance service program, including the new services of personal emergency response system, community integration, and skill acquisition training. The proposed rules will establish the parameters for service scope, authorization, and service delivery for both the new services and the current state plan personal assistance services.

The proposed rules will also provide requirements for service scope and service delivery for the two service delivery options available under the CFCP: agency-based and self-directed.

Next, the proposed rules will provide the scope of expectations for the federally mandated person-centered framework, including conflict-of-interest criteria and service structure to support the planning framework.

In addition, the proposed rules will provide reimbursement methodology for each Community First Choice service.

Finally, the proposed rules will also establish expectations for provider enrollment, provider requirements, and provider compliance in the CFCP.

#### New Rule I

The department is proposing this rule to provide the definitions of agency-based and self-directed Community First Choice Services (CFCS). The proposed new rule is necessary to provide uniform definitions and the foundational requirements for CFCS.

#### New Rule II

The department is proposing this rule to outline the minimal requirements for a member to be eligible to receive CFCS and the service options available to a member who qualifies for CFCS. The rule also establishes the settings where a member may reside to receive CFCS. Last, this rule provides the service limitations for CFCS and the individual who can be employed to provide CFCS. The intent of this rule is to provide clear guidelines for service availability in the CFCP.

#### New Rule III

The department is proposing this rule to outline the steps that must be followed through a person-centered planning process to deliver CFCS. The person-centered planning process is a mandatory requirement of the CFCP to ensure member involvement and participation in all aspects of service delivery. The department has developed a planning process that provides the member and people close to him/her with relevant information and resources and a support team to guide the member in developing a plan for receiving services. The rule also provides the expectations for the plan facilitator and provider agency staff in relation to the person-centered planning process and delivery of CFCS.

#### New Rule IV through VI

The department is proposing these three new rules to provide a general description of the self-directed option of CFCS. The goal of the department is to provide the most enhanced options for consumer choice and control. The self-directed rule provides the scope and authority wherein a member can assume increased responsibility and authority over the provision of his/her CFCS. The proposed rules outline the criteria that must be met for a member to receive self-directed services and the additional service options that are available under the self-directed option. It

also establishes the member responsibilities and expectations, which are a key component of the self-directed option. Lastly, the rule establishes the criteria a provider agency must meet to deliver self-directed CFCS.

#### New Rule VII

The department is proposing this rule to provide a general outline for situations when CFCS may be terminated. Termination of services may be based on a department or provider agency decision. Proposed New Rule VII establishes parameters to govern the department and provider agency in making these decisions so as to ensure member rights are upheld and proper protocol are adhered to.

#### New Rule VIII

The department is proposing this rule to provide the requirements for provider agency enrollment and participation in the CFCP. The provider enrollment verifies that provider agencies are established businesses in the state of Montana and that the provider agency has reasonable coverage for personal care attendant worker claims. The standards for provider agencies are based on federal regulations and department standards. The training criteria are provided in lieu of any certification or licensure criteria used to regulate home-based services.

#### New Rule IX

The department is proposing this rule to provide the requirements for conflict-of-interest criteria. Conflict-of-interest criteria are mandated by the federal government to ensure compliance with expectations for service delivery in home-based settings. The conflict-of-interest criteria are developed to ensure that the individuals who are working with consumers in the person-centered planning process can act in a manner free of conflict when supporting the consumer in the decision-making process around their service options.

#### New Rule X and New Rule XI

The department is proposing these two new rules to provide the requirements for provider participation in the CFCP. The rule establishes the minimum staffing requirements for an agency in order to deliver CFCS. The department developed these requirements to ensure qualified staff provides planning, oversight, and supervision of CFCS. The criteria also ensure that all plan facilitators receive training in the person-centered planning philosophy of service delivery. The department also developed this rule to outline the expectations that are unique to the agency-based provider agency found in New Rule X and the self-directed provider agency found in New Rule XI, specifically with regard to oversight and supervisory expectations and authority. Additionally, we have added the requirement for self-directed CFCS provider agencies to report quarterly on the workers that deliver self-directed services in order to evaluate this work force quality, stability, and sustainability. The department may use the information to provide ongoing training

and compliance information to direct-care workers, and may create a voluntary online directory to assist potential members in finding information about available direct-care workers and CFCS self-directed providers.

#### New Rule XII and New Rule XIII

The department is proposing the two new rules to provide the requirements for provider compliance in the CFCP. The rule establishes the areas that the department will use to evaluate compliance with the program parameters. The department has an extensive quality assurance process to ensure CFCP provider agencies deliver services according to the parameters established in the CFCP rule. The compliance process is an important component in the department's overall quality assurance strategy.

#### New Rule XIV

The department is proposing this rule because it specifies the reimbursement for services under the CFCP. This rule is necessary to direct an individual to the correct location for the rates of reimbursement.

#### New Rule XV

The department is proposing this rule to specify the department's methodology for determining add-on payments for the direct-care worker wage and bonus funding and the application requirements for a CFCP provider agency to receive reimbursement for add-on payments for direct-care worker wage funding.

#### New Rule XVI

The department is proposing this rule to specify the department's methodology for determining increased reimbursement rates in the form of a lump-sum payment for provider agencies that provide health insurance to direct-care workers through the health care for health care worker program. The rule also establishes the application requirements for a CFCP provider agency to receive reimbursement for add-on payments for health insurance for health care worker funding.

5. The department intends to apply these rule adoptions retroactively to July 1, 2014. The implementation date is consistent with the federal approval of the Community First Choice state plan amendment. A retroactive application of the proposed rule adoptions does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., November 6, 2014.

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

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

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

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

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

/s/ Valerie Bashor  
Valerie Bashor  
Rule Reviewer

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

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 42.15.109, 42.15.110, 42.15.301, and 42.15.802 pertaining to the Montana family education savings program, income tax general provisions, and tax returns	)	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT
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TO: All Concerned Persons

1. On November 5, 2014, at 9 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption and 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 20, 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 rule as proposed to be adopted provides as follows:

NEW RULE I DEDUCTIONS FOR CONTRIBUTIONS TO OTHER STATES' 529 PLANS (1) Subject to the Montana Family Education Savings Act and the rules in this subchapter, contributions made after December 31, 2012, to another state's 529 savings plan, also qualify for the deduction.

(2) Contributions to a state's prepaid tuition plan do not qualify for the deduction.

AUTH: 15-30-2620, MCA  
IMP: 15-30-2110, 15-62-207, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule I to implement Senate Bill (SB) 117, L. 2013, which expanded the eligibility for deductions for contributions to the Montana family education savings program to include contributions made to 529 plans administered by other states. The legislation provided for this provision to be enacted retroactively to contributions made after December 31, 2012.

As proposed, (1) provides the beginning date for which contributions made to other state's 529 savings plans qualify for the deduction, and (2) specifies that

contributions to a state's prepaid tuition plan do not qualify for the deduction. Unlike some other states, Montana does not offer a prepaid tuition plan for its colleges and universities. Contributions to a state's prepaid tuition plan did not previously qualify for the deduction and that was not changed with the enactment of SB 117. The department proposes including the language in the rule as guidance and to avoid confusion.

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

42.15.109 RESIDENCY (1) As provided in 15-30-2101, MCA, an individual may be a resident for Montana individual income tax purposes if the individual is domiciled in the state or maintains a permanent place of abode in the state. Section 1-1-215, MCA, sets forth rules for determining residency, and "domiciled" is defined in ARM 42.2.304. Whether an individual is a Montana resident for Montana income tax purposes is determined in light of all facts and circumstances for the tax year in question. Residency in one state is not abandoned until it can be demonstrated by the union of act and intent that it has been established in another state. An individual's intent is determined by analyzing objective factors regarding the individual's conduct and declarations. In determining residency, more weight is given to an individual's actions than is given to the individual's subjective declaration of intent.

(2) Some, but not all, of the factors that may be considered when determining residency for Montana income tax purposes are provided below. No one factor will automatically determine residency and the order of appearance in the list below does not indicate a level of importance. Residency does not depend upon any one fact or combination of circumstances, but upon the whole, taken together, and the weight to be given to the various facts and circumstances indicative or presumptive of residency depends upon the unique evidence in each case. Factors that may be considered to determine a residency include, but are not limited to:

- (a) an individual's residency status for tax purposes in prior years;
- (b) where an individual votes or is registered to vote (although casting an illegal vote does not establish residency for income tax purposes);
- (c) where an individual holds a valid driver's license;
- (d) an individual's residency status evidenced by hunting or fishing licenses;
- (e) whether a homestead declaration has been filed on a residential dwelling owned by the taxpayer;
- (f) residency status of the individual's spouse and minor children;
- (g) whether an individual claimed residency when applying for admission or financial aid at an educational institution;
- (h) where important and valuable possessions and documents are kept;
- (i) primary address used for important mail;
- (j) jurisdiction from which any professional licenses were issued;
- (k) location of the place of worship where an individual is a member;
- (l) location of any social, fraternal, athletic organizations, clubs, or lodges in which the individual is a member;

(m) location of the individual bank accounts or any other transactions the individual conducts with financial institutions;

(n) location where the individual obtains professional services including, but not limited to, lawyers, accountants, dentists, primary care physicians, or other doctors;

(o) oral or written declarations of residency evidenced by documents including, but not limited to:

(i) tax returns;

(ii) wills;

(iii) automotive insurance;

(iv) deeds;

(v) other insurance policies;

(vi) mortgages;

(vii) leases; and

(viii) contracts;

(p) location where an individual primarily exercises the individual's civil and political rights;

(q) location of an individual's business(es), profession(s), or occupation(s); and

(r) any additional fact or circumstances applicable to the specific situation.

(3) In order to make a determination regarding an individual's residency, the department may request information by asking the individual to respond to a residency questionnaire or similar written inquiry. Where appropriate, an individual is expected to be prepared to support the responses with contemporaneously kept records. An item with an unsupported, vague, or non-response will not be considered as supporting the individual's position regarding the individual's state of residence. Failure to respond to the department's inquiries may constitute evidence of residency in Montana.

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

(6) An individual who leaves Montana and spends any amount of time in another country does not lose the individual's status as a Montana resident until the individual can demonstrate through actions the intention of establishing citizenship (or similar status) in that country.

(7) The burden of proving that residency has been established outside of Montana generally falls on the individual. The burden of proving that residency has been established in Montana generally falls on the department.

AUTH: 15-30-2620, MCA

IMP: 15-30-2101, MCA

**REASONABLE NECESSITY:** The department proposes amending ARM 42.15.109 to incorporate additional information about the various aspects of residency and domicile status as they apply to individual income taxes. The proposed amendments will include a list of some of the factors that may be considered when determining an individual's state of domicile or residency status for income tax purposes. The proposed list of factors in new (2) is intended to be informative and not comprehensive. Additional factors may be considered if the situation warrants. The proposed list is not intended as a checklist or scorecard.



The amendments further outline some of the principles that are applied when making residency determinations. The principles are derived from prior rulings in cases involving residency and domicile.

42.15.110 TAXATION OF PART-YEAR RESIDENTS AND NONRESIDENTS

(1) and (2) remain the same.

(3) Part-year residents and nonresidents ~~must complete Schedule IV and~~ compute their tax liability by multiplying the ratio of their Montana source income to income from all sources by the tax determined as if they were a resident ~~by the ratio of their Montana source income to income from all sources for the entire tax year.~~ They must complete Schedule IV, Nonresident/Part-Year Resident Tax, to determine this ratio.

(4) remains the same.

AUTH: 15-30-2104, MCA

IMP: 15-30-2101, 15-30-2103, 15-30-2104, 15-30-2110, 15-30-2111, 15-30-2114, 15-30-2131, 15-30-2132, 15-30-2151, 15-30-2152, 15-30-2153, 15-30-2154, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.15.110 as a matter of housekeeping to restructure (3) for better clarity. The process for computing the tax liability remains the same.

42.15.301 WHO MUST FILE RETURNS (1) The following must file an individual income tax ~~or fiduciary~~ return:

(a) ~~Every every~~ resident who is a single person, and every resident who is a married person who does not elect or, as provided in ARM 42.15.321, is not allowed to elect, to file a joint return with a spouse, must file a return if the person's gross income from all sources for the taxable year is more than ~~\$1,500~~ \$4,370, adjusted as provided in (3), ~~plus the value of the exemptions the person is entitled to for age 65 or for blindness.~~ (2);

(b) ~~Married married~~ persons, both of whom are residents, not filing separate returns must file a joint return if their combined gross income for the taxable year from all sources exceeds ~~\$3,000~~ \$8,740, adjusted as provided in (3), ~~plus the value of the exemptions they are entitled to for age 65 or blindness.~~ (2);

(c) ~~Every every~~ nonresident who is a single person, and every nonresident who is a married person who does not elect or, as provided in ARM 42.15.321, is not allowed to elect, to file a joint return with a spouse, must file a return if ~~the person's~~ person has any Montana source income or loss and their gross income from all sources is more than ~~\$1,500~~ \$4,370, adjusted as provided in (3), ~~plus the value of the exemptions the person is entitled to for age 65 or blindness, and they have any Montana source income.~~ (2); and

(d) ~~Married married~~ persons, both of whom are full-year nonresidents, not filing separate returns, must file a joint return if either or both of them have any Montana source income or loss and their combined gross income for the taxable year from all sources exceeds ~~\$3,000~~ \$8,740, adjusted as provided in (3), ~~plus the value of the exemptions they are entitled to for age 65 or blindness, and either or~~

both of them have any Montana source income (2).

(2) The minimum gross income amounts requiring filing a return shown in (1) were calculated for tax year 2014. Minimum gross income amounts:

(a) are adjusted annually in accordance with 15-30-2602, MCA. By November 1 of each year, the department will multiply the minimum amount of gross income necessitating filing by the inflation figure for the current taxable year;

(b) are increased by the value of any exemptions the person is entitled to for age 65 or for blindness, but are not also increased by the exemption allowed for all taxpayers under 15-30-2114(2)(a), MCA; and

(c) can be obtained for previous tax years by accessing the past-year downloadable tax forms from the homepage of the department's web site at [revenue.mt.gov](http://revenue.mt.gov).

(3) The following must file a fiduciary return:

(e)(a) The ~~the~~ estate of a decedent who was a resident must file a return if its gross income for the year from all sources exceeds its exemption allowance;

(f)(b) The ~~the~~ estate of a decedent who was a nonresident must file a return if its gross income from all sources exceeds its exemption allowance, and the estate has any Montana source income; and

(g)(c) A ~~a~~ nonbusiness trust which is not a grantor trust and is subject to the Montana Trust Code, Title 72, chapter 33, MCA, must file a return if its gross income for the year from all sources exceeds its exemption allowance.

(h)(4) A business trust, including an ~~a~~ REIT, is treated as a C corporation taxable under Title 15, chapter 31, MCA. See chapters 23 and 24 of Title 42, Administrative Rules of Montana, for the corporation license tax rules.

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

~~(3) By November 1 of each year the department will multiply the minimum amount of gross income necessitating the filing of a return by the inflation figure for the taxable year.~~

AUTH: 15-1-201, 15-30-2620, 15-31-501, MCA

IMP: 15-30-2602, 15-30-2603, 15-30-3302, 15-30-3311, 15-30-3312, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.15.301 as a matter of housekeeping to update the amounts shown for the filing thresholds in (1) to a more current tax year. The base year for the filing threshold currently reflected in the rule has not been revised since 1996. The department further proposes adding language to include the tax year of the threshold being represented in the rule for better clarity going forward. The department proposes including additional detail about how the minimum amount of gross income is calculated and also proposes making format revisions and separating out the information regarding fiduciary returns to improve the overall readability of the rule.

#### 42.15.802 CONTRIBUTIONS TO FAMILY EDUCATION SAVINGS

PROGRAM ACCOUNTS (1) The program administrator determines who can be an account owner and from whom it will accept contributions to an account. More information regarding the administration of the program can be found at [montana.collegesavings.com/montana](http://montana.collegesavings.com/montana) [www.mfesp.com](http://www.mfesp.com). Account ownership and

the acceptance of contributions ~~is~~ are not necessarily related to the ability to reduce Montana taxable income. A person is not necessarily entitled to reduce their Montana adjusted gross income because they made a contribution or are an account owner. Entitlement to the tax benefit depends on meeting specific statutory requirements set forth in Title 15, chapter 62, MCA, and these rules.

(2) and (3) remain the same.

(4) A rollover from ~~another state's 529 plan or other private family education savings account into a Montana family education savings account is considered a contribution for which a deduction may be claimed, provided all other provisions of the Family Education Savings Act are met. The rollover may, however, be treated by the other state or the other state's plan as an unqualified withdrawal~~ one account to another or from one 529 plan to another is not a contribution for which a deduction may be claimed.

(5) remains the same.

AUTH: 15-30-2620, MCA

IMP: 15-30-2110, 15-62-201, 15-62-207, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.15.802 to update a web site address and as part of implementing SB 117, L. 2013, which expanded the eligibility for deductions for contributions to the Montana family education savings program to include contributions made to 529 plans administered by other states. The legislation provided for this provision to be enacted retroactively to contributions made after December 31, 2012.

The proposed amendment in (4) provides that rollovers from one account or plan to another account or plan do not qualify as a contribution that is eligible for a deduction. The department previously accepted rollovers from other states into the Montana program because of the relative certainty that the funds would not have already been part of a previous deduction. By opening up the deduction of contributions made to any state's plan, the potential now exists that funds being moved from one state's plan into another state's plan may have already been deducted by the taxpayer on an earlier return. Tracking and verifying whether or not a deduction was previously taken for funds being transferred from one state's plan to another state's plan would create a complex and undue administrative burden on the department.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, 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 November 12, 2014.

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

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons

who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. 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.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of Senate Bill 117, Senator Jon Sonju, was contacted by regular mail on June 21, 2013, and subsequently notified on September 12, 2014.

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

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rule I pertaining to filing ) PROPOSED ADOPTION  
requirements for pass-through )  
entities with more than 100 partners )

TO: All Concerned Persons

1. On November 5, 2014, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rule. 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 20, 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 rule as proposed to be adopted provides as follows:

NEW RULE I ELECTRONIC RETURNS REQUIRED FOR PARTNERSHIPS HAVING MORE THAN 100 MEMBERS (1) Effective for tax years beginning after December 31, 2013, a partnership having more than 100 partners over the course of its tax year must electronically file a Montana Partnership Information and Composite Return (Form PR-1), using department-approved e-filing tax software.

(2) For purposes of this rule, the more than 100-partner threshold shall be considered satisfied if a partnership, on any one day over the course of the year, has more than 100 partners. For example:

(a) Partnership A has 95 partners on January 1, 2014. On April 1, 2014, ten new partners acquire partnership interests in Partnership A so that there are 105 total partners. On August 1, 2014, one of Partnership A's partners acquired the interests of ten partners which reduced the total number of partners to 95. Partnership A must file its Form PR-1 electronically because over the course of the tax year, the partnership had more than 100 partners.

(3) A partnership may request a waiver of the electronic filing requirement if the partnership can demonstrate that compliance with the requirement would cause an undue hardship.

(4) To request a waiver, the partnership must complete and timely submit a Partnership e-File Waiver Request form to the department along with the required supporting information as detailed on the form at least 30 days prior to the partnership's return due date including extensions. Examples of the supporting

information include, but are not limited to, a description of the hardship, the incremental costs, and the steps to be taken to ensure the partnership's ability to file future returns electronically.

(5) A waiver request may not be submitted with the partnership's return or with a request for an extension for filing the partnership's return.

(6) Within 25 days after receipt of a waiver request provided for in (3), the department shall either approve or deny the request.

AUTH: 15-1-201, 15-30-3315, MCA

IMP: 15-30-2602, 15-30-3302, 15-30-3315, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule I to implement Senate Bill 179, L. 2013, which revised the filing requirements for pass-through entities. Specifically, the new law requires partnerships with more than 100 partners to file electronically and provides for a waiver of this requirement in certain situations.

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](mailto:lalogan@mt.gov) and must be received no later than November 12, 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 a 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](http://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 Senate Bill 179, Senator Christine Kaufmann, was contacted by regular mail on March 25, 2014, and subsequently notified on September 12, 2014.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule 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 29, 2014.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rule I, the amendment of ARM	)	PROPOSED ADOPTION,
42.12.101, 42.12.106, 42.12.111,	)	AMENDMENT, AND REPEAL
42.12.118, 42.12.122, 42.12.132,	)	
42.12.134, 42.12.135, 42.12.136,	)	
42.12.139, 42.12.205, 42.12.208,	)	
42.12.209, 42.12.301, 42.12.324,	)	
42.13.101, 42.13.106, 42.13.107,	)	
42.13.108, 42.13.111, and 42.13.401,	)	
and the repeal of ARM 42.12.103 and	)	
42.13.105 pertaining to liquor	)	
licenses and permits, fees, and the	)	
regulation of licensees	)	

TO: All Concerned Persons

1. On November 5, 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, amendment, and repeal 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 20, 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 rule as proposed to be adopted provides as follows:

NEW RULE I SEASONAL BUSINESS (1) The department may approve a license for use in a seasonal business to enable closures exceeding 90 consecutive days.

(2) To request approval, the licensee shall submit a written request that includes the:

- (a) type of seasonal business;
- (b) justification for operating seasonally; and
- (c) general dates of operation.

(3) Once approved, a licensee shall notify the department prior to changing the general dates of operation.



AUTH: 16-1-303, MCA

IMP: 16-3-310, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule I to reduce confusion that currently exists within the industry. The provisions being proposed in the new rule are currently located in, and being stricken from, ARM 42.13.108. The department proposes to set this information apart in a new rule because it is currently difficult for the industry to locate.

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

42.12.101 APPLICATION FOR LICENSE (1) All applications for licenses to sell, manufacture, or distribute alcoholic beverages ~~must~~ shall be made to the department upon forms supplied by the department. An abbreviated application may be permissible for license modifications as specified in ARM 42.12.118. In all other cases, the application process specified below shall be followed.

(2) Applications for licenses shall be in the names of all persons ~~with an ownership interest or to~~ who will have an ownership interest in the business to be operated under the license, as required in 16-4-401, MCA. ~~An owner of 10 percent or more, or who will have an ownership interest of 10 percent or more in the license, in the business, or in the entity owning the license, must meet the requirements as described in 16-4-401, MCA. If no single owner's interest is 10 percent or more, then persons whose combined ownership totals, or will total, 51 percent must meet the requirements as described in 16-4-401, MCA. If a corporation is publicly traded, it needs to meet the requirements provided for publicly traded corporations in 16-4-401, MCA. The names of all such persons shall appear on the licenses. The disqualification of any one or more applicants to hold the license disqualifies all.~~

(3) ~~In addition to other information required on the application form, the department may require an applicant to submit all information necessary to determine qualifications, including, but not limited to:~~

~~(a) personal history statements and authorization to access state and federal income tax information for all persons who appear to have an ownership interest or control over the business operated or to be operated under the license; and~~

~~(b) in the case of a license to be operated seasonally, the applicant may be required to submit sufficient information for the department to determine whether the criteria for seasonal operation, as described in 16-3-310, MCA, and ARM 42.13.108, are met.~~

~~(4) Upon receipt of an application for a license to sell, manufacture, or distribute alcoholic beverages, the department shall make a thorough investigation as to the qualifications of the applicant and the suitability of the premises proposed for licensing. If, upon such investigation, it appears that the applicant is qualified under the law, and the premises are suitable for licensing under the laws of the state and the rules of the department, the department shall issue the license if all other requirements of the law and these rules are fulfilled. Temporary authority may be granted to applicants for a retail alcoholic beverages license if the requirements of ARM 42.12.208 are met.~~

~~(5) The licensee remains bound by all requirements in statute and rule that apply at the time an application for license or an application for renewal is approved. A licensee's failure to remain in compliance with a statute or rule shall constitute a violation of that statute or rule and may subject the licensee to administrative action.~~

~~(6) Except as provided in (11), (12), and (13), an ownership interest may not be transferred to a new owner until an application has been submitted to the department and the department approves the transfer.~~

~~(7) To be considered "complete" for processing, applications for licenses to sell alcoholic beverages for on-premises consumption, to manufacture, or distribute alcoholic beverages in Montana must include~~

(3) In addition to the license application, as applicable, the applicant shall submit:

(a) the any processing fee fees required for the applicable license as stated in by ARM 42.12.111 and the license fee required by 16-4-420 or 16-4-501, MCA;

(b) a copy of the proposed agreement to transfer the an ownership interest in the license, if applicable;

(c) proof of that the applicant has possessory interest in the premises by the applicant;

(d) any source of funding documents including, but not limited to, loan documents, gifting statements, and finance institution statements;

(e) the premises floor plan;

(f) taxpayer identification number;

(g) bank account authorization and signature documents;

(h)(g) proof of assumed business name, if applicable;

(i) additional documentation required for entity applicants as stated in ARM 42.12.103;

(j)(h) proof that all filings and payments related to Montana income, corporation, withholding, business, and other taxes, are current for the applicant in all cases, and if the application is for a sale of the license, for the seller (current licensee);

(k)(i) two complete sets of fingerprints, provided on the department's form FD-258 (obtained and certified by a local law enforcement agency, the department, or a private security company which has been approved by the department), for each person required to complete a personal history statement as specified by this rule and a personal history statement for each person identified in 16-4-414, MCA, and ARM 42.12.212; and

(l) for any entity applicant:

(i) proof the business is registered in Montana;

(ii) stock certificates;

(iii) stock ledger or membership units register;

(iv) bylaws; and

(v) organizational meeting minutes.

~~(l) any other documentation required to determine licensing or premises qualifications.~~

(4) The department, in its sole discretion, may waive an application requirement set forth in this rule.

(5) The department shall make a thorough investigation as to the

qualifications of the applicant and the suitability of the premises proposed for licensing. The disqualification of any applicant to hold the license disqualifies all.

(6) The department, in its sole discretion, may issue a license. If approved, the licensee remains bound by all requirements in statute and rule that apply at the time an application for license or an application for renewal is approved. A licensee's failure to remain in compliance with a statute or rule shall constitute a violation of that statute or rule and may subject the licensee to administrative action.

~~(8) To be considered "complete" for processing, applications for licenses to sell alcoholic beverages for off-premises consumption only must include:~~

~~(a) the processing fee as required in ARM 42.12.111, and the license fee stated in 16-4-501, MCA;~~

~~(b) proof of possessory interest in the premises by the applicant;~~

~~(c) the premises floor plan;~~

~~(d) taxpayer identification number;~~

~~(e) bank account authorization and signature documents;~~

~~(f) proof of assumed business name, if applicable;~~

~~(g) grocery inventory;~~

~~(h) any other documentation required to determine licensing or premises qualifications;~~

~~(i) proof that all filings and payments related to Montana income, corporation, withholding, business, and other taxes, are current for the applicant in all cases; and~~

~~(j) two complete sets of fingerprints, provided on the department's form FD-258 (obtained and certified by a local law enforcement agency, the department, or a private security company which has been approved by the department), for each person required to complete a personal history statement as specified by this rule.~~

~~(9) In any case of the transfer of an ownership interest to a new owner, the department must determine that the transferred ownership interest will be independently exercised by the new owner and will not remain under the control of the transferor before approving the transfer.~~

~~(10) A certificate, stock, or other evidence of ownership may not be registered in the licensee's records until the department has granted approval of the transfer.~~

~~(11) The provisions of this rule do not apply to:~~

~~(a) the transfer of a security interest in a licensed liquor operation; or~~

~~(b) the death of a licensee. In that case, the procedure described in ARM 42.12.204 applies.~~

~~(12) Transfers of an ownership interest in a licensed operation from foreclosure must follow ARM 42.12.211, except if the foreclosing secured party intends to operate the license. In this case, this rule must be followed.~~

~~(13) For circumstances listed below, an existing licensee may complete a simplified form, provided by the department, along with the required documentation supporting the transactions:~~

~~(a) when an existing owner, member, partner, or shareholder of a licensee entity that was previously qualified is being removed as an owner;~~

~~(b) when an individual or entity is proposed to be added to the license as a less than 10 percent owner;~~

~~(c) when an existing owner, member, partner, or shareholder of a licensee~~

~~entity that was previously qualified gifts some or all of their ownership interest to another existing owner, member, partner, or shareholder of a licensee entity that was previously qualified; or~~

~~(d) for a transfer of location of a current licensee. There cannot be other changes to the licensee, such as changes in ownership structure or creditors other than the lessor.~~

~~(14) The department will consider the same matters and conditions on application for renewal of license as for the original application or applications for transfer of ownership.~~

AUTH: 16-1-303, MCA

IMP: ~~16-3-310~~, 16-4-105, 16-4-201, 16-4-204, 16-4-207, 16-4-210, 16-4-401, 16-4-402, 16-4-414, 16-4-420, 16-4-501, 16-4-502, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.101 to revise the structure of the rule for improved readability, to move content regarding transfers of ownership interest to another rule that addresses that subject matter, and to incorporate information regarding entity applications that had been located in another rule to provide related information together.

The proposed amendment in (1) adds a citation to ARM 42.12.118 to clarify when an abbreviated application may be used. Much of the language in (2) is proposed to be stricken because that content is fully set forth in 16-4-401, MCA, which is referenced in the rule. Proposed newly numbered (3) identifies all information that must be submitted with an application in a single section for ease of reference. Such information was previously found in (3), (7), and (8), as well as ARM 42.12.103, which set forth requirements for entity applicants. Proposed new (4) expresses the department's practice of exercising its discretion to waive an application requirement. Proposed new (5) and (6) constitute a reorganization of content previously found in (4), (5), and (14) of this rule. The information proposed to be stricken from (6), (9), (10), (11), and (12) has been relocated to ARM 42.12.209, which addresses transfers in ownership interests, to provide that information together in a single rule. The language proposed to be stricken in (13) has been moved to ARM 42.12.118, which will address abbreviated applications.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.12.106 DEFINITIONS The following definitions apply to this chapter:

(1) through (8) remain the same.

(9) "Concession agreements" are agreements ~~between either~~ in which an on-premises consumption beer licensee or all-alcoholic beverages licensee and provides the sale and service of alcoholic beverages for a non-licensed entity ~~operating a business directly related to the liquor operation. Both parties must conduct their respective enterprises within the same building, as set forth in ARM 42.12.133, and the premises must meet suitability requirements as set forth in ARM 42.12.122.~~

(10) remains the same.

~~(11) "Cosmetic change" means, in addition to the examples given in 16-3-311, MCA, the correction of structural defects that do not entail reconfiguration of the premises.~~

(12) through (15) remain the same, but are renumbered (11) through (14).

~~(16)~~(15) "License fee" means a fee paid at the time a new license application is submitted, ~~at the time an existing license transfers ownership, or~~ and upon renewal of an existing license.

(17) through (28) remain the same, but are renumbered (16) through (27).

~~(29)~~(28) "Special event," as it relates to all special permits and catering, means a short, infrequent, out-of-the-ordinary occurrence such as a picnic, fair, festival, reception, seasonal event, or sporting event for which there is an outcome, conclusion, or result. ~~By example, a community winter holiday stroll held on four consecutive weekends, or a community summer gathering held one night a week all summer long that ceases in fall, is a seasonal special event.~~

(30) and (31) remain the same, but are renumbered (29) and (30).

(31) "Temporary operating authority" means the authority granted to an applicant to operate a business pending final approval of the application.

~~(32) "Transfer fee" is the processing fee as specified in ARM 42.12.111.~~

(33) remains the same, but is renumbered (32).

AUTH: 16-1-303, MCA

IMP: ~~16-1-106~~ 16-1-302, ~~16-3-311~~, 16-4-105, 16-4-205, 16-4-207, 16-4-301, 16-4-401, 16-4-402, 16-4-404, 16-4-413, 16-4-420, 16-4-423, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.106 to edit and add definitions for terms that are used throughout the subchapter and to remove definitions for terms no longer being used.

The department proposes amending the definition of concession agreement by striking information that is already provided in ARM 42.12.133. The department proposes removing the definition of cosmetic change because that term is defined by 16-3-311, MCA, and used in ARM 42.13.106, rather than chapter 12, which is the chapter to which these definitions apply. The department proposes to remove the definition of transfer fee because that term is not used in chapter 12. The department proposes defining temporary operating authority to enhance the industry's understanding of that term.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.12.111 PROCESSING FEES (1) ~~The following are the fees to be charged for processing endorsement and license applications~~ are as follows:

- (a) All-beverages license ~~(including veterans' or fraternal)~~ ..... \$200 \$400
- (b) All-beverages license with catering
- endorsement ~~(when applied for concurrently)~~ ..... \$200
- ~~(c)~~(b) Beer importer's license ..... \$100 \$200

<del>(d)</del> (c) Beer wholesaler and table wine distributor license.....	\$100	\$200
<del>(e)</del> (d) Beer wholesaler <del>beer</del> subwarehouse license.....		\$100
<del>(f)</del> (e) Beer wholesaler license.....	\$100	\$200
<del>(g)</del> (f) Brewer's license.....	\$100	\$200
<del>(h)</del> (g) Brewery storage depot license.....		\$100
<del>(j) Catering endorsement (all beverages, restaurant</del> beer and wine, and beer).....		\$100
<del>(j)</del> (h) Domestic distillery license.....	\$100	\$200
<del>(i)</del> Domestic distillery storage warehouse license.....		\$100
<del>(k)</del> (j) Resort all-beverages license.....	\$200	\$400
<del>(k)</del> (k) Restaurant beer and wine license.....	\$200	\$400
<del>(m)</del> (l) Retail off-premises beer and table wine license (when applied for concurrently).....	\$100	\$200
<del>(n)</del> (m) Retail off-premises beer license.....	\$100	\$200
<del>(o)</del> (n) Retail off-premises table wine license.....	\$100	\$200
<del>(p)</del> (o) Retail on-premises beer license and with wine amendment (when applied for concurrently).....	\$200	\$400
<del>(q)</del> (p) Retail on-premises beer license (including veterans' or fraternal).....	\$200	\$400
<del>(r)</del> (q) Sacramental wine license.....		\$50
<del>(s)</del> (r) Table wine distributor license.....	\$100	\$200
<del>(t)</del> (s) Table wine distributor subwarehouse license.....		\$100
<del>(u)</del> (t) Tour boat endorsement.....		\$100
<del>(v) Wine amendment (for use with existing</del> on-premises retail beer license).....		\$100
<del>(w)</del> (u) Winery license.....	\$100	\$200
<u>(2) The fees to be charged for processing requests associated with an existing license are as follows:</u>		
<u>(a) Adding a catering endorsement.....</u>	<u>\$100</u>	
<u>(b) Adding a wine amendment.....</u>	<u>\$100</u>	
<u>(c) Adding a concession agreement.....</u>	<u>\$100</u>	
<u>(d) Adding an additional manufacturing location.....</u>	<u>\$100</u>	
<u>(e) Adding or changing mortgages, secured interests, or liens.....</u>	<u>\$50</u>	
<u>(f) Transferring ownership as a result of a foreclosure.....</u>	<u>\$200</u>	
<u>(g) Transferring location.....</u>	<u>\$200</u>	
<u>(h) Increasing current ownership interest from less than 10 percent to 10 percent or more.....</u>	<u>\$200</u>	
<u>(i) Changing the business entity type.....</u>	<u>\$200</u>	
<u>(j) Changing the alcohol beverage type.....</u>	<u>\$200</u>	
(2) remains the same, but is renumbered (3).		
<del>(3)</del> (4) The applicable processing fee must accompany all applications. Processing fees are not refundable.		
(4) Fees for addition or deletion of a mortgage, security interest, or lien are set forth in ARM 42.12.205 and fees for the registration of vendor representatives are set forth in ARM 42.11.214.		
(5) remains the same.		

AUTH: 16-1-303, MCA

IMP: 16-1-302, 16-1-303, 16-4-313, 16-4-414, 16-4-420, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.111 to more appropriately reflect the costs to administer the licensing of alcoholic beverages and related modifications. It has been approximately 15 years since the processing fees were last updated.

Several of the costs associated with modifying an existing license include the processing fees that are currently being assessed. The department proposes incorporating these fees into the rule, as new (2), for better transparency.

The department proposes incorporating a processing fee for adding a concession agreement, and adding an additional manufacturing location, in order to offset the cost for processing those requests.

The department further proposes striking (4). The fees charged to vendors are for registering representatives, not for processing the application. The fees for adding and deleting mortgages, security interests, and liens are proposed to be included as part of new (2) to eliminate the need to direct the industry to another rule for this information.

These increased fees require, pursuant to 2-4-302(1)(c), MCA, an estimate of the cumulative amount for all persons of the proposed increase and the number of persons affected. For all licensee types listed in this rule, the estimated number of licenses affected is 4,411, and the increase in total fees for all licensees is estimated to be \$58,600 annually. These estimates were derived from the department's small business impact analysis of the rules contained in this notice. A copy of the full analysis is available upon request from the person in paragraph 6.

42.12.118 ABBREVIATED APPLICATION PROCESS REQUIRED FOR LICENSE MODIFICATION (1) ~~An abbreviated application is required to be filed when a person not previously qualified is proposed to be added to the face of the license as an owner may be used to modify a license as set forth in (2) and (3). The application process in ARM 42.12.101 shall be followed in all other cases.~~

~~(2) An application is not required to be filed if an existing licensee or member of a licensee entity that was previously qualified is being removed from the face of the license as an owner. In this case, documentation supporting the removal of the person and immediate notification to the department is required~~ Licensees shall submit an abbreviated application within 90 days of:

(a) removing an existing, previously qualified owner, member, partner, or shareholder from the license without the exchange of funds; or

(b) adding an individual or entity as a less than 10 percent owner.

(3) Licensees shall submit an abbreviated application prior to:

(a) changing the ownership interest between two or more qualified owners, members, partners, or shareholders;

(b) transferring the location of the license;

(c) increasing the current ownership interest of any owner, member, partner, or shareholder from less than 10 percent to 10 percent or more;

(d) changing the entity type of the business; or

(e) changing the license type.

(4) A licensee's failure to timely submit an abbreviated application shall constitute a violation and may subject the licensee to administrative action.

AUTH: 16-1-303, MCA

IMP: ~~16-4-405, 16-4-413~~ 16-4-401, 16-4-402, 16-4-414, 16-4-415, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.118 to clarify the circumstances that enable the filing of an abbreviated application and to provide licensees with the time frames for these filings. The language proposed to be added was derived in part from language being stricken from ARM 42.12.101, as it is a better fit within this rule. Additional language is proposed to be added to address all instances where an abbreviated application may be used.

The department further proposes revising the rule title to better reflect the content of the rule as amended.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.12.122 CONDITIONS, QUALIFICATIONS, AND DETERMINATION OF SUITABILITY OF LICENSED PREMISES (1) A party applying for either to obtain a new alcoholic beverages license, the transfer of an ownership interest, of an existing alcoholic beverages license, the transfer of change license location, of an existing alcoholic beverages license, or approval of an alteration to or alter a premises, ~~must~~ shall provide the department with evidence of sufficient to determine the suitability of the premises for the use intended.

(2) The premises may be considered suitable for the retail sale of alcoholic beverages, distribution of alcoholic beverages, or manufacture of alcoholic beverages only if:

(a) it meets the standards of the Department of Public Health and Human Services; the Department of Labor and Industry, Building Codes Bureau; and the Montana Fire Marshal's Office in the Investigations Bureau of the Department of Justice; ~~or their delegated representatives;~~

(b) the investigator can easily determine the type of alcoholic beverages business that is being conducted on the premises due to indoor and outdoor advertising, signage, and/or the general layout and atmosphere of the premises ~~to be licensed;~~

(c) remains the same.

~~(d) the premises are open for business on a regular basis so as not to be considered a license on nonuse status;~~

~~(e)(d)~~ the layout of the premises layout allows for licensee ~~and/or employee-~~ only the employee to control over the preparation, sale, service, ~~and/or~~ and distribution of alcoholic beverages;

~~(f)(e)~~ the investigator can verify ~~to the department that~~ the dimensions shown on the floor plan accurately represent the ~~physical layout of the~~ premises;

(g) remains the same, but is renumbered (f).



~~(h)~~(g) for a new license, or a transfer of location, the premises are not located where local government zoning restrictions or ordinances prohibit the sale ~~and/or~~ or consumption of alcohol;

~~(i)~~(h) the premises are not located off regular police beats and can be properly policed by local authorities;

~~(j)~~(i) the sale of alcoholic beverages does not occur through the use of a drive-up window; and

~~(k)~~(j) the premises meet the additional rules specific to each license type; and

~~(l)~~ the provisions of (3) are met for on-premises licenses.

(3) A license issued for on-premises consumption of alcoholic beverages:

(a) must be operated at a premises clearly recognizable as a business established for the on-premises consumption of alcoholic beverages or other business directly related to the on-premises consumption of alcoholic beverages, such as a bowling alley, hotel, gambling casino, or restaurant (not including a coffee or beverage shop, bakery, or kiosk);

(b) and (c) remain the same.

(d) may be used at premises that include a patio/deck, if ~~it has~~ they have the required perimeter barrier and is are in compliance with fire regulations, except that a license used at a golf course does not require a perimeter barrier around a patio/deck because alcohol may be consumed at any place within the boundaries of the golf course;

(e) must be operated at premises where no alcoholic beverages can be provided to the customer from self-service devices, self-service vending machines, self-service reach-in coolers, or self-service open shelving (except for off-premises consumption as provided in (f)), and where the licensee or employees have direct involvement in the service of alcohol for on- or off-premises consumption; and

(f) remains the same.

(4) A shed, warehouse, or other temporary or permanent enclosure used to store alcoholic beverage inventory must be:

(a) connected to the licensed premises;

(b) accessible only from inside the licensed premises; and

(c) listed on the floor plan provided to the department ~~and be;~~ and

(d) located on property owned or leased by the licensee.

~~(5) Premises~~ Currently licensed premises that do not meet the suitability standards are required to meet the above standards upon seeking department approval of alterations of the existing licensed premises in accordance with 16-3-311, MCA, or upon a change in ownership of the license, excluding ownership changes among existing owners of an entity licensee such as death of a co-owner, or divorce among co-owners, ~~or other changes among existing owners of the licensee entity.~~

(6) The licensee must have possessory interest in the entire premises.

(7) The privileges granted under a license extend only to the premises depicted in the approved floor plan. The licensee shall follow the process in ARM 42.13.106 to change the floor plan.

(8) Only one license can operate on the premises depicted in the approved floor plan.

(9) A licensee may operate two or more service areas located on the same

premises only if there is access allowing patrons to move freely from one service area to another without leaving the premises.

AUTH: 16-1-303, MCA

IMP: 16-3-311, 16-4-402, ~~16-4-404~~, 16-4-405, ~~16-4-420~~, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.122 to improve the readability of the rule and to provide more comprehensive information to the industry regarding premises suitability requirements.

The proposed additional language in new (6) through (9) is currently found in ARM 42.13.105, which the department is proposing to repeal in this same notice. The department proposes repealing that rule and locating the relevant information within this rule as a better fit.

The department further proposes revising the rule title to better reflect the content of the rule as amended. Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.12.132 MANAGEMENT AGREEMENTS (1) through (3)(b)(ii) remain the same.

(iii) authority to remodel or otherwise make changes in the business operation requiring ~~non-routine~~ non-routine actions;

(iv) through (3)(i) remain the same.

(4) Management agreements failing to meet any of the standards set forth in (1), (2), and (3) will be marked as rejected and returned to the licensee, together with a written explanation of the reasons for the rejection. If the deficiencies are not corrected within 30 days of the time set by the department, the tendered management agreement will be deemed to be void. ~~Failure of the licensee to terminate operations under a void management agreement constitutes a violation of Montana law and departmental rules.~~

(5) A licensee's failure to remain in compliance with the terms of the approved management agreement or failure to terminate operations under a void management agreement shall constitute a violation of this rule and may subject the licensee to administrative action.

AUTH: 16-1-303, MCA

IMP: 16-1-302 ~~16-3-104~~, ~~16-4-404~~ 16-4-414, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.132 to make a grammatical correction in (3) and adding a new (5) to make it clear that failure to comply with the management agreement conditions may result in administrative actions against the licensee. The language proposed to be stricken from (4) is relocated within (5).

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to

support the rule amendment.

42.12.134 CONDITIONS AND QUALIFICATIONS SPECIFIC FOR AN ALL-BEVERAGES LICENSE (1) In addition to the ~~provisions stated~~ requirements in ARM 42.12.122, which ~~pertain to every type of alcoholic beverage license, with regard to an all-beverages license, a party applying for either a new license, transfer of ownership of an existing license, transfer of location of an existing license, or approval of an alteration to the premises~~ an all-beverages licensee:

(a) ~~must~~ shall offer beer, wine, and distilled spirits by the drink; and  
(b) may sell alcoholic beverages for off-premises consumption only in ~~their original packages, an~~ original packaging, individual ~~serving~~ servings, or beer in refillable ~~beer growlers; and~~

(c) shall prohibit on-premises consumption or possession of alcoholic beverages between the hours of 2 a.m. and 8 a.m., by removing all alcoholic beverages from individuals' possession by 2 a.m.

AUTH: 16-1-303, MCA

IMP: 16-3-303, ~~16-3-310, 16-3-311, 16-4-201, 16-4-203, 16-4-402, 16-4-404,~~  
16-4-405, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.134 to improve the information provided in the rule for enhanced industry understanding regarding the time alcoholic beverages may be consumed or possessed while on the licensed premises.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.12.135 CONDITIONS AND QUALIFICATIONS SPECIFIC FOR A RESTAURANT BEER AND WINE LICENSE (1) In addition to the ~~provisions stated~~ requirements in ARM 42.12.122, which ~~pertain to every type of alcoholic beverage license, with regard to a restaurant beer and wine license, a party applying for either a new license, transfer of ownership of an existing license, transfer of location of an existing license, or approval of an alteration to a premises~~ a restaurant beer and wine licensee:

(a) ~~must~~ shall operate at a premises clearly recognizable as a restaurant, as defined in ARM 42.12.401; and

(b) must not provide alcoholic beverages to any person for off-premises consumption; and

(c) shall prohibit on-premises consumption or possession of alcoholic beverages between the hours of 11 p.m. and 11 a.m., by removing all alcoholic beverages from individuals' possession by 11 p.m.

(2) remains the same.

AUTH: 16-1-303, MCA

IMP: 16-3-311, ~~16-4-402, 16-4-404,~~ 16-4-405, 16-4-420, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.135 to improve the information provided in the rule for enhanced industry understanding regarding the time alcoholic beverages may be consumed or possessed while on the licensed premises. Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply.

42.12.136 CONDITIONS AND QUALIFICATIONS SPECIFIC FOR A BEER LICENSE AND A BEER LICENSE WITH WINE AMENDMENT FOR ON-PREMISES CONSUMPTION (1) In addition to the ~~provisions stated~~ requirements in ARM 42.12.122, ~~which pertain to every type of alcoholic beverage license, with regard to beer licenses for on-premises consumption, a party applying for either a new license, transfer of ownership of an existing license, transfer of location of an existing license, or approval of an alteration to the premises~~ an on-premises consumption beer licensee:

(a) ~~for a beer license with a wine amendment,~~ must meet the standards for premises operated as either a restaurant or a prepared food business when operated in conjunction with a wine amendment;

(b) ~~must~~ shall offer beer and/or wine by the drink; ~~and~~

(c) may sell alcoholic beverages for off-premises consumption only ~~in their original packages, an~~ packaging, individual serving servings, or ~~beer in~~ refillable beer growlers; and

(d) shall prohibit on-premises consumption or possession of alcoholic beverages between the hours of 2 a.m. and 8 a.m., by removing all alcoholic beverages from individuals' possession by 2 a.m.

AUTH: 16-1-303, MCA

IMP: 16-3-303, ~~16-3-310, 16-3-311, 16-4-105, 16-4-203, 16-4-402, 16-4-404,~~ 16-4-405, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.136 to improve the information provided in the rule for enhanced industry understanding regarding the time alcoholic beverages may be consumed or possessed while on the licensed premises.

The department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply.

42.12.139 CONDITIONS AND QUALIFICATIONS SPECIFIC FOR A MANUFACTURER OF BEER, WINE, OR DISTILLED SPIRITS LICENSE

(1) remains the same.

(2) A manufacturer's premises may include more than one building for manufacturing purposes. To seek approval, the licensee shall submit a form provided by the department and include verification that the Alcohol and Tobacco Tax and Trade Bureau approved the licensee's registration to operate the building under the manufacturer's existing federal permit or notice.

(3) A manufacturer is only permitted to have one sample room per license. Adding another building for manufacturing purposes under the same license does not permit an additional sample room.

AUTH: 16-1-303, MCA

IMP: 16-3-213, 16-3-214, 16-3-411, 16-4-102, ~~16-4-107~~, 16-4-311, 16-4-312, 16-4-402, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.139 to allow for the manufacturing premises to include more than one building provided that it meets certain requirements. Allowing for additional buildings to be included within the premises will more closely mirror federal laws for manufacturers. Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply.

42.12.205 REQUIREMENTS WHEN LICENSE SUBJECT TO LIEN (1) All-beverages and on-premises beer licenses may be subject to a mortgage, security interest, and other valid lien. Upon written request to the department, accompanied by a copy of the note or mortgage, security agreement, or other loan document (in which the license or licenses to be affected are described with common certainty such as inclusion of license number), together with a fee of ~~\$10~~ as required in ARM 42.12.111, the department will add the name of the mortgagee, secured party, or other lien holder, which must be endorsed upon the license. All such requests shall be upon forms prescribed by the department and signed in each case by the licensee and the mortgagee, secured party, or other lien holder.

(2) remains the same.

(3) At such time as any mortgage, security interest, or lien affecting any license has been satisfied and fulfilled, the name of the mortgagee, secured party, or lien holder shall be removed upon written request of all parties in interest ~~and upon the payment of a fee of \$10, provided, however, that in the case of foreclosure and the transfer of license to the mortgagee, secured party, or lien holder, no such fee is required.~~ If the mortgagee, secured party, or lien holder is deceased, or otherwise unavailable, the written request may be made by the personal representative, heir, devisee, or other person upon providing sufficient proof that the person has authority to act on behalf of the estate or has otherwise received the right to the security interest or lien. Any name of a mortgagee, secured party, or lien holder may also be removed upon the written request of the licensee or applicant for the license if accompanied by a court order releasing the security interest or lien, or other sufficient proof showing that the security interest or lien has expired, been discharged, or otherwise extinguished.

(4) and (5) remain the same.

(6) Upon written request to the department, together with a fee of ~~\$20~~ as required in ARM 42.12.111, the name of a person claiming a security interest shall be endorsed upon the license and shall be kept on file with the department. All such requests shall be upon forms prescribed by the department and signed in each case by the licensee and the person claiming the security interest.

(7) through (10) remain the same.

AUTH: 16-1-303, MCA

IMP: 16-4-204, 16-4-404, 16-4-801, ~~30-1-201, 30-9A-102~~, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.205 by striking the fee associated with mortgage, security interest, and lien changes and instead referencing the specific rule that addresses processing fees associated with alcoholic beverage licenses. This will allow all processing fees to be located in one rule. Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply.

42.12.208 TEMPORARY OPERATING AUTHORITY (1) Temporary An applicant may be granted temporary operating authority as provided by 16-4-404, MCA, may be issued only to an applicant who requests a transfer of ownership. Temporary operating authority must not be granted on an application for an original license, or when there is a proposed change of location for the existing licensed premises if the premises were licensed within the last 12 months, the premises were not altered from the last floor plan, and the applicant has submitted an application meeting the requirements of ARM 42.12.101.

(2) The granting of temporary operating authority is neither a temporary license nor a permit. It does not constitute a transfer of ownership, nor does it guarantee that the department will grant the application if it finds, subsequent to receipt of a complete investigation report, that the applicant is not qualified to hold a license, or the premises is are not suitable for the operation of the business.

(3) Temporary operating authority will be issued for a 45-day period ~~and extended for an additional 45-day period if the application has not been processed within that time.~~ If the application is not approved within this 45-day period:

(a) temporary operating authority will continue if the department caused the delay (the department will notify the applicant if this occurs); and

(b) temporary operating authority will cease if the department did not cause the delay, unless the applicant demonstrates to the department's satisfaction that the cause of the delay was beyond the applicant's control. The applicant must submit written documentation to the department seven days prior to the expiration of the temporary operating authority. The department will notify the applicant whether or not an additional 45-day period is granted.

(4) through (6) remain the same.

AUTH: 16-1-303, MCA

IMP: 16-4-404, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.208 to enhance the industry's understanding of temporary operating authority.

The department proposes amending (1) for improved clarity regarding when a licensee may be issued temporary operating authority. The department further proposes amending (3) to include information about when temporary operating authority may continue if the license is not issued within the 45-day time period.

42.12.209 TRANSFER OF A LICENSE TO ANOTHER PERSON (1) A ~~license~~ An ownership interest may be transferred to another qualified person only pursuant to means legally authorized for the transfer of personal property in Montana, such as when the person:

(a) ~~the person~~ is a purchaser upon a bona fide sale;

(b) ~~the person~~ is the personal representative of the estate of a deceased licensee;

(c) ~~the person~~ has a security interest in a license being foreclosed pursuant to ARM 42.12.205;

(d) ~~the person~~ is gifted the license and the donor completely transfers ownership interest, as provided in Title 70, chapter 3, part 1, MCA; or

(e) ~~the person~~ is appointed receiver under the license receivership.

(2) ~~A potential buyer of an ownership interest of 10 percent or more in a liquor license is required to submit an application for transfer of a liquor license pursuant to ARM 42.12.101. The applicant for ownership of the license must be notified in writing by the department that either temporary operating authority or conditional approval has been granted or such a transfer of the license is approved by the department before the buyer may pay to or in any way transfer any money or other valuable consideration to the seller in payment for the business operated under the license. If money is paid to the seller on the granting of temporary operating authority or conditional approval and the application is later not approved, the money, with the exception of a reasonable amount considered earnest money, must be returned~~ An ownership interest may not be transferred to a new owner until an application reflecting the proposed transfer is submitted to the department and the department approves the application.

(3) ~~The seller and the buyer may exchange any portion of the purchase price so long as the amount is placed in escrow if temporary authority or conditional approval has not been issued~~ A current ownership interest of less than 10 percent may not be increased to 10 percent or more until an application reflecting the proposed increase is submitted to the department and the department approves the application.

(4) ~~A transfer of ownership interest or money changing hands between currently qualified and disclosed owners is not prohibited prior to notification to and approval by the department~~ The application process in ARM 42.12.101 shall be followed unless an abbreviated application is authorized by ARM 42.12.118.

(5) ~~The department may revoke a license for a violation of the requirements in (2)~~ shall make a thorough investigation as to the qualifications of the applicant and the suitability of the premises proposed for licensing. The department must determine that the transferred ownership interest will be independently exercised by the new owner and will not remain under the control of the transferor before approving the transfer.

(6) ~~The buyer of the license can acquire the seller's alcoholic beverage inventory~~ department shall not approve an application for a transfer of ownership interest where the current owner is not current on the filing or payment of Montana state taxes or liquor fees, fines, or penalties.

(7) Prior to the department granting written approval:

(a) a certificate, stock, or other evidence of the proposed ownership interest may not be registered in the licensee's records; and

(b) any funds or other consideration for the liquor license may not be exchanged unless:

(i) temporary operating authority or conditional approval is granted, but any consideration other than earnest money must be returned to the buyer in the event the application is not approved; or

(ii) the consideration is held in escrow.

(8) The provisions of this rule do not apply to the:

(a) transfer of a security interest in a licensed liquor operation;

(b) addition of an individual or entity as a less than 10 percent owner;

(c) death of a licensee (ARM 42.12.204 applies); or

(d) foreclosure of an ownership interest (ARM 42.12.211 applies).

(9) Any party that is not a licensee is prohibited from controlling or participating in the licensed operation in any capacity reflecting an ownership interest. A licensee's allowance of an undisclosed ownership interest shall constitute a violation and may subject the licensee to administrative action, including revocation of the license.

(10) The department, in its sole discretion, may waive an application requirement set forth in this rule.

AUTH: 16-1-303, MCA

IMP: 16-4-401, 16-4-402, ~~16-4-404~~, MCA

**REASONABLE NECESSITY:** The department proposes amending ARM 42.12.209 to improve the readability of the rule and to provide more comprehensive information to the industry regarding the requirements to transfer a license within a single rule.

The department proposes amending (2) and (3) to help parties identify when an application must be submitted to transfer an ownership interest. The proposed new language specifies that a transfer cannot occur until the department approves the application.

The amendment and addition of the new language in (4) will guide parties to the process for the regular application and abbreviated application. The department also proposes amending (5) to remind both entities involved that any unpaid fees and penalties against the current owner must be paid before the department will approve the transfer. This process represents current practice and the department proposes including the language within the rule to better inform the industry regarding the requirement.

The proposed new language regarding state taxes is based on that currently found in ARM 42.12.101. The department is proposing to strike the language from that rule and relocate it within new (6) of this rule as a better fit. Proposed new (7) is based on language being stricken from ARM 42.12.101, and contains the requirements involving certificates and stocks.

Proposed new (8) is also based on language being stricken from ARM 42.12.101, and notifies licensees that allowing an undisclosed ownership interest constitutes a violation that may subject the licensee to administrative action. This is



not a change in department practice; it merely constitutes the recitation of all relevant information regarding undisclosed ownership interests within one rule. Proposed new (9) expresses the department's practice of exercising its discretion to waive an application requirement.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply.

42.12.301 RESORT LICENSES (1) and (2) remain the same.

(3) County all-beverages or county beer licenses are allowed within a defined resort area and such licenses are not considered for purposes of determining the number of allowable resort all-beverages licenses.

(4) For the purposes of 16-4-202, MCA, accommodation units are a type of lodging in which the unit can be separately locked by the occupant and contains sleeping, bathing, and toilet facilities. The primary purpose of such units must be to accommodate visitors.

AUTH: 16-1-303, MCA

IMP: 16-4-201, 16-4-202, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.301 to add better clarity regarding the issuance of resort licenses, in an effort to reduce confusion that currently exists within the industry. Proposed new (3) specifies that county licenses may be located in areas that have been approved for resort determination. Proposed new (4) provides the industry with guidance regarding what qualifies as an accommodation unit.

42.12.324 SPECIAL PERMITS (1) through (7) remain the same.

(8) A special permit is subject to the provisions of 16-3-306, MCA, unless the entities in 16-3-306, MCA, provide the department with advanced written approval.

AUTH: 16-1-303, MCA

IMP: 16-3-306, 16-4-301, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.12.324 to allow for an exception for a permitted special event to occur in an area that would otherwise be disallowed due to the nearby location of an entity named in 16-3-306, MCA, if the department receives prior written approval from those entities.

The proposed language in new (8) will allow the special permit holder to conduct an event without having to find an alternative location, provided the neighboring entities approve. Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes adding the relevant statutory citation to support the rule amendment.

42.13.101 COMPLIANCE WITH LAWS AND RULES (1) and (2) remain the same.

(3) The department will impose progressive penalties for multiple violations of

any laws, ordinances, and rules within any three-year period unless mitigating circumstances indicate the penalty should be reduced, or aggravating circumstances indicate the penalty should be increased. Violations and progressive penalties include, but are not limited to, those listed on the following chart. Any combination of four of the violations listed below occurring within a three-year period could result in a license revocation action.

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>	<u>4th Offense</u>
Sale to an Underage Person	\$250	\$1000	\$1500/20-day Suspension	Revocation
Sale to an Intoxicated Person	\$250	\$1000	\$1500/20-day Suspension	Revocation
Open after Hours	\$150	\$600	\$1000/12-day Suspension	Revocation
Sale after Hours	\$150	\$600	\$1000/12-day Suspension	Revocation
Re-pouring	\$250	\$1000	\$1500/20-day Suspension	Revocation
Denial of Right to Inspect	\$150	\$600	\$1000/12-day Suspension	Revocation
No Approval to Alter	\$300	\$600	\$1000/12-day Suspension	Revocation
No Management Agreement	\$150	\$600	\$1000/12-day Suspension	Revocation
Improper use of Catering Endorsement	\$150	\$600	\$1000/12-day Suspension	Revocation
Accept more than 7 Days credit	\$250	\$1000	\$1500/20-day Suspension	Revocation
Extend more than 7 Days Credit	\$250	\$1000	\$1500/20-day Suspension	Revocation
Licensee or employee without valid alcohol sales				

and service training  
certificate

Violation of  
Responsible Alcohol  
Sales and Service  
Act

~~Penalty for violations of this type as specified by (7)  
and by statute Monetary penalties for these  
violations are stated in (7). Revocation for fourth  
violation.~~

Undisclosed  
Ownership Interest

~~Fine Monetary Penalty, Suspension, or Revocation~~

Denial of Right to  
Inspect

Monetary Penalty, Suspension, or Revocation

90-Day Unapproved  
Nonuse Without  
Approval

Lapse

~~(4) The When a license has been revoked, the department will not consider  
reinstatement of a revoked license accept an application from any of the previous  
licensees for one year from the date of revocation. In every case,  
reinstatement After the one-year moratorium, an application will only be allowed  
if: accepted if~~

~~(a) the licensee applicant demonstrates to the department that the licensee  
has taken department's satisfaction that sufficient steps were taken to insure the  
causes of the license revocation will be prevented from occurring in the future; and~~

~~(b) a license is available under the quota prevent future violations.~~

~~(5) and (5)(a) remain the same.~~

~~(b) if the area is over quota, the revoked license will cease to be available for  
issuance.~~

~~(6) A revoked beer or beer and wine license issued within a city quota area  
before October 1997, if reinstated, will not allow any gaming or gambling activity on  
the licensed premises.~~

~~(7) A penalty for a licensee or licensee's employee not having a valid alcohol  
server training certificate shall be assessed against the licensee for whom the  
employee works at the time of the violation. The penalty for this violation is imposed  
against the licensee, and the licensee having multiple untrained employees on a  
particular date shall not be considered multiple violations; however, continued  
noncompliance on a future date may be considered as an additional violation of the  
server training requirement. The penalty shall be assessed in addition to any  
penalty for other Montana alcoholic beverage code violations such as sales to  
underage persons and/or sales to intoxicated persons, and the violation will be  
considered a separate violation by the department. Penalties for not having valid  
alcohol server training certificates may be taken into account based on the mitigating  
factors described in (8) when determining a licensee's total number of violations in a  
three-year period for purposes of the progressive penalty schedule in (3). However,  
the monetary penalty for each server training certificate violation shall be \$50 for a  
first offense, \$200 for a second offense, and \$350 for a third offense in a three-year~~

period. An employee's failure to possess a valid alcohol server training certificate constitutes a violation, the penalty for which is assessed against the licensee. Multiple untrained employees on a particular date may constitute a single violation; continued noncompliance may constitute an additional violation. Regardless of other violations within the three-year period, the civil penalties assessed for a violation of the Responsible Alcohol Sales and Service Act shall be \$50 for the first offense, \$200 for the second offense, and \$350 for the third offense. A licensee shall receive a reprimand for the licensee's violation of the Responsible Alcohol Sales and Service Act only upon demonstration that:

~~(a) Example: If a licensee has one previous violation for sale after hours, and later violates the training certificate provision, the licensee will be penalized \$50 for the training certificate violation, although the violation will be considered a second violation on the licensee's record. Then, if the licensee commits another violation within the same three-year period (for instance, a sale to an underage person), the penalty for that violation will be a third-violation penalty it is the licensee's first offense of the Responsible Alcohol Sales and Service Act under that license;~~

(b) all immediate supervisors of employees who sell or serve alcoholic beverages are trained; and

(c) the licensee's business practices substantially comply with the server training requirements such that the violation resulted from an oversight or mistake.

~~(8) Mitigating circumstances with regard to Title 16, ch. 4, part 10, MCA, are considered as follows A licensee shall receive a reprimand for the violation of selling to an underage person only if:~~

~~(a) The mitigating circumstances provisions of 16-4-1008, MCA, apply only to violations of Title 16, ch. 4, part 10, MCA, and not to other violations. it is the licensee's first offense of any kind under that license in the past three years;~~

~~(b) Neither cost nor convenience of training shall be considered by the department to excuse any licensee from compliance with the requirements of Title 16, ch. 4, part 10, MCA, and these rules. the person who made the sale possesses a valid alcohol server training certificate; and~~

~~(c) Any violation of 16-4-1005, MCA, occurring prior to April 1, 2012, will not be taken into account in determining the licensee's number of violations in a three-year period.~~

~~(d) In the department's discretion, a violation of 16-4-1005, MCA, occurring on or after April 1, 2012, may not be taken into account in determining the licensee's number of violations in a three-year period if:~~

~~(i) all managers and supervisors of persons who serve or sell alcoholic beverages meet the training requirements;~~

~~(ii) the licensee demonstrates to the department's satisfaction that its business policies and practices reflect substantial compliance with the server training requirements such that it is apparent the violation was the result of an oversight or mistake; and~~

~~(iii) the licensee has committed no previous violations of 16-4-1005, MCA the licensee has not previously received a reprimand for sale to an underage person under that license.~~

~~(9) Mitigating circumstances in the case of sale to an underage person could result in a reprimand for the first offense under Title 16, MCA, within the most current~~

~~three-year period if the licensee has provided alcoholic beverage service training acceptable to the department to all of its employees and reinforces that training with each employee at least every two years. The licensee must demonstrate that the person who made the sale to an underage person has completed alcoholic beverage service training prior to the department considering issuance of a reprimand. A written reprimand will be considered a first offense for the application of the progressive penalty schedule only if the licensee commits the same offense again within one year. The written reprimand in lieu of a violation shall be available only one time per licensee. In the event a reprimand is issued:~~

~~(a) the incident shall not be considered to be a first offense for purposes of the progressive penalty schedule in (3) unless the licensee commits the same offense within one year; and~~

~~(b) the department may still assess the monetary penalty associated with the offense.~~

~~(10) through (11)(c) remain the same.~~

~~(d) recurring sales to underage persons or sales to or intoxicated persons;~~

~~(e) and (f) remain the same.~~

~~(12) If the violation discovered is an undisclosed ownership interest, the department will consider aggravating circumstances described in (11) and mitigating circumstances such as voluntary disclosure of relevant facts in determining the appropriate penalty.~~

~~(13) Nothing in this rule prevents the department from revoking, suspending, or refusing the renewal of a license if revocation, suspension, or refusing renewal are expressly allowed in law or rule with reference to a prohibited act.~~

AUTH: 16-1-303, 16-4-1009, MCA

IMP: ~~16-1-302, 16-3-301, 16-4-406, 16-4-1001, 16-4-1002, 16-4-1003, 16-4-1004, 16-4-1005, 16-4-1006, 16-4-1007, 16-4-1008, 16-6-305, 16-6-314, MCA~~

REASONABLE NECESSITY: The department proposes amending ARM 42.13.101 to restructure and revise the rule for better clarity.

The violation for denying a premises inspection, in (3), is proposed to be amended to make the progressive penalty broader to allow each situation to be handled on a case-by-case basis. The department further proposes to amend this section, along with the progressive penalty for undisclosed ownership interest, by using the term monetary penalty rather than fine to increase the industry's understanding. Section (4) is proposed to be amended to improve readability, and (5) and (6) to correct punctuation.

The department proposes amending (7), (8), and (9) to reduce existing confusion and provide better guidance to the industry about when the department may grant a reprimand in lieu of a violation for violations of the Responsible Alcohol Sales and Service Act and sales to underage persons. As amended, the rule will be more transparent.

The date references in (8) are also proposed to be stricken as they no longer need to be referenced within the rule. The amendments to (11) are proposed to improve readability, and the proposed amendments to (12) strike language that is unnecessary because the department is statutorily mandated to consider

aggravating and mitigating circumstances for all violations. The department further proposes to make grammatical and punctuation corrections in (13).

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.13.106 CHANGE OR ALTERATION IN OF PREMISES (1) Any alteration ~~or change~~ to a licensed premises, ~~or any significant change to the manner of operation~~ other than a cosmetic change, as defined in 16-3-311, MCA, must be preapproved by the department.

(2) ~~A~~ Prior to making alterations, a licensee must submit a request to alter the premises and copies of the current and proposed floor plan to the department prior to making alterations, and complete an alteration questionnaire provided by the department plans.

(3) ~~Upon receipt of the alteration questionnaire and all supporting documentation items in (2), the department will advise the licensee within seven working days of approval or denial to proceed with~~ of the alteration request.

(4) The department's approval of an alteration shall be valid for one year. Any alterations that are not completed within one year must be resubmitted to the department for approval.

(4)(5) ~~Upon approval by the department, the licensee may start alterations. In the event the alteration prevents the licensee from continuing operations premises becomes inoperable, the licensee must shall request nonuse status pursuant to~~ ARM 42.13.107.

(5)(6) ~~Upon completion of the alterations, the licensee must notify the department and provide respective~~ is responsible for ensuring the department receives notification of building, health, and fire code approval for the premises. A premises inspection will be arranged by the department. In the case of an addition of an area not already licensed, the licensee must first have a premises inspected

(7) Upon receipt of the building, health, and fire code approvals, the department will arrange for an inspection of the premises by the Department of Justice.

(6)(8) ~~Upon written approval by~~ Once the Department of Justice has approved the premises, the department, shall notify the licensee that the alteration is considered complete approved and any new addition will be considered is now part of the floor plan licensed premises. Prior to receiving this written approval, a licensee shall not operate in any area that has not been previously approved.

(7)(9) ~~Any alteration or change to a licensed premises, other than a cosmetic change, without prior approval as set forth in (1) will be considered shall constitute a violation and may subject the licensee to penalty administrative action.~~

AUTH: 16-1-303, MCA

IMP: ~~16-1-303~~ 16-3-302, 16-3-311, 16-4-402, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.13.106 to better outline the premises alteration process for the industry. The

proposed amendments are intended to improve readability and to include a provision regarding the length of time an alteration approval remains valid in order to ensure that agreed upon alterations are timely completed. The department further proposes simplifying the rule title.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

42.13.107 EXTENSION OF TIME FOR NONUSE STATUS (1) Any licensee or applicant requesting an extension of time for nonuse of a license in accordance with 16-3-310, MCA, must furnish written evidence of the reasons for failure to place the license in operation within the time prescribed. The department shall grant nonuse status to a licensee that is not operating a going establishment if:

(a) the licensee submits a written request verifying the nonuse is beyond the licensee's control; and

(b) the request is received prior to exceeding 90 days of not operating a going establishment.

(2) ~~The department may grant up to three extensions of nonuse status in increments not exceeding 90 days. If the license is not put into use within one year, the department will consider whether extenuating circumstances exist when determining whether further extensions of nonuse status may be granted. If the quota area is full, extreme and unforeseen hardship must be justified. The approved nonuse period shall not exceed one year.~~

(3) ~~The licensee shall be required to attend an informal conference conducted by the department in Helena to afford the licensee or person(s) holding a security interest in the license the opportunity to present evidence establishing justification for any further extension of nonuse status. If the department determines additional nonuse time is justified, a letter granting nonuse status will be issued. If the department determines continued nonuse status is not justified, the department will issue a notice to lapse the license. Prior to expiration of the approved nonuse period, the licensee shall resume operations and notify the department that operations have resumed.~~

(4) ~~The department may deny requests for extensions of nonuse status if the licensee or those person(s) having a security interest in the license fail to establish any progress towards putting the license into use. If a licensee fails to timely resume operations or provide the required notification, the department shall lapse the license pursuant to 16-3-310, MCA, and ARM 42.13.108.~~

(5) ~~Requests for extension of nonuse status based on voluntary closure due to adverse economic conditions or repeated requests based on a proposed sale of a license will not constitute sufficient grounds for extending nonuse status. An earnest money receipt signed by the proposed purchaser is needed for proof of a pending sale and is required for justification of nonuse status if the quota is full and the license has been inactive over one year. An application for transfer of ownership must be received within 30 days of receipt of proof of a pending sale to prevent lapse proceedings in accordance with ARM 42.13.108. A licensee cannot resume operations of a license at premises where the licensee:~~

(a) was granted nonuse status for the license; and  
(b) operated another license at the premises while the previous license was on nonuse status.

(6) Licenses denied extension of nonuse status are subject to the lapse provisions of 16-3-310, MCA. The department shall deny a request for nonuse status if the licensee has been granted nonuse status for the license within the previous six months, unless the request is based upon reasons other than voluntary closure due to adverse economic conditions or a proposed sale of a license.

AUTH: 16-1-303, MCA

IMP: 16-3-310, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.13.107 to simplify the process by which licensees request nonuse status and to make the nonuse status more understandable to the industry.

The department proposes to eliminate the requirement that licensees justify why nonuse status is requested and the requirement of requesting extensions every 90 days. Instead, the department proposes to implement a single request that allows the licensee to place the license on nonuse status for a period of one year. These amendments will reduce the burden placed on licensees and the department.

The department further proposes to amend the rule to prevent a licensee from utilizing nonuse status to rotate licenses on the same premises. This amendment will further the department's goal of ensuring licenses are put into use as intended by law.

The department further proposes amending (6) to prevent a license from being placed back on nonuse status within six months of coming off nonuse status for the reason specified in that section as amended. These proposed amendments will help ensure that licenses are active in order to fulfill public necessity. The department also proposes revising the rule title for simplicity and to better reflect the content of the rule as amended.

42.13.108 LAPSE OF LICENSE FOR NONUSE (1) Any retail license not used in an operating establishment for a period of 90 consecutive days without department approval shall be lapsed for nonuse in accordance with 16-3-310, MCA. A retail licensee shall operate the business as a going establishment unless the license has been approved for seasonal use pursuant to [NEW RULE I] or approved for nonuse pursuant to ARM 42.13.107.

(2) For the purpose of this rule "week" refers to any consecutive seven-day period. The department shall lapse a license based upon a licensee's failure to operate a going establishment for a period exceeding 90 consecutive days unless the license is approved for seasonal use or is granted nonuse status.

(3) An establishment is an operating establishment if it meets the following criteria:

- (a) it is open at least 20 hours a week for any four weeks in a 90-day period;
- (b) inventory of at least ten cases of alcoholic beverages is maintained on the premises each day that the establishment is open;
- (c) alcoholic beverages are displayed for sale in the purchase or



consumption area of the establishment each day that the establishment is open; and  
(d) ~~the sale of alcoholic beverages is at least \$50 each week that the establishment is open.~~

(4) ~~A licensee who is unable to maintain an operating establishment must request in writing the department's approval to close the establishment for a period greater than 90 days.~~

(a) ~~In the case of an establishment that is operated seasonally, the department must receive a written request from the licensee to close for a specified period greater than 90 days. The department will authorize the closure and will not lapse the license if it determines that the premises is a dude ranch, resort, park hotel, tourist facility or like business. The closure is only effective from the date of the department's letter of authorization through the end of the specified period.~~

(b) ~~In the case of closure that was reasonably beyond the control of the licensee, the licensee must submit a written request to the department for authorization to close for greater than 90 days. The department will authorize a closure and will not lapse the license if it determines that the cause was due to loss of lease for the premises, destruction of the premises, bankruptcy or foreclosure action, serious illness or death of the licensee, or like circumstances. The closure is only effective for the period specified in the department's letter of authorization.~~

AUTH: 16-1-303, MCA

IMP: 16-3-310, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.13.108 to add new language in (1) and (2) for improved clarity and understanding within the industry on when the department will lapse a license.

The department further proposes striking much of the remaining content from the rule and relocating it to more applicable rules. Section (3) is to be relocated to a proposed new definition for "going establishment" in ARM 42.13.111, and portions of the language being stricken from (4) that still remain relevant are proposed to be relocated within ARM 42.13.107 and New Rule I.

42.13.111 DEFINITIONS The following definitions apply to this subchapter:

(1) remains the same.

(2) "Alteration" means a structural change or a modification to the premises other than a cosmetic change. Examples include adding a patio or removing a half wall.

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

(5) "Cosmetic change" means a nonstructural change to the premises. Examples include painting, carpeting, and other interior decorating.

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

(10) "Going establishment" means a business that:

(a) is open at least 20 hours per week for any four weeks in a 90-day period;

(b) maintains an inventory of at least ten cases of alcoholic beverages for each day that the establishment is open; and

(c) sells or provides a minimum of \$50, calculated at cost, of alcoholic beverages each week the establishment is open.

(8) through (17) remain the same, but are renumbered (11) through (20).

(21) "Reprimand" means a written warning issued to a licensee.

(18) remains the same, but is renumbered (22).

(23) "Seasonal business" means a business closed for greater than 90 consecutive days due to climatic and other conditions. Examples include a dude ranch, resort, or park hotel.

(19) and (20) remain the same, but are renumbered (24) and (25).

AUTH: 16-1-303, ~~16-1-424~~, ~~16-4-1009~~, MCA

IMP: ~~16-1-424~~, 16-3-302, ~~16-3-311~~, ~~16-4-312~~, ~~16-4-404~~, ~~16-4-406~~, ~~16-4-1001~~, ~~16-4-1002~~, ~~16-4-1003~~, ~~16-4-1004~~, ~~16-4-1005~~, ~~16-4-1006~~, ~~16-4-1007~~, ~~16-4-1008~~, ~~16-6-104~~, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.13.111 to add five new definitions for terms that are used throughout the subchapter for added clarity.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply.

42.13.401 IMPORTATION OF WINE (1) and (2) remain the same.

(3) For the first year, the registration fee is based on the total number of cases the registrant intends to ship to Montana that year. For subsequent years, the registration fee is based on the total number of cases the registrant actually shipped to Montana during the preceding year. The registration fee schedule is as follows:

(a) 0-60 cases = no charge;

(b) 61-500 cases = ~~\$25~~ \$100;

(c) 501-1000 cases = ~~\$50~~ \$200;

(d) 1001-~~1500~~ 2000 cases = ~~\$400~~ \$300;

~~(e) 1501-2000 cases = \$200;~~ or

~~(f)~~(e) 2001 + cases = \$400.

(4) through (6) remain the same.

AUTH: 16-1-303, 16-4-1103, MCA

IMP: ~~16-3-402~~, 16-4-107, ~~16-4-1101~~, 16-4-1102, 16-4-1103, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.13.401 to more appropriately reflect the cost to administer foreign winery and wine importer registrations. More than 1,000 foreign wineries and wine importers are registered with the department. Increasing the fees is needed to ensure applications, label approvals, and taxes are timely processed.

These increased fees require, pursuant to 2-4-302(1)(c), MCA, an estimate of the cumulative amount of proposed increase for all persons and the number of persons affected. For all licensee types listed in this rule, the estimated number of licenses affected is 283, and the increase in total fees for all licensees is estimated to be \$33,650 annually. These estimates were derived from the department's small business impact analysis of the rules contained in this notice. A copy of the full

analysis is available upon request from the person in paragraph 6.

Furthermore, the department reviewed the current authorization and implementing statutes as cited for the rule and proposes striking those that serve no purpose or no longer apply and proposes adding relevant statutory citations to support the rule amendment.

5. The department proposes to repeal the following rules:

42.12.103 SUPPORTING DOCUMENTATION -- ENTITY APPLICANTS

AUTH: 16-1-303, MCA

IMP: 16-4-203, 16-4-205, 16-4-401, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.12.103 and relocating the content of the rule to ARM 42.12.101(3)(j).

42.13.105 APPLICABILITY OF LICENSES; PREMISES DEFINED; GOLF COURSE EXCEPTION; PORTABLE SATELLITE VEHICLE; MOVABLE DEVICES

AUTH: 16-1-303, MCA

IMP: 16-3-302, 16-3-311, 16-4-109, 16-4-404, 16-6-104, MCA

REASONABLE NECESSITY: The department proposes to repeal ARM 42.13.105, to eliminate language that is sufficiently covered in statute or is redundant with language in another department rule. Any relevant language from this repealed rule not already covered in ARM 42.12.122 is proposed to be added into it.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: 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 November 14, 2014.

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

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a 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 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. 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.

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

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 42.12.111 and 42.13.401 will impact small businesses. The department has determined that the adoption, amendment, and repeal of the remaining rules herein will not significantly and directly impact small businesses. Documentation of the department's determination is available upon request from the person in paragraph 6.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
2.5.603 pertaining to state procurement )  
of supplies and services )

TO: All Concerned Persons

1. On August 21, 2014, the Department of Administration published MAR Notice No. 2-5-518 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1854 of the 2014 Montana Administrative Register, Issue Number 16.

2. The department has amended ARM 2.5.603 exactly as proposed.

3. No comments or testimony were received.

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 29, 2014.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.43.3502 pertaining to the )  
investment policy statement for the )  
Defined Contribution Retirement Plan )

TO: All Concerned Persons

1. On June 26, 2014, the Public Employees' Retirement Board published MAR Notice No. 2-43-509 pertaining to the proposed amendment of the above-stated rule at page 1299 of the 2014 Montana Administrative Register, Issue Number 12.

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

3. No comments or testimony were received.

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

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

Certified to the Secretary of State September 29, 2014

BEFORE THE STATE COMPENSATION INSURANCE FUND  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.55.502 pertaining to the )  
individual loss sensitive dividend )  
distribution plan )

TO: All Concerned Persons

1. On July 10, 2014, the Montana State Fund published MAR Notice No. 2-55-45 pertaining to the proposed amendment of the above-stated rule at page 1457 of the 2014 Montana Administrative Register, Issue Number 13.

2. The Montana State Fund has amended the above-stated rule as proposed.

3. No comments or testimony were received.

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

/s/ Elizabeth Best  
Elizabeth Best  
Chair of the Board

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

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
2.59.402 pertaining to limited income )  
persons, 2.59.405 pertaining to credit )  
union records retention, and 2.59.407 )  
pertaining to credit union debt )  
cancellation contracts )

TO: All Concerned Persons

1. On August 21, 2014, the Department of Administration published MAR Notice No. 2-59-507 pertaining to the proposed amendment of the above-stated rules at page 1856 of the 2014 Montana Administrative Register, Issue Number 16.

2. No comments were received.

3. The department has amended ARM 2.59.402, 2.59.405, and 2.59.407 exactly as proposed.

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

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

Certified to the Secretary of State September 29, 2014.



BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULES I through VIII pertaining to )  
transitioning existing sales finance )  
company licenses to the Nationwide )  
Multistate Licensing System and use of )  
the system for all future licensing )

TO: All Concerned Persons

1. On August 7, 2014, the Department of Administration published MAR Notice No. 2-59-514 pertaining to the proposed adoption of the above-stated rules at page 1633 of the 2014 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rule I (ARM 2.59.1201), New Rule II (ARM 2.59.1202), New Rule III (ARM 2.59.1203), New Rule IV (ARM 2.59.1204), New Rule V (ARM 2.59.1205), New Rule VI (ARM 2.59.1206), New Rule VII (ARM 2.59.1207), and New Rule VIII (ARM 2.59.1208) exactly as proposed.

3. The department intends to apply these rules retroactively to July 1, 2014. A retroactive application of the proposed rules does not negatively affect any involved party.

4. No comments were received.

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 29, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULES I through VIII pertaining to )  
transitioning existing consumer loan )  
company licenses to the Nationwide )  
Multistate Licensing System and use of )  
the system for all future licensing )

TO: All Concerned Persons

1. On August 7, 2014, the Department of Administration published MAR Notice No. 2-59-515 pertaining to the proposed adoption of the above-stated rules at page 1640 of the 2014 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rule I (ARM 2.59.310), New Rule II (ARM 2.59.311), New Rule III (ARM 2.59.312), New Rule IV (ARM 2.59.313), New Rule V (ARM 2.59.314), New Rule VI (ARM 2.59.315), New Rule VII (ARM 2.59.316), and New Rule VIII (ARM 2.59.317) exactly as proposed.

3. The department intends to apply these rules retroactively to July 1, 2014. A retroactive application of the proposed rules does not negatively affect any involved party.

4. No comments were received.

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 29, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULES I through VIII pertaining to )  
transitioning existing escrow business )  
company licenses to the Nationwide )  
Multistate Licensing System and use of )  
the system for all future licensing )

TO: All Concerned Persons

1. On August 7, 2014, the Department of Administration published MAR Notice No. 2-59-516 pertaining to the proposed adoption of the above-stated rules at page 1647 of the 2014 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rule I (ARM 2.59.705), New Rule II (ARM 2.59.706), New Rule III (ARM 2.59.707), New Rule IV (ARM 2.59.708), New Rule V (ARM 2.59.709), New Rule VI (ARM 2.59.710), New Rule VII (ARM 2.59.711), and New Rule VIII (ARM 2.59.712) exactly as proposed.

3. The department intends to apply these rules retroactively to July 1, 2014. A retroactive application of the proposed rules does not negatively affect any involved party.

4. No comments were received.

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 29, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULES I through VII pertaining to )  
requiring deferred deposit loan )  
applicants to use the Nationwide )  
Multistate Licensing System and use of )  
the system for all future licensing )

TO: All Concerned Persons

1. On August 7, 2014, the Department of Administration published MAR Notice No. 2-59-517 pertaining to the proposed adoption of the above-stated rules at page 1654 of the 2014 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rule I (ARM 2.59.1515), New Rule II (ARM 2.59.1516), New Rule III (ARM 2.59.1517), New Rule IV (ARM 2.59.1518), New Rule V (ARM 2.59.1519), New Rule VI (ARM 2.59.1520), and New Rule VII (ARM 2.59.1521), exactly as proposed.

3. The department intends to apply these rules retroactively to July 1, 2014. A retroactive application of the proposed rules does not negatively affect any involved party.

4. No comments were received.

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 29, 2014.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 10.59.103 pertaining to the )  
Montana School for the Deaf and )  
Blind Foundation )

TO: All Concerned Persons

1. On August 7, 2014, the Board of Public Education published MAR Notice No. 10-59-270 pertaining to the proposed amendment of the above-stated rule at page 1660 of the 2014 Montana Administrative Register, Issue Number 15.
2. The board has amended ARM 10.59.103 as proposed.
3. No comments were received.

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Sharon Carroll  
Sharon Carroll, Chair  
Board of Public Education

Certified to the Secretary of State September 29, 2014.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) CORRECTED NOTICE OF  
ARM 12.6.2208 and 12.6.2215 ) AMENDMENT  
pertaining to exotic species )  
classification )

TO: All Concerned Persons

1. On April 24, 2014, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-411 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 703 of the 2014 Montana Administrative Register, Issue Number 8. On August 21, 2014, the commission published the notice of amendment at page 1919 of the 2014 Montana Administrative Register, Issue Number 16.

2. In ARM 12.6.2215, the red-eared slider was incorrectly listed as an amphibian. Red-eared sliders are reptiles. In (7) an "and" needs to be added. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

12.6.2215 LIST OF PROHIBITED SPECIES (1) The following amphibians are classified as prohibited species:

- (a) African clawed frog - *Xenopus laevis*; and
- (b) North American bullfrog - *Rana catesbeiana*; ~~and.~~
- ~~(c) Red-eared slider – *Trachemys scripta elegans*.~~

(2) through (5) remain the same.

(6) The following reptiles are classified as prohibited:

(a) through (l) remain the same.

(m) Pit vipers and true vipers (all species in family Viperidae except species indigenous to Montana); ~~and~~

(n) Red-eared slider – *Trachemys scripta elegans*; and

(n) remains the same but is renumbered (o).

(7) The following birds are classified as prohibited:

(a) California quail – *Callipepla californica*; and

(b) remains the same.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

3. The replacement pages for this corrected notice were submitted to the Secretary of State on September 30, 2014.

/s/ Dan Vermillion  
Dan Vermillion  
Chairman  
Fish and Wildlife Commission

/s/ Aimee Fausser  
Aimee Fausser  
Rule Reviewer

Certified to the Secretary of State September 29, 2014.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 12.10.103 and 12.10.104 )  
pertaining to shooting range grants )

TO: All Concerned Persons

1. On July 10, 2014, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-415 pertaining to the proposed amendment of the above-stated rules at page 1462 of the 2014 Montana Administrative Register, Issue Number 13.

2. The department has amended ARM 12.10.103 as proposed.

3. The department has amended ARM 12.10.104 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

12.10.104 REIMBURSEMENT OF COSTS (1) through (3) remain as proposed.

(4) Per 87-1-278, MCA, existing assets and shooting range developments may not be applied to the matching funds or in-kind contributions. Existing assets and shooting range developments are fixed improvements to the shooting range owned or made prior to the ~~award of the grant~~ application deadline.

AUTH: 87-1-201, 87-1-279, MCA

IMP: 87-1-201, 87-1-276, 87-1-278, 87-1-279, 87-2-105, MCA

4. The department has thoroughly considered the comment received and the department's response is as follows:

Comment 1: One person recommended excluding assets or developments obtained after the application date from the description of existing assets and shooting range developments. Many shooting ranges take advantage of donated or discounted construction work that is available in early spring. The shooting range should be able to take advantage of this opportunity and not wait for approval of the application.

Response 1: The department agrees and has amended ARM 12.10.104.

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Director  
Department of Fish, Wildlife and Parks

/s/ Aimee Fausser  
Aimee Fausser  
Rule Reviewer

Certified to the Secretary of State September 29, 2014.



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

In the matter of the adoption of New ) NOTICE OF DECISION ON  
Rule I pertaining to Wolf Management ) PROPOSED RULE ACTION  
Stamps )

TO: All Concerned Persons

1. On June 26, 2014, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-437 pertaining to the proposed adoption of the above-stated rule at page 1318 of the 2014 Montana Administrative Register, Issue Number 12. On July 24, 2014, the department published a notice of public hearing on the proposed adoption of the above-stated rule at page 1546 of the 2014 Montana Administrative Register, Issue Number 14.

2. Public hearings on the notice of proposed adoption of the above-stated rule were held on August 14, 2014.

3. The department is not adopting the above-stated rule pertaining to wolf management stamps. The department received over 50,000 comments. The comments were divided indicating the need for further discussions. The department will be convening with stakeholders to explore common ground for developing future possible recommendations.

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Director  
Department of Fish, Wildlife and Parks

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State September 29, 2014.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT
17.8.501 and 17.8.504 pertaining to )	
definitions and air quality permit )	(AIR QUALITY)
application fees )	

TO: All Concerned Persons

1. On June 26, 2014, the Board of Environmental Review published MAR Notice No. 17-360 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 1321, 2014 Montana Administrative Register, Issue Number 12.

2. The board has amended ARM 17.8.501 exactly as proposed and has amended ARM 17.8.504 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

17.8.504 AIR QUALITY PERMIT APPLICATION FEES (1) An applicant submitting a Montana air quality permit application required in ARM Title 17, chapter 8, subchapters 7, 8, 9, or 10, shall submit the appropriate application fee as follows:

- (a) for a facility subject to ARM Title 17, chapter 8, subchapters 7 and 8, 9, or 10:
  - (i) for a new major stationary source - \$15,000;
  - (ii) for a major modification - \$3,500;
  - (iii) for a modification other than a major modification - \$500;
- (b) through (5) remain as proposed.

3. The following comment was received and appears with the board's response:

COMMENT NO. 1: The amendments to ARM 17.8.504(1)(a) unintentionally delete the fee for minor modifications. This fee should be restored at the current level.

RESPONSE: The board agrees. As clearly reflected in the statement of reasonable necessity, the only substantive change to be made in (1)(a) is an increase in the fee for major permit modifications. Elimination of the fee for minor modifications is not indicated in the statement of reasonable necessity. Furthermore, even if it had intended to eliminate the fee for minor modifications, the board would have authority to choose not to adopt that amendment, and retention of the fee is necessary to adequately fund the air quality program. The board has therefore retained the existing \$500 fee for minor modifications.

4. No other comments or testimony were received.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North  
JOHN F. NORTH  
Rule Reviewer

By: /s/ Robin Shropshire  
ROBIN SHROPSHIRE  
Chairman

Certified to the Secretary of State, September 29, 2014.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT
17.8.818 and 17.8.820 pertaining to )	
review of major stationary sources and )	(AIR QUALITY)
major modifications--source applicability )	
and exemptions and source impact )	
analysis )	

TO: All Concerned Persons

1. On June 26, 2014, the Board of Environmental Review published MAR Notice No. 17-361 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 1327, 2014 Montana Administrative Register, Issue Number 12.

2. The board has amended the rules exactly as proposed.

3. The following comment was received and appears with the board's response:

COMMENT NO. 1: Commenter believes open burning is a significant contributor of particulate matter pollution in Ravalli County and would like more extensive open burning regulation by the Department of Environmental Quality.

RESPONSE: The comment concerns matters beyond the scope of this rulemaking. No change is being made to the rules in response to this comment.

4. No other comments or testimony were received.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North  
JOHN F. NORTH  
Rule Reviewer

By: /s/ Robin Shropshire  
ROBIN SHROPSHIRE  
Chairman

Certified to the Secretary of State, September 29, 2014.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 18.13.404, 18.13.405, and )  
18.13.407 pertaining to Board of )  
Aeronautics grant and loan program )

TO: All Concerned Persons

1. On August 21, 2014, the Department of Transportation published MAR Notice No. 18-150 pertaining to the proposed amendment of the above-stated rules at page 1878 of the 2014 Montana Administrative Register, Issue Number 16.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Carol Grell Morris  
Carol Grell Morris  
Rule Reviewer

/s/ Michael T. Tooley  
Michael T. Tooley  
Director  
Department of Transportation

Certified to the Secretary of State September 29, 2014.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.189.401 fee schedule,	)	ADOPTION
24.189.601 application procedures,	)	
24.189.604 minimum standards,	)	
24.189.607 required supervised	)	
experience, 24.189.620 licensees	)	
from other states or Canadian	)	
jurisdictions, 24.189.630 licensure as	)	
a psychologist by experience,	)	
24.189.633 temporary permit,	)	
24.189.2101 continuing education,	)	
24.189.2104 continuing education	)	
program options, 24.189.2107	)	
continuing education implementation,	)	
and the adoption of NEW RULE I	)	
exemptions and NEW RULE II	)	
military training or experience	)	

TO: All Concerned Persons

1. On April 10, 2014, the Board of Psychologists (board) published MAR Notice No. 24-189-34 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 652 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:

GENERAL COMMENTS

COMMENT 1: A couple of commenters generally supported the proposed amendments and new rules, aside from the fee increase.

RESPONSE 1: The board appreciates all comments received.

ARM 24.189.401 – FEE SCHEDULE

COMMENT 2: Several commenters opposed raising license renewal fees because Montana psychologists make less than psychologists in other parts of the country,

and the fees are a hardship for some to bear. Some of these commenters pointed out it requires a "robust cadre of professionals" in order to fund the board.

RESPONSE 2: The board does not disagree that licensure fees may be more difficult for some licensees to pay than others. Raising fees is not done lightly, nor is it the board's preference to do so. However, the alternative is for the board's operations to be suspended. This means no enforcement of licensure standards and no enforcement of standards of conduct. This would be contrary to the public's protection, and detrimental to the licensees whose profession would be essentially left without quality assurance.

COMMENT 3: Many commenters opposed raising license renewal fees because the fee increase, which follows significant increases in the recent past, would put Montana's fees at the top of the nation.

RESPONSE 3: Please see RESPONSE 2 above. The fee increase is necessary if the board is to continue serving its intended purpose. The board has resisted increasing fees for several years in the face of rising expenses, trying to keep operating expenses as low as possible, but a fee increase is now necessary to keep the board solvent and functional.

COMMENT 4: Many commenters opposed raising license renewal fees because the fee increase would further deter much-needed psychologists from moving to Montana, isolating the state from psychologists who might otherwise come to Montana, and resulting in a scarcity of psychological resources for consumers.

RESPONSE 4: The board does not know that an annual license fee increase from \$400 to \$600 will deter potential licensees from moving to our state, but the board recognizes this is probably one factor considered by those who wish to move here. This reality motivates the board to seek ways to reduce fees in the future, but it does not change the fact that increased revenue is now necessary to maintain board operations.

COMMENT 5: Some commenters took issue with the rationale provided by the board in support of raising the renewal fees. The commenters said the board cannot reasonably argue Montana's fees are high on account of having so few licensees since fees in Montana are significantly higher than in other states with similar populations and licensees, and because it might be expected that the fewer the licensees, the less the costs of regulation.

RESPONSE 5: The commenters did not identify what costs they expected to be reduced due to fewer licensees. In fact, few costs are incurred based on the number of licensees, and even those are largely outside of the board's control. One cost based on licensee numbers and not within the board's control is the cost of the database used by the department to maintain and monitor licensing and disciplinary records. This database was replaced at a cost to the board of a total of \$4,410.29 for the years 2010 through 2013.

On the other hand, some costs are borne by boards equally, regardless of licensee numbers, such as the hourly rate of legal counsel. For example, when the board denies a license to an applicant who does not meet the licensure requirements, and the applicant requests a hearing, the costs of that litigation do not vary based on the number of licensees. Likewise, when the board enforces its standards in a disciplinary proceeding, which it is required by law to do, the cost of enforcing the board's standards is not cheaper just because there are fewer licensees. Instead, litigation costs (e.g., attorney fee time, expert witness fees, and hearing examiner costs) must be borne by the smaller number of licensees. A smaller number of licensees should translate into a smaller number of cases to prosecute, but the percentage of cases that are litigated, and the degree to which they are litigated, depends not just on the board, but also on responding licensees.

The board also notes that, while the commenters provided some raw data in relation to the population of other states and their respective licensing fees, it was not revealed how licensing and disciplinary standards are set or enforced in those other states, nor whether funds for such activities come solely from licensing fees (as they do in Montana) or if some of the licensing or disciplinary activities are funded in other ways.

COMMENT 6: Some commenters suggested that rather than raise fees, the board should find ways to spend the board's money more responsibly by reducing costs, dropping certain disciplinary matters, or by clarifying or simplifying the board's regulations and licensing requirements.

RESPONSE 6: The board is committed to simplifying and reducing costs, and has already done so by separating work samples from applications and using samples solely for oral examinations, providing for temporary permits, engaging the ASPPB to help with applicants whose education is not from an APA-accredited program, keeping travel expenses down by holding phone meetings instead of in-person meetings, and providing feedback to the department to remedy bottlenecks in the application process. Board members are provided very minimal reimbursement (i.e., per diem state rates) for their service on the board, and their costs are never fully covered. Thus, board members pay out of their own pockets to cover some costs.

Complaints filed by the public must be reviewed by the board in fulfillment of its mandate to protect the public. After review, the screening panel dismisses most cases. The board is not free to comment on matters currently being adjudicated, but the board has followed all appropriate procedures regarding such matters. The board's efforts have not eliminated the need for a fee increase.

COMMENT 7: One commenter suggested the board may be defending against "justified legal actions" for "discriminatory behavior by the board," and another recounted past events that cost the board significant amounts of money. The commenters asked what other legal cases the board has lost, and what the board is now doing that "adversely affects the financial well-being of psychologists in Montana and damages the practice of psychology in Montana."



RESPONSE 7: Aside from a case cited by this commenter as indicative of current or ongoing board conduct, which was based on board action taken nearly two decades ago, the board has lost no litigation resulting in a judgment against the board. The board is not defending against any legal actions, justified or not, for allegedly discriminatory behavior.

COMMENT 8: One commenter offered a rebuttal to the board's explanation that increased board costs necessitating the fee increase include the litigation of significant legal cases. The commenter suggested that costs and fees of ongoing significant litigation should be recoverable by the board when the board is successful in prosecuting and if so, licensees should not have to bear the burden of those costs and fees through higher licensure fees.

RESPONSE 8: Recently, the board successfully defended its denial of licensure to an applicant whose education did not meet the minimum licensure standards in Montana, a case that was heard by the Montana Supreme Court. The board is also currently pursuing sanctions for licensee unprofessional conduct in a case that involves core principles of professional conduct that the board is enforcing as required by law. Unfortunately, cases that are considered by the board do not legally allow for a recovery of costs as a possible remedy, and therefore, the board cannot hope to spare the licensees by placing the responsibility on the licensee or license applicant. Cost recovery for such cases must be provided by the legislature, which the department has previously requested and been denied.

COMMENT 9: Several commenters asked the board to provide an explanation or accounting as to how and why board finances justify the proposed fee increase.

RESPONSE 9: At the October and April meetings, at a minimum, and at other regular board meetings, the board provides financial statements showing revenues and expenditures for the current period and a number of past periods. In addition to those publicly available documents, and in response to these comments, the board has posted a financial statement for the period of 2009 through 2013 on its web site ([www.psy.mt.gov](http://www.psy.mt.gov)). The financial statement shows significant increases in several expense categories between 2009 and 2013, such as a 61 percent increase in the cost of department employee benefits billed to the board, a 57 percent increase of department salaries billed to the board, and a 65 percent increase in rent. Those three, alone, combine to equal about 60 percent of the board's total 2013 expenditures. The increases are partly attributable to the department's, not the board's, efforts to reorganize the way it delivers administrative services to the boards. Some increases are also attributable to the board's efforts to comply with its statutory obligation to enforce its regulations, resulting in necessary and successful litigation.

COMMENT 10: Some commenters expressed concern about the fee increase in terms of how the department is allocating its costs among the boards.

RESPONSE 10: The department is statutorily authorized to determine the appropriate allocation of its costs, and the board has been unsuccessful in its efforts to modify that allocation process. The board raised this issue to the department some months ago and argued for a different way to allocate costs. Unfortunately board efforts have been unsuccessful, to date. At present, the allocation to the boards for personal services is based on services provided on an hourly basis. All boards pay the same rate for personal services. The result is that boards having more licensees pay less for personal services on a per-licensee basis. An alternative method for allocating costs has been proposed to the department, but using an hourly rate that differs among the boards based on the number of licensees is only favored by the boards that would benefit from it.

COMMENT 11: One commenter asked why the board has not changed the way the board is funded.

RESPONSE 11: The law provides that the board must be funded through licensing fees. As described in RESPONSE 10, how the board is funded is a matter out of the board's control. However, the commenters are encouraged to bring ideas to the board that might be used in future legislation if an appropriate alternative or supplementary source of income can be identified.

COMMENT 12: A few commenters expressed concern about the possibility that, as a result of finances, the board may be joined with another board involving licensees with lesser qualifications, thereby diluting the board's expertise to the detriment of the public. If the board is no longer self-sustaining, a proposed solution was to be joined with the Board of Medical Examiners.

RESPONSE 12: The board is aware that a failure to be self-sustaining could result in being combined with another board. The board disagrees that the proposed solution of being combined with the Board of Medical Examiners would work very well because on that large board, which governs many licensure types already, there is no expertise in psychological evaluation and assessment.

COMMENT 13: One commenter suggested that the board consider a fee structure that allows for a reduced fee for those who are semi-retired or who work on a part-time basis, similar to how rates for malpractice insurance are determined.

RESPONSE 13: The board agrees that conceptually, this idea has some appeal. However, the board notes that implementation would involve an administrative cost to create rules and a way to enforce them, would likely require an honor system that would be difficult as a practical matter to implement, and would ultimately reduce the board's income, thereby worsening the board's current financial predicament.

#### ARM 24.189.601 – APPLICATION PROCEDURES

COMMENT 14: A few commenters asserted that it is inappropriate to require applicants from counseling psychology programs, but not clinical psychology

programs, to submit paperwork to the Association of State and Provincial Psychology Boards (ASPPB) to determine if their course of studies satisfies the board's minimum standards when both types of programs may be accredited by the American Psychological Association (APA). The commenters reasoned that APA accreditation of doctoral programs is the standard benchmark and does not differentiate between counseling and clinical psychology programs, the proposed process would cost the board more money, and suggested the board instead consider facilitating the adoption of competency benchmarks that are shared by other state boards of psychology.

RESPONSE 14: The board has already discussed this matter and has voted to propose a rule that would acknowledge APA-approved psychology programs for counseling psychology and school psychology programs as meeting the board's minimum standards without further review. The board's newly adopted process of utilizing the ASPPB for applicant programs not accredited by the APA is not expected to cost the board any more money since applicants will be responsible for the cost of the review. As to standardizing competency benchmarks across multiple jurisdictions to improve portability of licensure, the ASPPB has been studying this issue and is working toward a solution. The board is fully supportive of these efforts.

#### ARM 24.189.620 – LICENSEES FROM OTHER STATES OR CANADIAN JURISDICTIONS

COMMENT 15: Many commenters expressed opposition to removing the National Register of Health Service Providers in Psychology (National Register) as a way to verify credentials for licensure because the National Register supports needed licensure mobility.

RESPONSE 15: The board desires to have a reliable tool to help facilitate licensure mobility, and intended the National Register to serve that purpose, but it has proven to be unreliable. Because the National Register does not adhere to the same educational standards as the board, applicants that did not meet basic educational standards for licensure were able to rely upon the National Register and be granted licensure in Montana. Licensure mobility is not a paramount consideration and is not sufficient to disregard the board's duty to ensure minimum qualifications of license applicants. The board would remind the commenters that the board still provides mobility for all those who hold a current certificate of professional qualification (CPQ) in psychology issued by the ASPPB.

COMMENT 16: One commenter asked why the National Register is being removed.

RESPONSE 16: The board refers this commenter to the other responses regarding this rule change. In essence, the standards recognized by the National Register have not been adequately compatible with the board's standards for licensure.

COMMENT 17: Several commenters asked the board to identify the ways in which National Register standards are deficient in relation to Montana's, which are

supposed to be minimum standards. Some of these commenters did not accept the rationale in the proposal notice because they did not perceive a problem with respect to applicants using the National Register who do not meet the board's minimum standards for licensure.

RESPONSE 17: As the board pointed out above, the National Register does not adhere to the same educational standards to which the board adheres, and some applicants who did not meet basic educational standards for licensure relied on the National Register and were granted Montana licensure. For example, one applicant used the National Register and had no degree in psychology, even though Montana law requires a doctoral degree in psychology as a prerequisite for licensure. Using the National Register, someone with a doctoral degree in education was licensed as a psychologist. This is clearly an insufficient educational background to be licensed as a Montana psychologist, but the National Register does not share Montana's minimum standards.

COMMENT 18: One commenter suggested the board would rather duplicate efforts than use the National Register.

RESPONSE 18: As indicated above, the board is seeking ways to avoid duplicative efforts, including promoting the use of the CPQ. The National Register, which does not share Montana's minimum standards, does not provide an appropriate alternative to board review of an applicant's qualifications.

COMMENT 19: Several commenters opposed removing the National Register as a way to verify applicant qualifications, opining that the board's licensure process already poses an unnecessary burden on and obstacle to those who would otherwise come to Montana to practice psychology. Commenters asserted that this change will create an additional barrier to licensure, further isolating Montana from psychologists and harming consumers by limiting available psychological services.

RESPONSE 19: The board notes that the commenters failed to mention, and were possibly unaware of the board's relatively recent rule changes that provide temporary practice permits for those seeking licensure in Montana and speed the process to application approval for purposes of taking the oral examination. Removing the National Register is necessary to ensure the minimum educational standards are not being ignored.

COMMENT 20: One commenter opposed the elimination of the National Register for verifying qualifications by first explaining that "The National Register standard is a doctoral degree in psychology from an APA/CPA Accredited or ASPPB/National Register Designated doctoral program." The commenter also addressed a specific situation in the rule's reasonable necessity statement where a Montana applicant's qualifications were approved by the National Register, but the board concluded that the person's qualifications failed to meet Montana's statutory minimum requirement of a doctoral degree in psychology from an accredited college or university. In the commenter's view, the National Register appropriately verified that the license

applicant's credentials in fact met the National Register's standard of a doctoral degree in psychology, as it has done for licensing boards on behalf of more than 1,500 health service psychologists.

RESPONSE 20: Although the written expression of the National Register's standards has not changed, the board determined that the application of those standards has, in at least two instances, failed with respect to ensuring that the board's standards are met by license applicants. For example, one applicant with a doctoral degree in education (not psychology) was approved by the National Register as meeting its standards. Montana law, however, requires a doctoral degree in psychology. In another case, an applicant's coursework was reviewed by the board in relation to its minimum standards rule and found to be deficient by the board. When the same education was reviewed by the National Register, it was approved. In both instances, the applicant's education failed to meet the board's standards and Montana law, and in both instances the National Register approved the education.

COMMENT 21: One commenter opposed the elimination of the National Register for qualifications verification and stated that the National Register is widely approved as a method of providing licensure mobility in the United States and Canada, its standards are the foundation of many state licensure laws, it is endorsed as a mobility mechanism in the American Psychological Association Model Act for State Licensure of Psychologists, and its standards have not changed since the board adopted the National Register in the mid-2000s.

RESPONSE 21: The board would direct the commenter to RESPONSE 20, which indicates that in spite of the written expression of its widely approved standards, the National Register's application of its standards has failed to ensure adequate compliance with the board's licensure requirements.

#### ARM 24.189.2104 – CONTINUING EDUCATION PROGRAM OPTIONS

COMMENT 22: One commenter suggested amending the continuing education rules to require that licensees acquire continuing education hours in trauma and abuse every five or ten years.

RESPONSE 22: This comment does not address any particular change being proposed, but the board is appreciative of all comments. The board notes that such a change would add a burden to all licensees, even if such specific training is not a priority for every licensee. There would also be an administrative cost that is unnecessary since licensees may use their professional judgment to determine whether such training is pertinent to them.

#### ARM 24.189.2107 – CONTINUING EDUCATION IMPLEMENTATION

COMMENT 23: A commenter was concerned that the audit process did not seem to be random since the commenter has been audited so frequently, and suggested that

the board audit no more than 25 percent of licensees to reduce costs and reflect the rate of noncompliance that occurs.

RESPONSE 23: The board notes that the audit process is random, and that the proposed change is consistent with the statute authorizing boards to audit up to fifty percent of all licensees, annually. The board recognizes that the audit involves cost, which the board will consider when deciding what percentage of licensees to audit. Due to the board's financial predicament, the board chose not to perform an audit of continuing education compliance for 2012.

#### NEW RULE I – EXEMPTIONS

COMMENT 24: One commenter was unsure of whether the new rule would be protective enough of the public and in-state psychologists or if it would open the "floodgates" to the unlicensed practice of psychology.

RESPONSE 24: The board notes the commenter's concern, but believes its interpretation of the exemptions does not compromise the public's protection.

#### NEW RULE II – MILITARY TRAINING OR EXPERIENCE

COMMENT 25: A commenter pointed out that certain military personnel (reservists and national guardsmen who have never been activated) do not receive a DD 214 form upon their discharge from the military. It was suggested that the proposed new rule be amended in the final notice to allow the board to consider other evidence of military discharge in addition to or in lieu of a DD 214 form.

RESPONSE 25: The board agrees that the rule needs to be amended to allow for other forms of documentation showing discharge. The board is amending New Rule II accordingly.

4. The board has amended ARM 24.189.401, 24.189.601, 24.189.604, 24.189.607, 24.189.620, 24.189.630, 24.189.633, 24.189.2101, 24.189.2104, and 24.189.2107 exactly as proposed.

5. The board has adopted NEW RULE I (ARM 24.189.602) exactly as proposed.

6. The board has adopted NEW RULE II (ARM 24.189.603) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE II 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 as a psychologist. ~~At a minimum, satisfactory~~ Satisfactory evidence ~~shall include~~ includes:

- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
- (b) through (4) remain as proposed.

BOARD OF PSYCHOLOGISTS  
GEORGE WATSON, PH.D., 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 29, 2014

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

In the matter of the amendment of ) NOTICE OF AMENDMENT AND  
ARM 24.210.825 renewals and the ) ADOPTION  
adoption of NEW RULE I military )  
training or experience )

TO: All Concerned Persons

1. On April 10, 2014, the Board of Realty Regulation (board) published MAR Notice No. 24-210-40 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 664 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 comment received. A summary of the comment received and the board's response is as follows:

COMMENT 1: One commenter provided information that certain military personnel (reservists and national guardsmen who have never been activated) in fact do not receive a DD 214 form upon their discharge from the military. Because the rule as proposed may be interpreted to absolutely require a DD 214 from all applicants who wish to submit evidence of relevant military training, service, or education as part of the licensure process, the commenter suggested the board amend this new rule to allow consideration of other evidence of military discharge in addition to or in lieu of a DD 214 form.

RESPONSE 1: The board agrees with the commenter's observation and is amending the new rule accordingly.

4. The board has amended ARM 24.210.825 exactly as proposed.

5. The board has adopted NEW RULE I (ARM 24.210.417) 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 as a real estate broker, real estate salesperson, or property manager. ~~At a minimum, satisfactory~~ Satisfactory evidence ~~shall include~~ includes:



- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);  
(b) through (4) remain as proposed.

BOARD OF REALTY REGULATION  
C.E. "ABE" ABRAMSON  
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 29, 2014

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS  
AND PROFESSIONAL COUNSELORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT AND  
ARM 24.219.501 application ) ADOPTION  
procedures, 24.219.512 and )  
24.219.612 licensure of out-of-state )  
applicants, 24.219.2401 complaint )  
procedure, and the adoption of NEW )  
RULE I military training or experience )

TO: All Concerned Persons

1. On April 24, 2014, the Board of Social Work Examiners and Professional Counselors (board) published MAR Notice No. 24-219-27 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 783 of the 2014 Montana Administrative Register, Issue No. 8.

2. On May 15, 2014, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. No comments were received by the May 23, 2014, deadline.

3. The board has amended ARM 24.219.501, 24.219.512, 24.219.612, and 24.219.2401 exactly as proposed.

4. The board has adopted NEW RULE I (ARM 24.219.415) exactly as proposed.

BOARD OF SOCIAL WORK EXAMINERS  
AND PROFESSIONAL COUNSELORS  
JOHN LYNN, LCPC, 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 29, 2014

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 32.2.405 and 32.18.110 )  
pertaining to department of livestock )  
miscellaneous fees and recording )  
and transferring of brands )

TO: All Concerned Persons

1. On August 21, 2014, the Department of Livestock published MAR Notice No. 32-14-251 regarding the proposed amendment of the above-stated rules at page 1892 of the 2014 Montana Administrative Register, Issue Number 16.

2. The department has amended the above-stated rules 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/ Sherry Rust  
Sherry Rust  
Rule Reviewer

/s/ Cinda Young-Eichenfels  
Cinda Young-Eichenfels  
Rule Reviewer

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 32.6.712 pertaining to food )  
safety and inspection service (meat )  
and poultry) )

TO: All Concerned Persons

1. On August 21, 2014, the Department of Livestock published MAR Notice No. 32-14-253 regarding the proposed amendment of the above-stated rule at page 1896 of the 2014 Montana Administrative Register, Issue Number 16.

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/ Sherry Rust  
Sherry Rust  
Rule Reviewer

/s/ Cinda Young-Eichenfels  
Cinda Young-Eichenfels  
Rule Reviewer

Certified to the Secretary of State September 29, 2014.

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

In the matter of the adoption of New )  
Rule I and amendment of 37.79.102, ) CORRECTED NOTICE OF  
37.79.304, 37.79.326, 37.86.610, ) ADOPTION AND AMENDMENT  
37.86.705, 37.86.805, 37.86.1005, )  
37.86.2005, and 37.86.2605 )  
pertaining to Medicaid allied health )  
services program reimbursement and )  
rates )

TO: All Concerned Persons

1. On April 24, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-672 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 816 of the 2014 Montana Administrative Register, Issue Number 8. On June 26, 2014, the department published the notice of adoption and amendment at page 1405 of the 2014 Montana Administrative Register, Issue Number 12.

2. The section numbering in proposed MAR Notice No. 37-672 was incorrectly written and this MAR notice corrects the numbering in ARM 37.86.1005. Section (2) was deleted in the proposed MAR notice so the numbering should have stated that (3) through (7) were renumbered (2) through (6). The rule, as amended in corrected form, reads as follows:

37.86.1005 DENTAL SERVICES, REIMBURSEMENT

- (1) remains as adopted.
- (3) through (7) remain as adopted, but are renumbered (2) through (6).

3. The replacement pages for this corrected notice were submitted to the Secretary of State on June 30, 2014.

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

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

Certified to the Secretary of State September 29, 2014.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 42.4.302 pertaining to the )  
Montana elderly homeowner/renter )  
tax credit calculation )

TO: All Concerned Persons

1. On August 7, 2014, the Department of Revenue published MAR Notice No. 42-2-912 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1787 of the 2014 Montana Administrative Register, Issue Number 15.

2. The department has amended the above-stated rule 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 29, 2014.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of )  
ARM 44.5.114 through 44.5.121, )  
44.6.104 and 44.6.105, and the )  
repeal of ARM 44.2.202 and 44.2.203 )  
pertaining to fees charged by the )  
Business Services Division )

CORRECTED NOTICE OF  
AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On March 13, 2014, the Secretary of State published MAR Notice No. 44-2-195 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 489 of the 2014 Montana Administrative Register, Issue Number 5. On April 24, 2014, the Secretary of State published the notice of amendment and repeal at page 856 of the 2014 Montana Administrative Register, Issue Number 8.

2. This corrected notice is necessary to correct a numbering error in ARM 44.6.105. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

44.6.105 UNIFORM COMMERCIAL CODE FEES

(1) through (15) remain as proposed.

(2) through (4) remain the same, but are renumbered ~~(15)~~ (16) through ~~(17)~~ (18).

3. The replacement pages for this corrected notice were submitted on June 30, 2014.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 29th 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.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute       | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.                     |

## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2014. This table includes those rules adopted during the period July 1, 2014, through September 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 June 30, 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.

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