

# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 7

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.3505 pertaining to	)	AMENDMENT
establishment of long-term disability	)	
trust fund	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On June 26, 2015, the Public Employees' Retirement Board proposes to amend the above-stated rule.

2. The Public Employees' Retirement Board 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 Public Employee Retirement Administration no later than 5:00 p.m. on May 8, 2015, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD/Montana Relay Service (406) 444-1421; or e-mail [kvlastic@mt.gov](mailto:kvlastic@mt.gov).

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

2.43.3505 ESTABLISHMENT OF LONG-TERM DISABILITY TRUST FUND

(1) remains the same.

(2) The long-term disability trust fund is a governmental plan under Internal Revenue Code section 401(a)(24) and may be invested in one or more group trust funds as determined by the Montana Board of Investments.

(a) The group trust fund or funds may be a group trust fund presently in existence or later established as permitted under IRC section 401(a)(24), IRS Revenue Ruling 81-100, IRS Revenue Ruling 2004-67, IRS Revenue Ruling 2011-1, and IRS Revenue Ruling 2014-24.

(b) The group trust fund or funds must be operated and maintained exclusively for the commingling and collective investment of monies pursuant to applicable IRS guidance and must be adopted as a part of the long-term disability trust fund.

(c) No part of the corpus or income of the long-term disability trust fund may be used for, or diverted to, any purpose other than the exclusive benefit of the disabled DCRP participants and their beneficiaries. This exclusive benefit provision is irrevocable.

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

~~(4)~~ (5) In addition to the requirements of (2), funds in the long-term disability trust fund will be invested pursuant to Article VIII, section 13, of the Constitution and Title 17, chapter 6, part 2, MCA. ~~No funds will be invested in equities.~~

AUTH: 19-3-2104, 19-3-2141, MCA

IMP: 19-3-2117, 19-3-2141, MCA

REASON: The Public Employees' Retirement System's Defined Contribution Retirement Plan includes a long-term disability plan that has been determined to be an "Other Post-Employment Benefit" (OPEB). OPEBs are subject to the same actuarial funding requirements as the other trust funds administered by MPERA. Since the long-term disability plan is a governmental retirement plan, the assets in the plan's trust fund may be invested in equities pursuant to Article VIII, section 13 of the Montana Constitution. In an effort to improve the long-term disability trust fund's funding status, the Montana Board of Investments has adopted an Investment Policy Statement permitting investment of the long-term disability trust fund in certain BlackRock collective investment funds. In order for the long-term disability trust fund assets to be invested in collective, or group investment funds, the terms of the defined contribution retirement plan must be amended as proposed. These proposed changes are consistent with changes adopted by the 2015 Legislature through House Bill 124, the Public Employee Retirement Board's federal tax qualification legislation.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail [mpera@mt.gov](mailto:mpera@mt.gov), and must be received no later than 5:00 p.m., May 15, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vladic at the above address no later than 5:00 p.m., May 15, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 209 persons based on 2091 Public Employees' Retirement System Defined Contribution Retirement Plan participants.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency.

Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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, apply and have been fulfilled. The primary bill sponsor was contacted by letter on February 23, 2015.

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

/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 April 6, 2015.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

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

TO: All Concerned Persons

1. On May 18, 2015, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on May 11, 2015, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to [banking@mt.gov](mailto:banking@mt.gov).

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

2.59.104 SEMIANNUAL ASSESSMENT (1) ~~Based upon the following schedule, and upon calculation of the semiannual value for the respective bank, the value must be multiplied by the factor of 1.50 to determine the dollar fee assessment, rounded to the next highest dollar, due the~~ The Division of Banking and Financial Institutions for the semiannual period. invoices banks for semiannual assessments every June and December. The assessment is based on each bank's total assets provided in its previous March and September call reports.

(2) The fee is calculated based on the total assets of the bank using the table below. The fee is then multiplied by the factor of 1.50 and rounded to the next highest dollar to determine the assessment due for the semiannual period.

Total Assets (\$ Million)	Base Fee (\$)	Plus Rate per <del>Million Dollar</del>	Over (\$ Million)
0-1	0	<u>0.00085</u>	0
1-10	850	<u>0.000105</u>	1
10-50	1,795	<u>0.000085</u>	10
50-100	5,195	<u>0.00005</u>	50
over 100	7,695	<u>0.00003</u>	100

Example: Bank A reports total assets of \$8.2 million. Bank A's total assessment is \$2409, based on a base fee of \$850 plus \$756 (\$7.2 million x 0.000105 = \$1606) x 1.5.

(3) The assessment is due 30 days after each invoice date, or July 31 and January 31, whichever is later.

(2)(4) For the period August 22, 2014 through December 31, 2014, the assessment fee must be multiplied by a factor of .50. No fee will be charged for the June 31, 2015, semiannual assessment. This section will sunset January 26 August 31, 2015.

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

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

STATEMENT OF REASONABLE NECESSITY: The banking industry in Montana is currently in a state of flux and there is no end in sight. Due to regulatory pressures and economic factors, the Montana Division of Banking and Financial Institutions (division) has seen a series of mergers and consolidations involving banks in this state and outside of this state over the last year. In 2014, the division approved three mergers and one conversion that resulted in gains to the assessments for Montana, and three mergers that resulted in losses to the assessments for Montana.

While the division tries to keep its banking assessments in proportion to the costs it spends on supervising Montana banks, it is particularly difficult to do so in the current environment when mergers and conversions throw the assessments into flux. So while the division has given an assessment holiday in each of the last three years, the special fund balance for banks continues to outpace expenses of supervision.

It is impossible for the division to predict with any certainty which institutions will or will not merge or convert in the future. As a result, the division has chosen not to collect an assessment for the first half of 2015 and so must amend the rule. The division estimates that on a semiannual basis, based on current costs and estimates of assessments, not collecting an assessment for one-half year will bring the amount of revenue it collects closer to the cost of supervision.

The intent of this amendment is to reduce the assessments that the division will receive in the first half of 2015 from approximately \$1,510,000 to zero. Because this rule revision is intended to be temporary, the division has chosen to have it sunset on August 31, 2015, which will make the amendment effective only for the first half of 2015 assessment, not for the second half of 2015 assessment or any assessment thereafter.

The division will propose a permanent downward revision in the bank assessments after it becomes reasonably certain that the number and composition of state-chartered banks have reached a relatively stable number; however, at this time, the division has no idea when that may be.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546;

faxed to the office at (406) 841-2930; or e-mailed to [banking@mt.gov](mailto:banking@mt.gov); and must be received no later than 5:00 p.m., May 14, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., May 14, 2015.

6. If the Division of Banking and Financial Institutions 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 five persons based on the 53 existing state-chartered banks.

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

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

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

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



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

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

Certified to the Secretary of State April 6, 2015.

BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 8.94.3817 pertaining to the ) PROPOSED AMENDMENT  
administration of the 2017 Biennium )  
Treasure State Endowment Program )  
– Planning Grants )

TO: All Concerned Persons

1. On May 6, 2015, at 10:00 a.m., the Department of Commerce will hold a public hearing in Room 504A of the Park Avenue Building at 301 South Park Avenue, in Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m., April 29, 2015, to advise us of the nature of the accommodation that you need. Please contact Amy Peck, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCTSEP@mt.gov.

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

8.94.3817 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE TREASURE STATE ENDOWMENT PROGRAM (TSEP) – PLANNING GRANTS (1) The Department of Commerce adopts and incorporates by reference the 2015 Biennium Infrastructure Planning Grant Application and Administration Guidelines for TSEP Infrastructure Planning Grants as rules for the administration of the ~~2015~~ 2017 Biennium Treasure State Endowment Program – Planning Grants.

(2) The rules incorporated by reference in (1) relate to the scope and procedures for the award, administration, monitoring, and close-out of matching planning grants to cities, towns, counties, consolidated governments, county or multicounty water, wastewater or solid waste districts, and tribal governments.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Planning Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the Planning Bureau web site at <http://comdev.mt.gov/planningbureau/planningbureau.mcp> ~~x~~ <http://comdev.mt.gov/TSEP/tseppergrants.mcp> ~~x~~.

AUTH: 90-6-701, MCA  
IMP: 90-6-701, MCA

REASON: It is reasonably necessary to amend this rule to update the 2015 biennium guidelines.

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 the Department of Commerce, Planning Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCTSEP@mt.gov, and must be received no later than 5:00 p.m., May 14, 2015.

5. Maria Jackson, Planning Specialist, Department of Commerce, has been designated to preside over and conduct this hearing.

6. 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 listed in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. 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.

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

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

/s/ KELLY A. LYNCH  
KELLY A. LYNCH  
Rule Reviewer

/s/ DOUGLAS MITCHELL  
Douglas Mitchell  
Deputy Director  
Department of Commerce

Certified to the Secretary of State April 6, 2015.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I requests for information, the	)	PROPOSED ADOPTION,
amendment of ARM 24.11.101,	)	AMENDMENT, AND REPEAL
24.11.317, 24.11.511, and 24.11.534,	)	
and the repeal of ARM 24.11.901,	)	
24.11.902, 24.11.903, 24.11.904,	)	
24.11.907, 24.11.908, 24.11.909, and	)	
24.11.2231 regarding unemployment	)	
insurance	)	

TO: All Concerned Persons

1. On May 8, 2015, at 1:00 p.m., the Department of Labor and Industry (department) will hold a public hearing in the Sanders Auditorium of the DPHHS Building at 111 North Sanders Street, Helena, Montana, 59601, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The department 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 Labor and Industry no later than 5:00 p.m. on May 6, 2015, to advise us of the nature of the accommodation that you need. Please contact Rachel Bawden, P.O. Box 8020, Helena, MT 59604-8020; telephone (406) 444-2582; fax (406) 444-2993; Montana Relay Service at 711; or e-mail rbawden@mt.gov.

3. The department proposes to adopt the following rule:

NEW RULE I REQUESTS FOR INFORMATION (1) Persons desiring information concerning the unemployment insurance program and public participation may contact the Unemployment Insurance Division, P.O. Box 8020, Helena, Montana 59604-8020 or visit the division's web site at [www.uid.dli.mt.gov](http://www.uid.dli.mt.gov).

AUTH: 39-51-302, 39-51-603, MCA  
IMP: 39-51-301, 39-51-303, 39-51-603, MCA

REASON: The department is proposing this new rule to clearly set forth the mailing address and web address of the unemployment insurance division to facilitate general information requests.

4. The department proposes to amend the following rules, new matter underlined, deleted mater interlined:

24.11.101 DIVISION ORGANIZATION--LOCATION (1) and (2) remain the same.

(3) The address and contact numbers for the department's main office in Helena are as follows:

Unemployment Insurance Division  
Montana Department of Labor and Industry  
1315 East Lockey Street  
P.O. Box 8020  
Helena, MT 59604-8020  
Telephone: (406) 444-3555  
Fax: (406) 444-~~1394~~ 2993  
~~TTY/TTD: (406) 444-0532~~ Montana Relay Service at 711

e-mail: contact links are included on the unemployment insurance web page  
at: <http://uid.dli.mt.gov/uid/contact.asp>

(4) remains the same.

(5) The Unemployment Insurance Internet Application for filing a benefit claim (UI4U) is at: <http://ui4u.mt.gov>.

(6) The unemployment insurance web portal for registering, filing, and paying employer taxes is at: <http://uieservices.mt.gov>.

AUTH: 2-4-201, 39-51-302, MCA

IMP: 2-4-201, 39-51-301, MCA

REASON: The department is amending (3) to provide the current street address, telephone, facsimile, and e-mail contact information for the unemployment insurance division. The department is amending (5) and adding (6) to set forth the separate web portals for filing benefits claims and for employers to utilize for unemployment insurance tax purposes.

24.11.317 NOTICE OF HEARINGS (1) through (4) remain the same.

(5) The advance notice requirements in (2) and (3) do not apply to rescheduled hearings or rescheduled prehearing conferences.

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

IMP: 39-51-1109, 39-51-2407, MCA

REASON: The department is adding (5) to clarify that unemployment hearings may be rescheduled after the issuance of the initial ten- or twenty-day notice. By necessity, notice to parties participating in a rescheduled hearing or prehearing conference may be a shorter period of time.

24.11.511 SCOPE AND PURPOSE--MODEL LANGUAGE (1) ~~ARM 24.11.511, 24.11.513, 24.11.515, 24.11.516, 24.11.517, 24.11.518, 24.11.521, 24.11.523, 24.11.525, 24.11.531, and 24.11.534~~ govern the department's procedures relative to its administrative cooperation with other states adopting similar rules or regulations to implement the interstate benefit payment plan, to which the department is signatory, to provide for the payment of benefits to interstate claimants. In the interest of promoting uniformity of interpretation and consistency of application between Montana and the other states, the department has adopted,

with minor modifications, the model rule language promulgated by the interstate conference of employment security agencies. The duties and responsibilities imposed by this subchapter are binding only on the state of Montana in its role as an agent state or as a liable state.

AUTH: 39-51-301, 39-51-302, MCA  
IMP: 39-51-504, MCA

REASON: The department determined it is reasonably necessary to delete reference to ARM 24.11.513, which was repealed in 2014. Additionally, the department is eliminating the rule's internal reference to itself, as this is unnecessary and potentially confusing to the reader.

24.11.534 EXTENSION OF INTERSTATE BENEFIT PAYMENT PLAN TO INCLUDE CLAIMS TAKEN IN AND FOR CANADA (1) ARM 24.11.511, ~~24.11.513~~, 24.11.515, 24.11.516, 24.11.517, 24.11.518, 24.11.521, 24.11.523, 24.11.525, and 24.11.531, ~~and 24.11.534~~ shall apply in all their provisions to claims taken in and for Canada.

AUTH: 39-51-301, 39-51-302, MCA  
IMP: 39-51-504, MCA

REASON: The department determined it is reasonably necessary to delete reference to ARM 24.11.513, which was repealed in 2014. Additionally, the department is eliminating the rule's internal reference to itself, as this is unnecessary and potentially confusing to the reader.

5. The department proposes to repeal the following rules:

24.11.901 STATISTICAL MANUALS AND INFORMATION located at ARM page 24-683.

AUTH: 2-4-103, MCA  
IMP: 2-4-103, MCA

REASON: The department no longer publishes a document entitled Montana Employment and Labor Force. Therefore, this rule is no longer necessary.

24.11.902 SUGGESTIONS FOR OPERATIONAL AND PROCEDURAL CHANGES--COMPLAINTS located at ARM page 24-683.

AUTH: 2-4-103, MCA  
IMP: 2-4-103, MCA

REASON: The department now manages the unemployment insurance program from the central office of the division in Helena, rather than out of Montana's local job

service centers. Because questions, comments, and suggestions are now directed to the central division office, this rule is no longer necessary.

24.11.903 INFORMATIONAL BULLETINS located at ARM page 24-683.

AUTH: 2-4-103, MCA

IMP: 2-4-103, MCA

REASON: The department determined that this rule is no longer necessary since the department uses a variety of means to distribute information on the unemployment insurance program to claimants, employers, and the general public. The department customarily issues press releases related to labor statistics and special programs, such as those that provide for extended benefits. Employers are informed about changes in law, rule, or procedure by web site postings, direct mailing, and the addition of informational inserts in departmental communications.

24.11.904 RESPONSE TO INQUIRIES AND SUGGESTIONS located at ARM page 24-683.

AUTH: 2-4-103, MCA

IMP: 2-4-103, MCA

REASON: The department is repealing this rule because 72 hours may be an unrealistic time frame for the agency to respond to requests for public information. The department responds to all information requests as soon as possible and always within a reasonable period of time, and has determined this rule is unnecessary.

24.11.907 MEETINGS WITH OFFICE MANAGERS, SUPERVISORS, DEPUTY ADMINISTRATORS, AND OTHER OFFICIALS located at ARM page 24-683.1.

AUTH: 2-4-103, MCA

IMP: 2-4-103, MCA

REASON: All state agencies are required to comply with the public participation provisions of the Montana Administrative Procedure Act. At all times, the public is invited and encouraged to participate in the rulemaking process and departmental meetings of significant public interest. Therefore, the department determined this rule is unnecessary and is proposing its repeal.

24.11.908 COPIES OF STATUTES AND REGULATIONS located at ARM page 24-683.1.

AUTH: 2-4-103, MCA

IMP: 2-4-103, MCA

REASON: The department determined it is reasonably necessary to repeal this unnecessary rule as the unemployment insurance statutes and rules are readily available on the department web site, the Montana Secretary of State's web site, and various other electronic formats. The department customarily provides copies of all pertinent statutes and rules to claimants and employers with every notice of departmental action regarding the adjudication of claims. As well, the department provides copies of the unemployment insurance statutes and rules to the public upon request, at no cost.

24.11.909 POLICIES AND OBJECTIVES located at ARM page 24-683.2.

AUTH: 2-4-103, MCA

IMP: 2-4-103, MCA

REASON: All state agencies are required to comply with the public participation provisions of the Montana Administrative Procedure Act. The public is always invited and encouraged to participate in the rulemaking process and departmental meetings of significant public interest. Therefore, the department determined this rule is unnecessary and is proposing its repeal.

24.11.2231 BENEFIT OVERPAYMENTS--CREDITING EMPLOYER ACCOUNTS located at ARM page 24-724.

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

IMP: 39-51-1110, MCA

REASON: The department determined this rule is unnecessary and redundant as it merely references the general rule regarding the crediting of employer accounts.

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: Rachel Bawden, P.O. Box 8020, Helena, MT 59604-8020; telephone (406) 444-2582; fax (406) 444-2993; Montana Relay Service at 711; or e-mail rbawden@mt.gov., and must be received no later than 5:00 p.m., May 15, 2015.

7. David Scrimm, Department of Labor and Industry, 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, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/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 April 6, 2015.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.21.1003 pertaining to ) PROPOSED AMENDMENT  
apprenticeship training ratios )

TO: All Concerned Persons

1. On May 11, 2015, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the auditorium of the DPHHS Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The 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 department no later than 5:00 p.m., on May 6, 2015, to advise us of the nature of the accommodation that you need. Please contact the Workforce Services Division, Department of Labor and Industry, Attn: Darrell Holzer, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-3556; fax (406) 444-3037; Relay Service for persons needing TTY or voice assistance, 711; or e-mail dholzer@mt.gov.

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

24.21.1003 APPRENTICE-TO-JOURNEYMAN RATIO

(1) through (3) remain the same.

(4) In order to prevent abuse of the apprentice-to-journeyman ratio, the department will monitor the progress toward completion of all apprentices who have reached the 60 percent completion criteria provided for in (2).

(a) An apprentice that does not, without good cause, maintain significant progress towards completion of the apprenticeship will be suspended from the apprenticeship program. Not maintaining significant progress, for the purpose of this rule, means that the apprentice's number of hours of related instruction and number of hours of experience are less than 90 percent of the number of hours provided for in the apprenticeship standards, relative to the amount of time the apprentice has been working. An apprentice that is notified by the department of insufficient progress has 60 days in which to catch up to the number of hours of related instruction and work experience before being suspended.

(b) An apprenticeship sponsor who fails, without good cause, to have at least a 60 percent rate of apprentices that timely complete the apprenticeship will be subject to restrictions on the sponsor indenturing new apprentices, and may be subject to deregistration as an apprenticeship sponsor.

(c) As a general practice, the apprentice-to-journeyman ratio may not ordinarily be more than one apprentice to one journeyman, notwithstanding the provisions of (2). A ratio of more than one-to-one may be allowed in the special

case of a shop with a single working master with no journeyman employees, or in the event of a separation from employment by a journeyman employee that temporarily creates a more than one-to-one ratio.

(d) An apprentice who is aggrieved by a suspension, or a sponsor who is aggrieved by a restriction or deregistration may request in writing a contested case within 30 days of the department's action of suspension, restriction, or deregistration.

AUTH: 39-6-101, MCA

IMP: 39-6-102, 39-6-106, MCA

STATEMENT OF REASONABLE NECESSITY: There is reasonable necessity to amend ARM 24.21.1003, in response to comments made as a result of the proposals made in MAR Notice No. 24-21-301. The Notice of Amendment for MAR Notice No. 24-21-301 is published on page 374 of this issue of the Montana Administrative Register. That notice identifies comments made regarding ARM 24.21.1003, and the department's response to those comments. As part of the responses, the department has drafted and is now proposing the above amendments to address the concerns of various commenters.

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: Darrell Holzer, Apprenticeship Program, Workforce Services Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728; by facsimile to (406) 444-3037; or by e-mail to [dholzer@mt.gov](mailto:dholzer@mt.gov), and must be received no later than 5:00 p.m., May 18, 2015.

5. An electronic copy of this notice of public hearing is available through the department's web site at <http://dli.mt.gov>, under the events section, as well as the Secretary of State's web site. The department strives to make the electronic copy of this notice of public hearing 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 a person's difficulties in sending an e-mail do not excuse late submission of comments.

6. 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, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1327 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-

mailed to [mcadwallader@mt.gov](mailto:mcadwallader@mt.gov), or may be 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. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice do not have a significant and direct impact upon small businesses.

9. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER

Mark Cadwallader  
Alternate Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 6, 2015

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) CORRECTED NOTICE OF  
RULES I through VIII pertaining to ) ADOPTION  
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. On October 9, 2014, the department published the notice of adoption at page 2446 of the 2014 Montana Administrative Register, Issue No. 19.

2. The department misnumbered sections (3) and (4) of ARM 2.59.1201 by incorrectly numbering two sections as (3). The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.59.1201 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (3) remain as adopted.

~~(4)~~(3) For renewal, companies, branches, and individuals must go to the NMLS home page (<http://mortgage.nationwidelicensingsystem.org>) and select the "Annual Renewal" link under the State Licensing tab and follow the instructions.

~~(5)~~(4) Copies of the NMLS forms are available on the department's web site [www.banking.mt.gov](http://www.banking.mt.gov) for review and informational purposes only. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

3. The rule as shown in its corrected form was submitted to the Secretary of State for publication with the March 31, 2015 replacement pages.

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 April 6, 2015.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) CORRECTED NOTICE OF  
RULES I through VIII pertaining to ) ADOPTION  
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. On October 9, 2014, the department published the notice of adoption at page 2447 of the 2014 Montana Administrative Register, Issue No. 19.

2. The department misnumbered sections (3) and (4) of ARM 2.59.310 by incorrectly numbering two sections as (3). The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.59.310 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (3) remain as adopted.

~~(4)~~(3) For renewal, companies, branches, and individuals must go to the NMLS home page (<http://mortgage.nationwidelicensingsystem.org>) and select the "Annual Renewal" link under the State Licensing tab and follow the instructions.

~~(5)~~(4) Copies of the NMLS forms are available on the department's web site [www.banking.mt.gov](http://www.banking.mt.gov) for review and informational purposes only. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

3. The rule as shown in its corrected form was submitted to the Secretary of State for publication with the March 31, 2015 replacement pages.

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 April 6, 2015.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) CORRECTED NOTICE OF  
RULES I through VIII pertaining to ) ADOPTION  
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. On October 9, 2014, the department published the notice of adoption at page 2448 of the 2014 Montana Administrative Register, Issue No. 19.

2. The department misnumbered sections (3) and (4) of ARM 2.59.705 by incorrectly numbering two sections as (3). The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.59.705 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (3) remain as adopted

~~(4)~~(3) For renewal, companies, branches, and individuals must go to the NMLS home page (<http://mortgage.nationwidelicensingsystem.org>) and select the "Annual Renewal" link under the State Licensing tab and follow the instructions.

~~(5)~~(4) Copies of the NMLS forms are available on the department's web site [www.banking.mt.gov](http://www.banking.mt.gov) for review and informational purposes only. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

3. The rule as shown in its corrected form was submitted to the Secretary of State for publication with the March 31, 2015 replacement pages.

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 April 6, 2015.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) CORRECTED NOTICE OF  
RULES I through VII pertaining to ) ADOPTION  
requiring deferred deposit loan )  
applicants to use the Nationwide )  
Multistate Licensing 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. On October 9, 2014, the department published the notice of adoption at page 2449 of the 2014 Montana Administrative Register, Issue No. 19.

2. The department misnumbered sections (3) and (4) of ARM 2.59.1515 by incorrectly numbering two sections as (3). The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.59.1515 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (3) remain as adopted.

~~(4)~~(3) For renewal, companies, branches, and individuals must go to the NMLS home page (<http://mortgage.nationwidelicensingsystem.org>) and select the "Annual Renewal" link under the State Licensing tab and follow the instructions.

~~(5)~~(4) Copies of the NMLS forms are available on the department's web site [www.banking.mt.gov](http://www.banking.mt.gov) for review and informational purposes only. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

3. The rule as shown in its corrected form was submitted to the Secretary of State for publication with the March 31, 2015 replacement pages.

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 April 6, 2015.



BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT AND
17.8.101, 17.8.103, 17.8.201, 17.8.202, )	REPEAL
17.8.204, and 17.8.230 pertaining to )	
definitions, incorporation by reference )	(AIR QUALITY)
and availability of referenced )	
documents, definitions, incorporation by )	
reference, ambient air monitoring, and )	
fluoride in forage and the repeal of ARM )	
17.8.206 pertaining to methods and data )	

TO: All Concerned Persons

1. On December 24, 2014, the Board of Environmental Review published MAR Notice No. 17-367 regarding a notice of public hearing on the proposed amendment and repeal of the above-stated rules at page 3031, 2014 Montana Administrative Register, Issue Number 24.

2. The board has amended ARM 17.8.101, 17.8.103, 17.8.201, and 17.8.230 and repealed ARM 17.8.206 exactly as proposed and has amended ARM 17.8.202 and 17.8.204 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

17.8.202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) remains as proposed.

~~(b) EPA Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD), EPA-450/4-87-007 (May 1987);~~

(c) through (e) remain as proposed, but are renumbered (b) through (d).

(2) through (4) remain as proposed.

17.8.204 AMBIENT AIR MONITORING (1) through (1)(d) remain as proposed.

(2) Any entity performing ambient air monitoring within the state of Montana for a purpose listed in (1) shall perform it according to a Quality Assurance Project Plan (QAPP) prepared to satisfy the applicable requirements of 40 CFR Parts 50, 53, and 58, ~~and, if~~ if the ambient air monitoring is to be performed to comply with subchapter 8 of this chapter, an entity shall also consider the EPA Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD), which are adopted by reference in ARM 17.8.202 EPA-450/4-87-007 (May 1987).

(3) through (3)(b) remain as proposed.

(4) The department shall notify the entity in writing of approval, conditional approval, or disapproval within 60 days after receiving a project-specific QAPP required by (3)(b). If the department receives additional information in response to a notice of conditional approval or disapproval, the 60-day review period begins again.

(4) remains as proposed, but is renumbered (5).

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

COMMENT NO. 1: Commenter discussed the history of conducting ambient air monitoring in the Billings/Laurel area and reiterated comments previously submitted to the department on the department's 2013 Quality Assurance Project Plan (QAPP), incorporated by reference in this rulemaking, as it related to area designations for the 2010 revised National Ambient Air Quality Standards for sulfur dioxide (SO<sub>2</sub>). In the previously submitted comments on the 2013 QAPP, the commenter discussed the desire that the department use a more rigorous quality assurance/quality control (QA/QC) program than the minimum national standard used by the federal government. However, in the comments submitted on the subject rulemaking, the commenter stated that the commenter understood the decision to maintain the use of the national standard.

RESPONSE: Through this rulemaking, the board is proposing to establish a set of nationally applied, scientifically based QA/QC requirements as the minimum standard for all regulatory ambient air monitoring performed in the state of Montana. The board's adherence to the Environmental Protection Agency's (EPA's) national standard will promote consistency and eliminate bias and subjectivity. Data collected consistent with this standard have been upheld by the department and by the EPA regional office and national headquarters. Therefore, no changes are being made to the rule in response to this comment.

COMMENT NO. 2: Commenter noted that the board's reference, in the explanation of proposed amendments to ARM 17.8.103(1), to documents being incorporated by reference in ARM Title 17, chapter 8, subchapter 1, was inaccurate. In the discussion of the reason for the amendments to ARM 17.8.103, the board referred to the incorporation by reference of 40 CFR Part 58 in ARM Title 17, chapter 8, subchapter 1. That particular regulation is not incorporated by reference in subchapter 1, but is incorporated in subchapter 2. The commenter suggested that the board might have meant to refer instead to subchapter 2 and asked for clarification.

RESPONSE: The reference to subchapter 1 was indeed a mistake and the board intended to refer instead to the incorporation by reference in ARM 17.8.202. Because the text of the proposed rule was correct, no change to the rule is necessary.

COMMENT NO. 3: Commenter stated that the proposed language in ARM 17.8.202(1)(a) is unclear and asked for clarification of whether the phrase "pertain only to the department's monitoring program" applies to the department's QAPP as a whole or only to the "transmittal requirements."

RESPONSE: The phrase in question applies to all of the requirements listed, including "ambient air sampling and data collection, recording, analysis, and transmittal requirements," and limits the application of those requirements to

monitoring conducted by the department. The board believes that no change to the rule is necessary.

COMMENT NO. 4: Commenter expressed concern that incorporation by reference of the "EPA Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD)" in ARM 17.8.202(1)(b) will convert those Guidelines from guidance to rule, which is not appropriate.

RESPONSE: The board agrees with the commenter's concern that the PSD Guidelines were not intended to be mandatory. The board has not adopted the Guidelines through incorporation by reference in ARM 17.8.202. In response to this comment, the board has amended ARM 17.8.204(2), as shown above, to require an entity performing monitoring to comply with PSD requirements to consider the Guidelines; the use of the guidelines would not be mandatory.

COMMENT NO. 5: Commenter expressed concern that the incorporation by reference of the PSD Guidelines in ARM 17.8.202(1)(b) will require all ambient air monitoring, not just PSD monitoring, to comply with the PSD Guidelines. The commenter asked for clarification of the board's intent in this regard.

RESPONSE: As described in the Response to Comment No. 4, the board has not adopted the PSD Guidelines in ARM 17.8.202. The board has adopted wording for ARM 17.8.204(2) that makes it clear that only an entity performing ambient air monitoring to comply with PSD requirements is required to consider the PSD Guidelines.

COMMENT NO. 6: Commenter noted that the proposed amendments require that the department approve a QAPP before monitoring may begin, but the rule does not provide a timeline by which approval or disapproval must occur. The commenter stated that quick turnaround of a QAPP document is critical to project development and noted that the department has historically responded to such submittals in a timely fashion. The commenter suggested adding language to ARM 17.8.204(3)(b) requiring the department to approve, conditionally approve, or disapprove a QAPP within 15 days of its submittal.

RESPONSE: The board recognizes that the department has historically acted in good faith and in a timely manner and sees no reason why such behavior should not continue into the future. In the past, the department has worked with entities to review QAPP documents as expeditiously as possible to meet project timelines. This has often included significant coordination and discussion in advance of an entity submitting a document for approval. In light of the comment, the board agrees that a reasonable time limit would provide needed definition for those entities attempting to establish project planning timelines in the efficient conduct of their business. The board notes that time limits are applied to the submission and review of various required information and that the approval of a QAPP document should be treated in a similar manner. However, the 15-day limit suggested by the commenter would be impracticable given the length and complexity of such documents and the lack of any requirement that an entity confer with the department about its contents in advance of submittal. The board believes

a 60-day review period is reasonable. The board has amended ARM 17.8.204, as shown above, in response to this comment.

COMMENT NO. 7: Commenter supports the board's efforts to amend the ambient air monitoring quality assurance rules and believes the proposed rules provide a clear template for nondepartmental quality assurance requirements.

RESPONSE: The board acknowledges the 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, April 6, 2015.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.21.415 and 24.21.1003, )  
pertaining to apprenticeship training )  
ratios )

TO: All Concerned Persons

1. On December 11, 2014, the Department of Labor and Industry (department) published MAR Notice No. 24-21-301 regarding a public hearing on the proposed amendment of the above-stated rules at page 2920 of the 2014 Montana Administrative Register, Issue No. 23.

2. On January 5, 2015, at 10:00 a.m., the department held a public hearing in the auditorium of the DPHHS Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules. Various members of the public attended and commented on the proposed amendments. In addition, members of the public submitted written comments.

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

Comment 1: Several commenters expressed support for the proposed rule amendments exactly as the amendments were drafted and proposed. Those commenters that expressed a reason for support generally stated that employers were having trouble finding enough apprentices to compensate for the aging of the workforce, and that the changes were needed to grow the business of small electrical contractors.

Response 1: The department acknowledges the comments.

Comment 2: A large number of commenters stated support for the proposed amendment of ARM 24.21.1003(2), but only if the rule was amended with the addition of text that stated "However, at no time shall the [s]ponsor's total apprentice to journeyman ratio exceed one apprentice (1) to one (1) journeyman." The reason generally given in support of the additional language requested was "to protect public safety," in the context of electrical work. All of the comments making the request were offered specifically in the context of electrical work and apprentice electricians.

Response 2: The department notes that none of the commenters provided any evidence in support of the claims that proposed amendments to ARM 24.21.1003 would lessen public safety with respect to electrical work performed by apprentices.

The department also notes as a technical matter, the provisions of ARM 24.21.1003 do not in and of themselves allow for more than one apprentice to be supervised by one journeyman worker. The department recognizes, however, that the interaction of the proposed amendments to ARM 24.21.415 and ARM 24.21.1003 have led to a concern that too many apprentices could be working for a given employer.

All apprenticeship standards require a progression of an apprentice towards completion of the apprenticeship. Those standards require that an apprentice not only progress via the number of hours employed in the field, but also in required "related instruction" (classroom training). The department may not grant a ratio waiver under ARM 24.21.415 unless the employer demonstrates that its apprentices are successfully progressing towards completion of the apprenticeship program. The department will not allow ratio waivers for employers whose apprentices have "stalled out" and failed to complete the apprenticeship requirements within a reasonable amount of time. In addition, the department notes that an apprenticeship sponsor that does not have an adequate completion rate for its apprentices risks decertification of its status as an apprenticeship sponsor. The department intends to closely monitor sponsors with respect to completion rates, to take appropriate action to decertify those employers whose completion rates indicate abuse of apprentices and apprenticeship programs, and to enforce the standards each sponsor has agreed to. Accordingly, the department concludes that the proposed amendments will not lead to employers having too many apprentices who "stall out" and fail to complete the apprenticeship program.

In order to address the concerns of the commenters, the department is proposing additional amendments to ARM 24.21.1003. The full text of the additional amendments are contained in MAR Notice No. 24-21-302, which is found on page 363 of this issue of the Montana Administrative Register.

4. The department has amended ARM 24.21.415 and 24.21.1003 as proposed.

/s/ MARK CADWALLADER

Mark Cadwallader  
Alternate Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 6, 2015

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 32.2.401, 32.2.404, and )  
32.2.405 pertaining to department )  
fees )

TO: All Concerned Persons

1. On February 26, 2015, the Department of Livestock published MAR Notice No. 32-15-263 regarding the proposed amendment of the above-stated rules at page 216 of the 2015 Montana Administrative Register, Issue Number 4.

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

Certified to the Secretary of State April 6, 2015.

## **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 December 31, 2014. This table includes those rules adopted during the period January 1, 2015, through March 31, 2015, 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 December 31, 2014, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2014/2015 Montana Administrative Register.

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