

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

LABOR AND INDUSTRY, Department of, Title 24

24-13-313 Notice of Public Hearing on Proposed Adoption - Workforce Development Activities for Montana HELP Act Participants. 105-109

24-201-49 (Board of Public Accountants) Notice of Public Hearing on Proposed Amendment, Adoption, and Repeal - Definitions - Fee Schedule - Use of CPA/LPA Designation - Licensing and Examinations - Professional Conduct Rules - Mandatory Peer Review - Renewal and Continuing Education - Complaint Procedures - Firms-Registration - Approved Peer Review Programs and Standards - Fee Abatement - Out-of-State Applicants Continuing Education Requirement. 110-134

LIVESTOCK, Department of, Title 32

32-16-271 Notice of Proposed Amendment - Food Safety and Inspection Service (Meat, Poultry). No Public Hearing Contemplated. 135-137

RULE ADOPTION SECTION

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-445 Corrected Notice of Amendment - Game Damage Hunts. 138

CORRECTIONS, Department of, Title 20

20-25-57 (Board of Pardons and Parole) Notice of Amendment - Parole and Executive Clemency. 139

LABOR AND INDUSTRY, Department of, Title 24

24-17-310 Corrected Notice of Amendment and Repeal - Prevailing Wage Rates for Public Works Projects. 140-143

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-726 Notice of Adoption and Amendment - Adding a Forensic Mental Health Facility Endorsement to a Licensed Mental Health Center. 144-150

37-728 Notice of Amendment - Effective Dates of Montana Medicaid Provider Fee Schedules. 151-152

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee. 153-154

How to Use ARM and MAR. 155

Accumulative Table. 156-166

Boards and Councils Appointees. 167-168

Vacancies on Boards and Councils. 169-177

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

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULES I through III, related to ) PROPOSED ADOPTION  
workforce development activities for )  
Montana HELP Act participants )

TO: All Concerned Persons

1. On February 12, 2016, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the basement auditorium of the Sanders Building (DPHHS building), 111 North Sanders Street, Helena, Montana, to consider the proposed adoption 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 no later than 5:00 p.m., on February 8, 2016, to advise us of the nature of the accommodation that you need. Please contact the Department of Labor and Industry, Attn: Tanner Woodward, Workforce Services Division, P.O. Box 1728, Helena, MT 59626-1728; telephone (406) 444-1620; fax (406) 444-3037; Montana TTD (406) 444-5549; or e-mail TWoodward@mt.gov.

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

NEW RULE I DEFINITIONS For the purposes of [this chapter], the following definitions apply:

- (1) "Active participant" means a HELP Act participant that has obtained a reportable service within 90 days.
- (2) "DLI" means the Department of Labor and Industry provided for in 2-15-1701, MCA.
- (3) "DPHHS" means the Department of Public Health and Human Services provided for in 2-15-2201, MCA.
- (4) "HELP Act" means the provisions of Title 39, chapter 12, MCA, and Title 53, chapter 6, part 13, MCA.
- (5) "Job Service office" means any of the various employment offices around the state that are operated by DLI, which are open to the public for the purpose of facilitating the exchange of labor between job seekers and job offerors.
- (6) "Services and assistance" means help from activities, whether delivered in person at a Job Service office or remotely, related to the participant making use of the workforce development program, and in finding suitable employment.
- (7) "WIOA" means the federal Workforce Innovation and Opportunity Act, 29 USC 3101, et. seq.
- (8) "Workforce development program" means the full range of assistance and services provided by Job Service offices to job seekers, potential job seekers, and

participants in order to allow the individual to obtain long-term, meaningful employment that improves the individual's quality of life.

AUTH: 39-12-107, 53-5-1318, MCA

IMP: 39-12-101, 39-12-103, MCA

NEW RULE II WORKFORCE DEVELOPMENT ACTIVITIES FOR HELP ACT PARTICIPANTS (1) DLI delivers HELP Act services and assistance to participants through its Job Service offices.

(a) The types of services and assistance available to participants generally fall in to one of the following four categories:

- (i) job search services;
- (ii) workforce information services;
- (iii) career guidance services; and
- (iv) intensive services.

(b) Participants may also be eligible for referral to WIOA partners and qualified training providers.

(2) A participant's initial reportable service must consist of an assessment, performed by a Job Service employee. An assessment is a formal evaluation of the participant's:

(a) occupational talents, skills, and potential for increasing economic self-sufficiency; and

(b) probable barriers to employment.

(3) After having obtained an assessment, in order to remain an active participant, the individual must access a reportable service, as defined in NEW RULE III, at least once every 90 days.

(4) An active participant enrolled in an approved educational or training program is considered to remain active as long as the individual continues to remain enrolled and actively participating in the educational or training program.

(5) DLI shall promptly report to DPHHS whenever:

(a) a participant becomes an active participant; or

(b) an active participant loses that status due to that individual's failure to obtain any reportable service for more than 90 days.

(6) An individual who has lost the status of being an active participant may regain the active participant status by obtaining an assessment as provided in (2).

AUTH: 39-12-107, 53-5-1318, MCA

IMP: 39-12-101, 39-12-103, MCA

NEW RULE III REPORTABLE SERVICES (1) The reportable services for job search purposes are:

(a) obtaining resume assistance from a Job Service office;

(b) obtaining cover letter assistance from a Job Service office;

(c) receiving interview tips and guidance from a Job Service office;

(d) receiving application instruction and guidance, including how to use the ATS (Applicant Tracking Systems) from a Job Service office;

- (e) obtaining assistance with job matching in Seeker Profile or jobs.mt.gov from a Job Service office;
  - (f) obtaining a job development – employer contact from a Job Service office; and
  - (g) attending a Job Seeker Workshop conducted or approved by a Job Service office.
- (2) The reportable services for workforce information purposes are:
- (a) studying labor force supply and demand information from a Job Service office or Job Service web site;
  - (b) studying short and long term industry and occupational projection information from a Job Service office or Job Service web site; or
  - (c) identifying applicable jobs with high growth and high demand using information from a Job Service office or Job Service web site.
- (3) The reportable services for career guidance purposes are:
- (a) completing a Montana Career Information System Assessment/Profile from a Job Service web site;
  - (b) obtaining a personalized employment plan from a Job Service office or Job Service web site; or
  - (c) obtaining career testing from a Job Service office or Job Service web site, including testing or interpretation using any of the following programs:
    - (i) Provelt;
    - (ii) CAPS/COPES/COPS;
    - (iii) Career Scope (replaces CAPS, COPES, COPS for veterans);
    - (iv) TABE;
    - (v) CareerOneStop.org;
    - (vi) MyNextMove;
    - (vii) interest profiler – ONET;
    - (viii) Career Assessment Inventory; or
    - (ix) Career Interest Inventory (JIST Pub).
- (4) The reportable services for intensive services purposes are:
- (a) obtaining a comprehensive assessment and description of skill level from a Job Service office; or
  - (b) obtaining a specialized assessment and description of skill level from a Job Service office.

AUTH: 39-12-107, 53-5-1318, MCA

IMP: 39-12-101, 39-12-103, MCA

Reasonable necessity: There is reasonable necessity to adopt NEW RULES I through III in order to implement portions of the Montana HELP Act, enacted as Chap. 365, Laws of 2015. On or about November 2, 2015, the waivers required for the Montana HELP Act to become effective were issued. The Montana HELP Act programs began enrolling program participants for coverage to be effective January 1, 2016. In order for program participants to engage in the Montana workforce development program, the Department of Labor and Industry has concluded that it is necessary to adopt rules so that program participants know what is required to be considered an "active participant" in the workforce development program.

The services identified as "reportable services" are all services currently provided by Montana Job Service offices to its customers. The Department of Labor and Industry already has existing computer software and systems to track a person's activities and participation in Job Service programs, including when that individual received reportable services. Job Service offices currently track reportable services furnished to individuals, in fulfillment of operational funding requirements under the federal Wagner-Peyser Act. The Department of Labor and Industry has concluded that it is an efficient use of resources to use existing programs and services to fulfill the workforce development provisions of the Montana HELP Act.

In addition, Montana HELP Act program participants are typically eligible to receive services under the federal Workforce Innovation and Opportunity Act, 29 USC 3101, et. seq. (WIOA). The Department of Labor and Industry has concluded that it is reasonable and efficient to leverage federal funding available under WIOA to assist Montana HELP Act participants in obtaining education, training, and job placement assistance so that program participants can fulfill a purpose of the Montana HELP Act, namely to improve the earning capacity, economic stability, and self-sufficiency of program participants. The rules are designed to harmonize the entry of program participants into WIOA services.

The Department of Labor and Industry concludes that there is reasonable necessity to adopt the Job Service's existing 90-day program participation guidelines under the Wagner-Peyser Act and to use the existing list of reportable services as a tracking method, in order to implement the Montana HELP Act in a cost-efficient manner.

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: Tanner Woodward, Workforce Services Division, P.O. Box 1728, Helena, MT 59624-1728; fax (406) 444-3037; or e-mail TWoodward@mt.gov, and must be received no later than 5:00 p.m., on February 19, 2016.

5. 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, 1315 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

6. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been complied with. The primary bill sponsor was initially contacted by e-mail on September 29, 2015.

7. Pursuant to 2-4-111, MCA, the department has determined that NEW RULES I through III proposed in this notice do not have a significant and direct impact upon small businesses.

8. The department intends to adopt NEW RULES I through III to be effective March 19, 2016, and to be applicable to Montana HELP Act participants enrolled effective on or after January 1, 2016. The department reserves the right to adopt some or all of the proposed new rules at a later date, or not at all.

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 January 11, 2016.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of )  
ARM 24.201.301 definitions, )  
24.201.410 fee schedule, 24.201.415 )  
use of cpa/lpa designation, )  
24.201.501, 24.201.502, 24.201.503, )  
24.201.504, 24.201.510, 24.201.517, )  
24.201.528, 24.201.529, 24.201.535, )  
and 24.201.537 licensing and )  
examinations, 24.201.704 through )  
24.201.710, 24.201.718, 24.201.720, )  
24.201.723, and 24.201.726 )  
professional conduct rules, )  
24.201.1103, 24.201.1105, and )  
24.201.1108 mandatory peer review, )  
24.201.2101, 24.201.2106, )  
24.201.2120, 24.201.2124, )  
24.201.2137, 24.201.2145, )  
24.201.2148, and 24.201.2154 )  
renewal and continuing education, )  
24.201.2402 and 24.201.2410 )  
complaint procedures, the adoption of )  
NEW RULES I firms – registration, )  
and II approved peer review )  
programs and standards, and the )  
repeal of 24.201.412 fee abatement, )  
24.201.701 definitions, and )  
24.201.2114 out-of-state applicants )  
continuing education requirement )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT,  
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On February 23, 2016, at 9:00 a.m., a public hearing will be held in the Large 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 Public Accountants (board) no later than 5:00 p.m., on February 12, 2016, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406)



841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdpac@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: The 2015 legislature enacted Chapter 169, Laws of 2015 (House Bill 44), creating a single license type for public accountants and eliminating the issuance of certificates, permits, and licenses for licensed public accountants (LPA). The bill was signed by the Governor on April 2, 2015 and became effective in July and October, 2015. As a result of the legislation, the board is no longer authorized to issue certificate only and LPA levels of licensing. The board is therefore amending certain rules and adopting new rules to further implement provisions of this 2015 legislation, including striking references to "permits" and "certificates" throughout the rules.

The board formed a task force to review the rules to implement the provisions of House Bill 44. While reviewing the rules, the task force determined other amendments, additions, and deletions to the rules were appropriate and recommended such rule changes to the board. In the interest of saving money, the board concluded it is reasonably necessary to amend and repeal certain existing rules, and adopt new rules at this time, in addition to those implementing House Bill 44. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following the rule.

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

24.201.301 DEFINITIONS (1) through (14) remain the same.

(15) "MRA" means Mutual Recognition Agreement.

(15) through (22) remain the same, but are renumbered (16) through (23).

~~(23) "Permit holder" means a person who meets the educational and the experience requirement and holds an active permit to practice public accounting issued by the board pursuant to 37-50-314, MCA.~~

(24) through (34) remain the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board is amending this rule to add a definition for a Mutual Recognition Agreement, as used by the board to determine which foreign licensees are qualified to obtain a Montana CPA license in an expedited process, and who may attest to experience for a CPA license applicant. The board currently uses these agreements, but is now clarifying the process with the amendments to this rule and ARM 24.201.529. The board office receives questions on the process for foreign licensees to obtain a Montana license and the board is attempting to seek clarification.

24.201.410 FEE SCHEDULE (1) remains the same.

(a) Permit License by credentialing application  
(transfer of grades and licensure)

~~\$300~~ 200

(b) <u>Permit License</u> by examination application	150
(c) <u>Permit License</u> by international reciprocity application	<del>300</del> <u>200</u>
<del>(d) Certificate by credentialing application</del>	
(transfer of grades and licensure)	<del>225</del>
<del>(e) Certificate by examination application</del>	<del>75</del>
<del>(f) Certificate by international reciprocity application</del>	<del>225</del>
<del>(g) (d) Renewal fee for certificate holder, license holder,</del>	
and inactive permit holder <u>licensee</u>	75
<del>(h) (e) Renewal fee for permit to practice licensee</del>	<del>150</del> <u>125</u>
<del>(f) Renewal fee for retired licensee</del>	<del>25</del>
(i) and (j) remain the same, but are renumbered (g) and (h).	
<del>(k) (i) Permit holder License</del> restored to active status	150
<del>(l) (i) Upgrade certificate/license certificate to license to permit holder</del>	150
(2) and (3) remain the same.	

AUTH: 37-1-134, ~~37-50-203~~, 37-50-204, MCA

IMP: 37-1-134, 37-1-141, 37-50-204, 37-50-209, ~~37-50-314~~, MCA

**REASON:** After assessing the time and cost of evaluating and approving a license applicant by various application methods, the board determined that all applications require the same amount of staff preparation and board scrutiny. The board notes that it is no longer more complicated, and therefore more costly, for transfers of grades or license applications for credentialing and reciprocity applicants. The board is therefore reducing these application fees at (1)(a) and (c) to ensure that fees are maintained to comply with 37-1-134, MCA, by providing the amount of money usually needed for the operation of board services.

The board is eliminating certificate only application fees at (1)(d)-(f) to implement HB 44. The board is reducing the active license renewal fee at new (1)(e) to address the board's cash reserves and comply with 37-1-134, MCA, to provide the amount of money usually needed for the operation of board services.

The board acknowledges the national discussion about how states are going to address the current wave of retirement age CPAs and the movement to allow some limited, uncompensated activity for retired CPAs. Montana currently has a retired CPA status, but it terminates after two years. The board is now establishing a renewable retired status and fee to allow retired practitioners to identify as CPAs retired beyond the two years currently allowed by statute. The new renewal fee at (1)(f) is a minimal fee and will allow retired licensees to maintain the status as long as renewal fees are paid.

The board estimates that the proposed fee changes will affect approximately 2,052 credentialing, reciprocity, and renewal applicants, and decrease annual revenue by approximately \$53,225.

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

24.201.415 USE OF CPA/LPA DESIGNATION (1) An individual whose principal place of business is in Montana, who is not otherwise in the practice of

public accounting, but providing financial or consulting services to the public, must have a ~~permit to practice~~ an active license if they hold themselves out to the public in any manner as a CPA or LPA.

(2) ~~Montana certificate or license holders~~ licensees working for nonpublic accounting employers shall not use their CPA or LPA designations when presenting reports to outside parties, unless they maintain a ~~permit to practice~~ an active license.

(3) remains the same.

(4) A person holding a certificate only does not have an active license and may not hold themselves out to the public as a CPA/LPA or use the CPA/LPA designation.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-301, 37-50-325, 37-50-335, MCA

REASON: With the elimination of certificate only licenses, the board determined it is reasonably necessary to add (4) and specify that a certificate only level of license does not equal a license to practice public accounting in Montana.

24.201.501 EDUCATION REQUIREMENTS TO SIT FOR EXAM ~~(1) An applicant who has examination scores for an examination administered prior to or in May 1996 have:~~

~~(a) graduated from a college or university accredited at the time of the applicant's graduation with:~~

~~(i) a baccalaureate degree, with a concentration in accounting, including 24 semester hours (36 quarter hours) of accounting, auditing, and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The other areas of business shall include no more than six semester hours (nine quarter hours) in one area; or~~

~~(ii) a baccalaureate degree, with a concentration other than accounting and five years of employment experience at a public accounting firm, or in industry or government in a responsible financial position; or~~

~~(iii) a baccalaureate degree, with a concentration other than accounting and related courses in other areas of business administration which the board considers to be an equivalent education, including 12 semester hours (18 quarter hours) of accounting, auditing, and tax courses, and nine semester hours (14 quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The nine semester hours (14 quarter hours) shall include no more than three semester hours (five quarter hours) in one area.~~

~~(2) An applicant who has examination scores for an examination administered in November 1996 or May 1997 must have:~~

~~(a) completed 24 semester hours (36 quarter hours) of accounting, auditing, and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The 18 semester hours (27 quarter hours) shall include no more than six semester hours (nine quarter hours) in one area; and~~

~~(b) graduated from a college or university then accredited to offer a baccalaureate degree subsequent to passing the exam.~~

~~(3) An applicant who has examination scores for an examination administered in November 1997 or thereafter:~~

(1) To qualify to sit for the Uniform CPA Exam as a Montana candidate the candidate must have:

(a) ~~must have~~ completed the following education from an accredited four-year institution at the time of applying to sit for the exam:

(i) remains the same.

(ii) at least 24 semester hours (36 quarter hours) in nonaccounting, general business courses. Examples of business courses include information systems, business law, finance, economics, marketing, ethics, organizational behavior, quantitative applications in business, and communication skills; ~~and.~~

(b) 120 semester hours of education from a college or university.

~~(iii) (2) Accreditation examinations or practical experience may not be used to fulfill any part of the academic requirement.~~

~~(4) (3) An accredited school is one that is accredited by the American Assembly of Association to Advance Collegiate Schools of Business - International, or one of the following regional accrediting agencies:~~

(a) through (f) remain the same.

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

~~(6) Applicants who did not sit for the exam as a Montana candidate must submit official transcripts for all domestic education to CPAES for evaluation in reference to Montana's education requirements.~~

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

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-302, ~~37-50-303~~, 37-50-305, MCA

REASON: The board is amending the title and content of this rule to add clarity. This rule specifies what the education requirements are to sit for the Uniform CPA Exam, but the caption and content was confusing for exam candidates. This amendment will clearly set forth the current requirements to qualify to sit for the exam and eliminate confusing language that set education requirements for prior exam administrations.

Implementation citations are being amended to delete reference to a repealed statute.

#### 24.201.502 ACCOUNTING AND AUDITING EXPERIENCE

REQUIREMENTS (1) ~~To be issued an initial permit to practice a license,~~ an applicant must provide evidence of acceptable accounting and auditing experience.

(2) remains the same.

(a) is attested to by a holder of a permit to practice that was current at the time of attestation, under the supervision or direction of a fully licensed individual from a professional accounting body with a MRA with NASBA and the AICPA, or for military experience evaluated by the board based on information provided by the applicant's commanding officer; and

(b) and (c) remain the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board recognizes that CPA applicants may obtain experience under different circumstances. The board recognizes foreign licensees from jurisdictions with a MRA to obtain a license in Montana, and is amending (2)(a) to enable these foreign licensees to attest to experience for a license applicant to qualify for a CPA license. The board has recently had a number of foreign applicants express difficulty in getting attestation on experience from a U.S. CPA.

24.201.503 APPLICANT BY EXAM FOR LICENSE (1) All applicants for a ~~certificate or permit to practice a license~~ must:

(a) and (b) remain the same.

(c) meet the education requirements of ARM 24.201.501; 37-50-305, MCA,

and:

(i) meet the education requirements of ARM 24.201.501;

(ii) meet the education waiver requirements of ARM 24.201.528; or

(iii) for applicants with exam dates prior to November 1997, meet the

following education requirements:

(A) An applicant who has examination scores for an examination administered prior to or in May 1996 must have graduated from a college or university accredited at the time of the applicant's graduation with:

(I) a baccalaureate degree, with a concentration in accounting, including 24 semester hours (36 quarter hours) of accounting, auditing, and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The other areas of business shall include no more than six semester hours (nine quarter hours) in one area; or

(II) a baccalaureate degree, with a concentration other than accounting and five years of employment experience at a public accounting firm, or in industry or government in a responsible financial position; or

(III) a baccalaureate degree, with a concentration other than accounting and related courses in other areas of business administration which the board considers to be an equivalent education, including 12 semester hours (18 quarter hours) of accounting, auditing, and tax courses, and nine semester hours (14 quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The nine semester hours (14 quarter hours) shall include no more than three semester hours (five quarter hours) in one area.

(B) An applicant who has examination scores for an examination administered in November 1996 or May 1997 must have graduated from a college or university then accredited to offer a baccalaureate degree subsequent to passing the exam, and completed 24 semester hours (36 quarter hours) of accounting, auditing, and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The 18 semester hours (27 quarter hours) shall include no more than six semester hours (nine quarter hours) in one area.

(d) pass the Uniform Certified Public Accountant exam in accordance with ARM 24.201.516 or 24.201.517; and

(e) pass the comprehensive professional ethics for CPAs course developed by the AICPA;

(f) meet the experience requirement of ARM 24.201.502; and

(g) provide a license verification if currently holding or have ever held a professional license in another state.

(2) Applicants for initial license who did not sit for the exam as a Montana candidate must submit official transcripts for all domestic education to CPAES for evaluation in reference to Montana education requirements.

~~(2)~~ (3) Incomplete applications for licensure ~~or certification~~ that are older than 12 months will be considered invalid and void. The applicant will be required to reapply and pay another fee.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-302, 37-50-305, MCA

REASON: The board determined it is reasonably necessary to clearly set forth the requirements for obtaining a Montana CPA license by consolidating all requirements in this single rule. The board is also amending the title, as license applicants found it confusing. All requirements for licensing are currently in rule or statute. These amendments will provide a clear roadmap for applicants to obtain licensure by addressing the varying education requirements in the past and describing those requirements based on examination dates.

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

24.201.504 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure ~~as a certificate holder or a permit holder.~~

(2) remains the same.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements ~~as a certificate holder or permit holder.~~ Satisfactory evidence may include:

(a) through (4) remain the same.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

24.201.510 CERTIFIED PUBLIC ACCOUNTANT EXAMINATION

(1) through (3) remain the same.

(4) In addition to all other supporting documents, all foreign ~~credentials~~ education must be accompanied by an evaluation by NASBA International Evaluation Services.

(5) through (8) remain the same.

AUTH: 37-1-131, 37-50-204, MCA

IMP: 37-1-131, 37-50-204, 37-50-302, ~~37-50-303~~, MCA

REASON: The board is amending (4) to clarify that foreign education must be evaluated. Use of the term "credentials" is confusing because foreign licensees have various designations, which do not count toward meeting the education requirements. Many foreign applicants try to have designation credentials evaluated to meet this requirement and the board is now clarifying that this is not allowed.

Implementation citations are being amended to delete reference to a repealed statute.

24.201.517 ACCEPTANCE OF EXAMINATION CREDITS (1) An applicant who has never held a ~~certificate~~ license as a certified public accountant in any jurisdiction must have passed the examination under circumstances comparable to those applicable to Montana applicants at the time of examination.

AUTH: 37-1-131, 37-50-203, ~~37-50-309~~, MCA  
IMP: 37-50-302, ~~37-50-303~~, 37-50-309, MCA

REASON: Authority and implementation citations are being amended to provide the complete sources of the board's rulemaking authority and delete reference to a repealed statute.

24.201.528 OUT-OF-STATE APPLICANTS LICENSEES SEEKING A MONTANA CERTIFICATE, LICENSE, OR PERMIT (1) The board may issue a ~~certificate, license, or permit to practice~~ to a ~~certificate holder, license holder, or permit holder~~ of a an active, current, and unencumbered unrestricted license, certificate, or permit to practice from another jurisdiction who meets the requirements established in ~~37-50-302 or 37-50-303, and 37-50-314, MCA, and~~ ARM 24.201.501 and 24.201.503.

(2) The board may waive the education requirements and issue a ~~certificate, license, or permit to practice~~ to a holder of a certificate, current, unrestricted license, or permit issued by another jurisdiction. The applicant must show they:

(a) passed the examination required for issuance of the ~~certificate, license, or permit~~ with grades that would have been passing grades at the time in this state;

(b) had four ~~years'~~ years of experience in the practice of public accountancy after passing the examination upon which the ~~certificate, license, or permit~~ was based, within the ten years immediately preceding the application;

(c) maintained a ~~certificate, license, or permit~~ for more than four years prior to the application for issuance of an ~~initial certificate, a~~ license, or permit in this state;

(d) and (e) remain the same.

(3) Incomplete applications for licensure ~~or certification~~ that are older than 12 months will be considered invalid and void. The applicant will be required to re-apply and pay another fee.

AUTH: 37-50-203, ~~37-50-309~~, MCA  
IMP: 37-1-304, ~~37-1-306~~, 37-50-203, 37-50-302, 37-50-309, ~~37-50-311, 37-50-312, 37-50-313, 37-50-314, 37-50-325~~, MCA

REASON: The board is amending this rule to implement HB 44 and clarify who is eligible to apply for a Montana license by out of state application. The board requires out of state applicants to hold active licenses in their original jurisdiction. The term "unencumbered" was not clear to out of state applicants, so the board is amending (1) to clarify that the out of state licenses must not have any restrictions in place due to disciplinary or administrative actions.

It is reasonably necessary to add the reference to ARM 24.201.503 to clarify that an applicant who holds a license in another state must meet the experience requirement. Although currently in place, the board notes that this requirement has been confusing for out of state applicants to determine.

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

24.201.529 FOREIGN-TRAINED APPLICANTS LICENSEES SEEKING A MONTANA CERTIFICATE, LICENSE, OR PERMIT (1) A foreign-trained licensed applicant must meet the requirements established under ARM 24.201.528 or the following requirements:

- (a) remains the same.
- (b) provide evidence that the foreign ~~and/or domestic~~ credentials are valid and in good standing at the time of application;
- (c) and (d) remain the same.
- (e) provide evidence of having met an equivalent experience requirement obtained under the supervision or direction of a chartered accountant, Instituto Mexicano de Contradores Publicos, Hong Kong Institute of Certified Public Accountants, or certified public accountant, ~~or licensed public accountant~~ permitted to practice in the original jurisdiction in order to be issued an initial ~~permit to practice license~~; and
- (f) meet the continuing professional education requirements established under ~~37-1-306, MCA~~ ARM 24.201.2106, in order to be issued an initial ~~permit to practice license~~.

AUTH: 37-1-131, 37-50-203, MCA

IMP: ~~37-1-306, 37-50-203, 37-50-311, 37-50-312, 37-50-314, MCA~~

REASON: The board is amending (1)(f) to reflect the amendment of 37-1-306, MCA, and reference the continuing education requirements in rule.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule and delete references to repealed statutes.

24.201.535 INACTIVE TO ACTIVE PERMIT LICENSE - RESTORATION

(1) A ~~permit holder~~ licensee may place the ~~permit to practice license~~ on inactive status by informing the board office, in writing, that an inactive status is desired. It is the sole responsibility of the inactive ~~permit holder~~ licensee to keep the board informed of current contact information during the period of time the ~~permit to practice license~~ remains on inactive status.



(2) A ~~permit holder~~ licensee may not use the title CPA, CPA (inactive), or practice public accounting in the state of Montana while the permit to practice license is on inactive status.

(3) An inactive ~~permit holder~~ licensee is required to renew on an annual basis.

(4) An inactive ~~permit~~ license may be restored to active status by applying for active status, paying the restoration fee, and providing documentation verifying compliance with the continuing education rules of the board under ARM 24.201.2106, within the three years immediately preceding the application for restoration to active status.

(5) Montana ~~permit holders~~ licensees who use their Montana ~~permit~~ license to avail themselves of practice privileges in other jurisdictions, may not place the Montana ~~permit to practice~~ license on inactive status while using the practice privilege.

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-319, 37-50-325, MCA

REASON: The board is amending (2) to clarify that inactive licensees cannot represent themselves to the public as holding a CPA license. This limitation is currently in force, but the board is amending the rule in response to many inquiries from inactive licensees.

24.201.537 RETIRED STATUS (1) A ~~certificate holder, license holder, or permit holder~~ licensee who is fully retired from active employment in the practice of public accounting may submit a retired status request to the board. Upon approval of the request, the individual will be ~~exempt from paying~~ required to pay an annual renewal fees and fee, but is exempt from CPE requirements. They may use the designation "CPA (Retired)" or "LPA (Retired)."

(2) An individual on retired status may apply for their ~~certificate, license, or permit to practice~~ to be restored to active status ~~within two years of the last time the certificate, license, or permit to practice was renewed~~ by complying with all current year renewal requirements, paying the restoration fee, and providing documentation of compliance with continuing education rules of the board under ARM 24.201.2106, within the three years immediately preceding the application for restoration to active status. A ~~retired certificate, license, or permit to practice that is not restored to active status within two years of the most recent renewal date automatically terminates.~~ Once a ~~certificate, license, or permit to practice~~ status has terminated, it may not be restored to active status and a new original license must be obtained through application, and all current licensing requirements must be met.

(3) Montana ~~permit holders~~ licensees who use their Montana ~~permit to practice~~ license to avail themselves of practice privileges in other jurisdictions may not place their Montana ~~permit to practice~~ license on retired status.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-1-141, 37-50-101, 37-50-325, MCA

REASON: The board acknowledges the national discussion about how states are going to address the current wave of retirement age CPAs and the movement to allow some limited, uncompensated activity for retired CPAs. Montana currently has a retired CPA status, but it terminates after two years. The board is now amending (1) to establish a renewable retired status and allow retired practitioners to identify as CPAs retired beyond the two years currently allowed by statute. The board is also setting a nominal renewal fee in ARM 24.201.410 for this extended status.

Currently, there is no road map in rule to restore a retired license to active status. The board is amending (2) to clearly set forth the requirements to restore a retired license to active status.

24.201.704 INDEPENDENCE (1) Independence, where required by professional standards, is essential to establishing and maintaining the public's faith and confidence in, and reliance on, the information reported on by the ~~permit holder~~ licensee or practice privilege holder. A ~~permit holder~~ licensee or practice privilege holder in the practice of public accounting shall be independent in fact and appearance when engaged to provide services where independence is required by professional standards.

(a) Independence in fact is the state of mind that permits a ~~permit holder~~ licensee or practice privilege holder to perform an attest service without being affected by influences that compromise professional judgment, thereby allowing the ~~permit holder~~ licensee or practice privilege holder to act with integrity and exercise objectivity and professional skepticism.

(b) Independence in appearance is the avoidance of circumstances that would cause a reasonable and informed third-party, having knowledge of all relevant information, to reasonably conclude that the integrity, objectivity, or professional skepticism of the ~~permit holder~~ licensee or practice privilege holder had been compromised.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.705 INTEGRITY AND OBJECTIVITY (1) Integrity is a character trait demonstrated by acting honestly, candidly, and not knowingly misrepresenting facts, accommodating deceit, or subordinating ethical principles. Acting with integrity is essential to maintaining credibility and public trust. It incorporates both the spirit and substance in the application of the ethical and technical standards that govern the profession, or in the absence thereof, what is just and right. A ~~permit holder~~ licensee or practice privilege holder shall act with integrity in the performance of all professional activities in whatever capacity performed.

(2) Objectivity is a distinguishing feature of the accounting profession and is critical to maintaining the public's trust and confidence. It is a state of mind that imposes the obligation to be impartial and free of bias that may result from conflicts of interest or subordination of judgment. Objectivity requires a ~~permit holder~~ licensee or practice privilege holder to exercise an appropriate level of professional skepticism in carrying out all professional activities. Although a ~~permit holder~~ licensee or practice privilege holder may serve multiple interests in many different

capacities, objectivity must be maintained. A ~~permit holder~~ licensee or practice privilege holder shall make a careful assessment of the effects on objectivity of all professional relationships and activities. A ~~permit holder~~ licensee or practice privilege holder shall maintain objectivity in the performance of all professional activities in whatever capacity performed.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.706 COMPETENCE (1) A firm, ~~permit holder~~ licensee, or practice privilege holder shall not undertake any engagement for the performance of professional services, unless the following general standards are met:

(a) a firm, ~~permit holder~~ licensee, or practice privilege holder shall undertake only those engagements which the firm, ~~permit holder~~, or practice privilege holder can reasonably expect to complete with professional competence, including compliance where applicable, with ARM 24.201.718;

(b) a firm, ~~permit holder~~ licensee, or practice privilege holder shall adequately plan and supervise an engagement; and

(c) a firm, ~~permit holder~~ licensee, or practice privilege holder shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.707 DISCREDITABLE ACTS (1) A firm, ~~permit holder~~ licensee, or practice privilege holder shall not commit any act discreditable to the profession. A discreditable act will be considered to have occurred if, for example a firm, licensee, or practice privilege holder:

~~(a) a firm, permit holder, or practice privilege holder retains any records rightfully belonging to the client in order to enforce payment of fees; or~~

~~(b) a practice unit fails to comply with conditions imposed by the peer review program as a result of a "pass with deficiencies" or "failed" peer review classification.~~

(b) has a final determination made by a court or administrative agency of competent jurisdiction and is no longer subject to appeal, that a violation of any antidiscrimination laws of the U.S., a state or municipality, including those related to sexual and other forms of harassment;

(c) solicits or knowingly discloses the Uniform CPA Examination questions or answers without AICPA's written authorization;

(d) fails to comply with applicable federal, state, or local laws or regulations regarding the timely filing of a personal tax return or tax return of the firm that the licensee has the authority to timely file;

(e) fails to timely remit all payroll and other taxes collected on behalf of others;

(f) makes, or permits or directs another to make materially false and misleading entries in financial statements or records;

(g) fails to correct an entity's financial statements that are materially false and misleading when the licensee has the authority to record an entry;

(h) signs, or permits or directs another to sign a document containing false and misleading information;

(i) departs from acceptable standards, unless disclosure in the financial statement or report, as applicable, that such standards were not followed and the applicable reasons;

(j) enters into or directs or knowingly permits another to enter into a contract for performance of attest services that are subject to the requirements of regulatory entities that includes indemnification or limitation of liability provisions that would cause the regulated entity to be in violation of such requirements or disqualify a licensee from providing such services to the regulated entity;

(k) whose employment relationship is terminated, retains originals or copies from the firm's clients, or proprietary information, without the firm's permission, unless a contractual arrangement with the firm allows such action; or

(l) discloses confidential information obtained from a prospective client or nonclient without consent.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend the list of discreditable acts to more closely reflect the Uniform Accountancy Act (UAA) and the AICPA Code of Conduct. Discreditable acts are those that a licensee might perform as a professional that would dishonor the profession. This more complete list informs licensees of what the board has determined to be unacceptable, discreditable acts.

The board is relocating (1)(b) to ARM 24.201.2410 as a more appropriate location.

24.201.708 DUE PROFESSIONAL CARE (1) Due care imposes upon the ~~permit holder licensee~~ or practice privilege holder the obligation to perform professional activities with concern for the best interest of those for whom the activities are performed and consistent with the profession's responsibility to the public. It is essential to preserving the public's trust and confidence. Due care requires the ~~permit holder licensee~~ or practice privilege holder to discharge professional responsibilities with reasonable care and diligence and to adequately plan and supervise all professional activities for which the ~~permit holder licensee~~ or practice privilege holder is responsible. A ~~permit holder licensee~~ or practice privilege holder shall act with due care in the performance of all professional activities in whatever capacity performed.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.709 COMMISSIONS (1) A firm, ~~permit holder licensee~~, or practice privilege holder shall not pay a commission to obtain a client, nor accept a

commission for referring the products or services of others to a client. This prohibition applies during the period in which the firm, ~~permit holder~~ licensee, or practice privilege holder is engaged to perform any services requiring independence and the period covered by those services.

(2) A firm, ~~permit holder~~ licensee, or practice privilege holder who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact in writing to any person or entity to whom the firm, ~~permit holder~~ licensee, or practice privilege holder recommends or refers a product or service to which the commission relates. Written acknowledgment of such disclosure shall be obtained.

(3) Any firm, ~~permit holder~~ licensee, or practice privilege holder who accepts a referral fee for recommending or referring any service of a firm or ~~permit holder~~ licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment in writing to the client and obtain written acknowledgment of such disclosure.

(4) remains the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.710 CONTINGENT FEES (1) A firm, ~~permit holder~~ licensee, or practice privilege holder shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services, when the firm, ~~permit holder~~ licensee, or practice privilege holder also performs for that client any services for which professional standards require independence. This prohibition applies during the period in which the firm, ~~permit holder~~ licensee, or practice privilege holder is engaged to perform any services for which professional standards require independence and the period covered by those services.

(2) A firm, ~~permit holder~~ licensee, or practice privilege holder who is not prohibited by this rule from performing professional services for a contingent fee shall disclose that fact in writing to any person or entity to whom services are to be provided. Written acknowledgment of such disclosure shall be obtained.

(3) A firm, ~~permit holder~~ licensee, or practice privilege holder shall not offer to prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.718 APPLICABLE STANDARDS (1) A ~~permit holder~~ licensee or practice privilege holder shall comply with the standards set forth in this rule as applicable under the circumstances and at the time of service when providing professional services. In addition to the applicable standards set forth below, a ~~permit holder~~ licensee or practice privilege holder shall comply with the standards issued by other professional or governmental bodies, including international standards setting bodies with which a ~~permit holder~~ licensee or practice privilege holder is required by law, regulation, or the terms of engagement to comply.

(2) The board incorporates by reference the following standards, as they exist as of July 1, 2014 ~~2015~~:

(a) through (3) remain the same.

AUTH: 37-50-203, MCA

IMP: 2-4-307, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to update to the current versions of the standards that the board has adopted and incorporated by reference. Amending the standards date will require licensees to comply with the current version of the standards. This will eliminate the need for Montana licensees to follow antiquated standards and risk violating professional standards in other jurisdictions

24.201.720 CONFIDENTIALITY (1) A ~~permit holder~~ licensee or practice privilege holder has an obligation to maintain the confidentiality of information obtained in the performance of all professional activities. Maintaining such confidentiality is vital to the proper performance of the ~~permit holder's~~ licensee's or practice privilege holder's professional activities. A ~~permit holder~~ licensee or practice privilege holder shall not use or disclose, or permit others within the ~~permit holder's~~ licensee's or practice privilege holder's control to use or disclose any confidential client or employer information without the consent of the client or employer. This obligation of confidentiality continues after the termination of the relationship between the ~~permit holder~~ licensee or practice privilege holder and the client or employer and extends to information obtained by the ~~permit holder~~ licensee or practice privilege holder in professional relationships with prospective clients and employers.

(a) This rule must not be construed to prohibit a ~~permit holder~~ licensee or practice privilege holder from disclosing information as required to meet professional, regulatory, or other legal obligations.

(2) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from firms, ~~permit holders~~ licensees, or practice privilege holders in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body requiring compliance with state law.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.723 RECORDS (1) A firm, ~~permit holder~~ licensee, or practice privilege holder shall furnish to the client or former client, upon request made within a reasonable time after original issuance of the document in question:

(a) remains the same.

(b) a copy of any report or other document issued by the firm, ~~permit holder~~ licensee, or practice privilege holder to or for such client;

(c) any accounting or other records which the firm, ~~permit holder~~ licensee, or practice privilege holder obtained from or on behalf of the client which the firm, ~~permit holder~~ licensee, or practice privilege holder removed from the client's premises or received for the client's account, but the firm, ~~permit holder~~ licensee, or practice privilege holder may make and retain copies of such documents when they form the basis for work done by the firm, ~~permit holder~~ licensee, or practice privilege holder; and

(d) a copy of the firm's, ~~permit holder's~~ licensee's, or practice privilege holder's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

(2) remains the same.

(3) Retention by a firm, ~~permit holder~~ licensee, or practice privilege holder of client records after a demand is made for them is an act discreditable to the profession in violation of ARM 24.201.707.

(4) A firm's, ~~permit holder's~~ licensee's, or practice privilege holder's working papers are the firm's, ~~permit holder's~~ licensee's, or practice privilege holder's property and need not be surrendered to the client. Any working papers developed by the firm, ~~permit holder~~ licensee, or practice privilege holder incident to the performance of the engagement which do not result in changes in the client's records or are not in themselves part of the records ordinarily maintained by such clients, are considered to be solely "accountant's working papers" and are not the property of the client. If the firm, ~~permit holder~~ licensee, or practice privilege holder has retained file copies of a client's records already in possession of the client, the firm, ~~permit holder~~ licensee, or practice privilege holder is not required to return such copies to the client.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.726 ADVERTISING (1) A firm, ~~permit holder~~ licensee, or practice privilege holder shall not use or participate in the use of any form of public communication referencing professional services which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim including, but not limited to, a statement or claim which:

(a) through (e) remain the same.

(f) states or implies that the firm, ~~permit holder~~ licensee, or practice privilege holder has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case;

(g) through (i) remain the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.1103 PEER REVIEW ENROLLMENT (1) ~~Firms~~ All registered firms shall enroll in ~~an~~ a board-approved peer review program and pay the required fees

associated with the administration of the peer review, if they perform any of the following services:

(a) and (b) remain the same.

(c) a compilation; ~~or~~

(d) any examination, review, or agreed upon procedures engagements to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); ~~or~~

(e) an engagement of a non-issuer performed in accordance with PCAOB standards and is not subject to PCAOB inspection.

~~(2) The~~ All firms registered in Montana and required to enroll in a board-approved peer review program must authorize board access for the following peer review documents shall be made available to the board by the sponsoring organization via a secure web site.

(a) through (5) remain the same.

(6) ~~The permit holder~~ licensee shall not be required to become a member of any organization administering a board-approved peer review program.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: Following a comment received in a prior rules project, the board is amending (1) to clarify that even firms performing engagements according to PCAOB standards, and therefore not required to have PCAOB inspection or review, are still subject to mandatory peer review. The board notes that this has been an understood requirement, but was not previously outlined in rule.

The board is also amending (2) to clarify that firms must authorize board access to peer review results through a secure web site to allow board monitoring of firm compliance. Although not a new process, the board determined it should be clearly delineated in rule.

24.201.1105 PARTICIPATION IN PEER REVIEW (1) Any firm that is dropped from or terminated by a board-approved peer review program for any reason shall have 21 days to provide written notice to the board of such termination or drop and to request authorization from the board to enroll in another board-approved peer review program.

(2) In the event a firm is merged, otherwise combined, dissolved, or separated, the peer review program shall determine which firm is considered to be the succeeding firm. The succeeding firm shall retain its peer review status and the review due date. A separated firm that is not the succeeding firm may not use the peer review results of the original firm.

(3) remains the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA



REASON: The board is amending (2) to address question by firms regarding who retains the results of a firm peer review when some licensees from the reviewed firm leave to form another firm.

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) Exemption of the Montana peer review requirement will apply to:

(a) and (b) remain the same.

(2) Alternative programs to the board-approved peer review program of the AICPA, administered by the ~~Montana Society of Certified Public Accountants (MSCPA)~~, shall include other non-AICPA programs recognized and approved by the board.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: Because MSCPA is defined in the definition rule, the board determined that it does not need to be spelled out in this rule.

24.201.2101 RENEWALS (1) ~~Renewal licenses, certificates, and permits to practice~~ will be issued by the board to all certified public accountants, and licensed public accountants, and permit holders eligible for renewal upon completion of applicable CPE, submitting the renewal form, and payment of the established renewal fees, pursuant to ARM 24.201.410.

~~(2) Every firm must submit a statement to the board on their original application and at each renewal, which describes the firm's level of association with financial statements.~~

(2) All firms must annually register with the board by December 31. Annual registration must include all of the items of a new firm registration found in [NEW RULE I] and the level and type of public accounting services provided since the last firm registration.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-141, 37-50-203, 37-50-314, MCA

REASON: The board is amending this rule to clearly delineate all renewal requirements found throughout statutes and rules and align with firm registration provisions being established in NEW RULE I.

24.201.2106 BASIC CONTINUING EDUCATION REQUIREMENT

(1) ~~Permit holders~~ Active licensees are required to have 120 hours of continuing professional education (CPE) with a subset of two hours in ethics ~~in any rolling for the previous~~ three-year period, ending December 31 of each year, except as otherwise provided under ARM 24.201.2154.

~~(a) Beginning with the 2012 period, the rolling three-year period will be based on the calendar year. To make the change from fiscal year to calendar year, permit holders will be able to count CPE obtained between July 1, 2011 and December 31, 2012, toward the 2012 year.~~

(2)  ~~Holders of a permit to practice~~  Active licensees will be required to affirm their compliance with the basic requirement upon annual renewal. This affirmation will be for the three calendar years immediately preceding the renewal year.

(3) Applicants for a permit to practice must meet the basic requirement of CPE by December 31 of the third year following the year of the initial issuance of the Montana permit (example: If an individual received their ~~permit to practice license in 2010~~ 2015, they must meet the basic CPE requirement by December 31, ~~2013~~ 2018).

(4) remains the same.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board is amending this rule to remove an unnecessary provision from (1)(a) following the transition from a fiscal year to calendar year continuing education requirement. Additionally, the board is updating the example for CPE compliance in (3) with current dates.

24.201.2120 STANDARDS FOR FORMAL CONTINUING EDUCATION PROGRAMS, PROGRAMS WHICH QUALIFY, AND ACCEPTABLE SUBJECT MATTER AND PROGRAMS

(1) A program qualifies as acceptable continuing education if it is a formal group or self-study program of learning, which contributes directly to the professional competence of an individual ~~permitted~~ licensed to practice public accounting.

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

(o) areas other than those listed above may be acceptable if the ~~individual licensee~~ individual licensee can demonstrate that they contribute to their professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the ~~individual licensee~~ individual licensee.

(3) remains the same.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

24.201.2124 STANDARDS FOR CPE REPORTING (1) through (1)(f) remain the same.

(g) NASBA National Registry of CPE Sponsors ID ~~or NASBA QAS Sponsor ID~~ (if applicable, applies to self-study).

(2) through (4) remain the same.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The board is amending this rule and ARM 24.201.2137 because NASBA has combined their two CPE certification programs into one and changed the name.

24.201.2137 CREDIT FOR FORMAL SELF-STUDY PROGRAMS

(1) Formal self-study programs shall receive continuing education credit equal to the amount granted by the sponsor, if the sponsor is a NASBA National Registry of CPE Sponsors or ~~NASBA QAS sponsor~~. These programs are calculated on a 50-minute hour.

(a) and (2) remain the same.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

24.201.2145 REPORTING REQUIREMENTS (1) Reporting of actual courses/credits is not required, unless the individual is selected for a random CPE audit as outlined in ARM 24.201.2148, or the individual must otherwise prove compliance for licensure purposes (i.e., ~~renewing an expired license, reactivating~~ restoring a license to active status, transfer of license applicant).

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The provisions of Senate Bill 76 eliminate the requirement to provide CPE when renewing an expired license. The board is amending this list to accurately reflect who must report CPE.

24.201.2148 VERIFICATION (1) ~~Permit holders~~ Licensees notified that they have been randomly selected for an audit of their basic CPE requirement must submit all courses and appropriate documentation using the NASBA CPE tracking system and comply with the deadline for submitting documentation.

(2) Only documentation as outlined in ARM 24.201.2124, in support of the basic CPE requirement, shall be submitted. ~~Individuals may submit documentation of up to 150 hours if they so choose, to make sure the basic requirement is substantiated in the audit.~~

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-131, 37-1-306, 37-50-203, 37-50-314, MCA

REASON: As an administrative requirement, the board is amending (1) to require all licensees selected for CPE audit to report CPE and provide documentation using the NASBA CPE tracking system. As a result of utilizing the NASBA CPE system, the board is amending this rule to no longer require duplicate submission of CPE documentation.

24.201.2154 EXTENSION OR HARDSHIP EXCEPTION (1) remains the same.

(a) To request an extension or exception, an individual must submit the appropriate form and fees prior to the CPE requirement deadline of December 31. The board will grant a hardship exception on a case-by-case basis.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: Currently, licensees seeking an extension or exception to the CPE requirement must file the request prior to the CPE deadline. The board is amending this rule to further clarify the mandatory timeframe for the board to consider such a request.

24.201.2402 EXERCISE OF PRACTICE PRIVILEGE IN OTHER JURISDICTIONS (1) Any ~~permit holder~~ licensee of this board offering or rendering services in or to another jurisdiction pursuant to practice privilege, based upon their license from this board, is deemed to have consented to the administrative jurisdiction of the other board of accountancy.

AUTH: 37-50-201, 37-50-203, MCA  
IMP: ~~37-1-307, 37-1-308~~, 37-50-325, MCA

REASON: Implementation citations are being amended to accurately reflect the statutes implemented through the rule.

24.201.2410 ENFORCEMENT AGAINST CERTIFICATE HOLDER, LICENSE HOLDERS, PERMIT TO PRACTICE HOLDERS, AND PRACTICE PRIVILEGE HOLDERS (1) The following terms ~~shall~~ may be cause for imposition of disciplinary action:

- (a) through (c) remain the same.
- (d) performance of any fraudulent act while holding a ~~certificate~~, license, ~~permit~~, or practice privilege issued or extended under Title 37, chapter 50, MCA;
- (e) failure of a Montana ~~permit holder~~ active licensee or practice privilege holder to meet the continuing education requirements established by the board;
- (f) remains the same.
- (g) receiving a "fail" peer review report, or second or subsequent "pass with deficiency" peer review report;
- (h) failure of a firm to comply with conditions imposed by the peer review program as a result of a "pass with deficiencies" or "failed" peer review classification;
- (i) failure of a firm, licensee, or practice privilege holder to comply with professional conduct rules established in ARM Title 24, chapter 201, subchapter 7;
- (g) and (h) remain the same, but are renumbered (j) and (k).
- (~~l~~) (l) failure of a Montana ~~permit holder~~ licensee who is using the practice privilege in another jurisdiction to cooperate with another jurisdiction's board of accountancy's investigation into acts of the ~~permit holder~~ licensee in that other jurisdiction.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-50-203, MCA  
IMP: 37-1-136, 37-1-316, 37-1-319, 37-50-325, MCA

REASON: The board is consolidating actions from other rules that could result in disciplinary action by the board against a licensee, including inadequate work discovered through peer review or failure to comply with professional conduct.

5. The proposed new rules provide as follows:

NEW RULE I FIRMS - REGISTRATION (1) New firms, firms that have a name change, or firms that are merged or otherwise combined or separated must immediately file a new firm registration application with the board.

(2) New firm registrations must include:

(a) a completed firm registration application;

(b) a list of all satellite offices in this state;

(c) the designated accountant who is responsible for the proper registration of the firm;

(d) an attestation that the firm meets the firm ownership requirements of 37-50-330, MCA; and

(e) an attestation that all persons with an ownership interest in the firm are actively participating in the business of the firm.

AUTH: 37-50-203, MCA

IMP: 37-50-335, MCA

REASON: The board determined it is reasonably necessary to adopt NEW RULE I and consolidate all requirements for firm registration into one location. While all are current requirements, they must be sought throughout board statute and rules.

NEW RULE II APPROVED PEER REVIEW SPONSORING ORGANIZATIONS, PROGRAMS, AND PEER REVIEW STANDARDS (1) The board shall approve peer review sponsoring organizations, programs, and standards.

(2) The board adopts the AICPA, the MSCP, and other peer review programs administered by entities fully involved in the administration of the AICPA peer review programs, as approved sponsoring organizations, without further requirements.

(3) Any board-approved peer review program and any peer reviewer performing a peer review under this subchapter shall utilize the AICPA Standards for Performing and Reporting on Peer Reviews or equivalent as determined by the board.

(4) A sponsoring organization, other than those who administer the AICPA peer review program, must provide evidence that the overall program and standards, including procedures, guidelines, oversight process, training materials, and related documents are equivalent to those of the AICPA Peer Review Program.

(5) For firms required to be registered with and inspected by the PCAOB, the board approves the PCAOB's inspection process for reviewing practices subject to its authority, and those firm's practice areas that are subject to PCAOB's inspection process are not included in the scope of the board's peer review programs. Firms receiving inspections under the PCAOB are also required to meet the peer review requirements of the board that covers the portion of the firm's practice not subject to the PCAOB inspection process if the firm performs those services.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board received several suggestions during the last rule review for a mechanism allowing board approval of peer review programs that do not administer the AICPA peer review program. The board is adopting NEW RULE II to outline the requirements and benchmarks that a non-AICPA-administered peer review program must meet to be considered for board approval.

6. The rules proposed to be repealed are as follows:

24.201.412 FEE ABATEMENT found at ARM page 24-22537

AUTH: 37-1-131, 37-17-202, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: House Bill 560 moved the board from a state special revenue fund to a statutorily appropriated fund. As a result, the board is no longer appropriated on an annual basis and this rule adopting the department fee abatement rule is no longer necessary.

24.201.701 DEFINITIONS found at ARM page 24-22605

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board combined all definitions into ARM 24.201.301 during the last rule project. This rule was inadvertently omitted from the consolidation and is being repealed as it contains definitions already included in the combined rule.

24.201.2114 OUT-OF-STATE APPLICANTS SEEKING A MONTANA PERMIT TO PRACTICE - CONTINUING EDUCATION REQUIREMENT found at ARM page 24-22875

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board is repealing this rule as it is confusing to applicants and unnecessary. All CPE requirements are contained in other board rules.

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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdpac@mt.gov](mailto:dlibsdpac@mt.gov), and must be received no later than 5:00 p.m., February 23, 2016.

8. An electronic copy of this notice of public hearing is available at [www.publicaccountant.mt.gov](http://www.publicaccountant.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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdpac@mt.gov](mailto:dlibsdpac@mt.gov); or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsors contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on April 23, 2015, by regular mail, and on June 12, 2015, by electronic mail.

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.301, 24.201.415, 24.201.501, 24.201.502, 24.201.503, 24.201.504, 24.201.510, 24.201.517, 24.201.528, 24.201.529, 24.201.535, 24.201.537, 24.201.704, 24.201.705, 24.201.706, 24.201.707, 24.201.708, 24.201.709, 24.201.710, 24.201.718, 24.201.720, 24.201.723, 24.201.726, 24.201.1103, 24.201.1105, 24.201.1108, 24.201.2101, 24.201.2106, 24.201.2120, 24.201.2124, 24.201.2137, 24.201.2145, 24.201.2148, 24.201.2154, 24.201.2402, and 24.201.2410 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.410 will significantly and directly impact small businesses and prepared a small business impact analysis regarding these amendments. A reduction in active license renewal fees will have a negative fiscal impact on the board but will benefit individual licensees and the approximately 500 registered CPA firms employing those licensees, many of whom pay the annual individual licensee renewal fee for their licensed professional employees and owners. The reduction of renewal fees will affect approximately 2000 active licensees, resulting in a loss of board revenue of \$50,000 annually. The decrease in

individual renewal fees will result in lower overall fees paid by the registered firms to the board. The alternative was to leave the individual active renewal fee the same.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I and II 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 24.201.412, 24.201.701, and 24.201.2114 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdpac@mt.gov](mailto:dlibsdpac@mt.gov).

12. Grace Berger, executive officer, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS  
LINDA HARRIS, CPA,  
PRESIDING OFFICER

/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 January 11, 2016



BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED AMENDMENT
ARM 32.6.712 pertaining to food	)	
safety and inspection service (meat,	)	NO PUBLIC HEARING
poultry)	)	CONTEMPLATED

TO: All Concerned Persons

1. On February 22, 2016, the Department of Livestock (department) proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process 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 February 12, 2016, to advise us of the nature of the accommodation that you need. Please contact the 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) 444-1929; e-mail: MDOLcomments@mt.gov.

3. The department proposes to amend the following rule as follows, new matter underlined, deleted matter interlined:

32.6.712 FOOD SAFETY AND INSPECTION SERVICE (MEAT, POULTRY)

(1) remains the same.

(2) The Department of Livestock incorporates by reference the following as effective September 17, 2015:

(a) 9 CFR 430.4.

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

AUTH: 81-2-102, 81-9-220, MCA

IMP: 81-2-102, 81-9-217, 81-9-220, MCA

REASON: Montana Meat and Poultry Inspection has adopted 9 CFR 430.4 by reference in ARM 32.6.712. On June 19, 2015, USDA FSIS published a federal register notice regarding a change in 9 CFR 430.4. Consequently, to maintain an "at least equal to" status, Montana must change ARM 32.6.712 to reflect USDA FSIS changes to the CFR.

The rule change includes two components. First, the new rule clarifies that establishments must not release into commerce products that contain *Listeria Monocytogenes* or that have been in contact with a food contact surface that contains *Listeria Monocytogenes* without first reworking the product using a process that is destructive of *Listeria Monocytogenes*.

Second, because states are using the Public Health Information System (PHIS) to gather production volume data, FSIS removed a requirement to report production volume and related data. According to the federal register publication, these changes were effective on September 17, 2015.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., February 19, 2016.

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 they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., February 19, 2016.

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 establishments who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 4 establishments, based upon there being approximately 38 establishments relating to animal feeding, slaughter, and disposal.

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

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

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

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

BY: /s/ Martin Zaluski  
Martin Zaluski  
Interim Executive Officer  
Board of Livestock  
Department of Livestock

BY: /s/ Cinda Young-Eichenfels  
Cinda Young-Eichenfels  
Rule Reviewer

Certified to the Secretary of State January 11, 2016.

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

In the matter of the amendment of )  
ARM 12.9.804, 12.9.804A, 12.9.805, )  
and 12.9.1101 pertaining to game )  
damage hunts )

CORRECTED NOTICE OF  
AMENDMENT

TO: All Concerned Persons

1. On July 16, 2015, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-445 pertaining to the public hearings on the proposed amendment of the above-stated rules at page 875 of the 2015 Montana Administrative Register, Issue Number 13. On December 10, 2015, the department published the notice of amendment at page 2138 of the 2015 Montana Administrative Register, Issue Number 23.

2. ARM 12.9.804A was adopted with a typographical error. In (3), the word "though" needs to be corrected to "through." The rules, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

12.9.804A GAME DAMAGE HUNT ROSTER (1) and (2) remain as amended.

(3) The department may also identify eligible hunters ~~though~~ through other established means of hunter selection, including first-come, first-served advertised opportunities, unsuccessful special license or permit applicant lists, or lists of names supplied by landowners.

3. The replacement pages for this corrected notice were submitted to the Secretary of State on December 31, 2015.

/s/ Aimee Fausser  
Aimee Fausser  
Rule Reviewer

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Director  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State January 11, 2016.

BEFORE THE BOARD OF PARDONS AND PAROLE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 20.25.101, 20.25.202, )  
20.25.401, 20.25.505, 20.25.601, )  
20.25.801, 20.25.901, 20.25.902, )  
20.25.903, and 20.25.904 pertaining )  
to parole and executive clemency )

TO: All Concerned Persons

1. On November 25, 2015, the Board of Pardons and Parole published MAR Notice No. 20-25-57 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2064 of the 2015 Montana Administrative Register, Issue Number 22.

2. A public hearing was held on December 15, 2015, to consider the proposed amendment. No member of the public attended the hearing and no comments were received.

3. The board amends the rules as proposed.

/s/ ROBERT LISHMAN  
Staff Attorney, DOC  
Rule Reviewer

/s/ MARK STAPLES  
Chairperson, BOPP

Certified to the Secretary of State January 11, 2016.

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

In the matter of the amendment of ) CORRECTED NOTICE OF  
ARM 24.17.103, 24.17.127, and, ) AMENDMENT AND REPEAL  
24.17.501, and the repeal of ARM )  
24.17.526, pertaining to prevailing )  
wage rates for public works projects )

TO: All Concerned Persons

1. On October, 29, 2015, the Department of Labor and Industry published MAR Notice No. 24-17-310 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1813 of the 2015 Montana Administrative Register, Issue Number 20. On December 24, 2015, the department published the notice of amendment and repeal at page 2271 of the 2015 Montana Administrative Register, Issue Number 24.

2. An inadvertent typographical error was discovered following publication of the notice of amendment and repeal. This typographical error left a gap in zone pay mileage between 50 to 60 miles from the dispatch city. The correction below reflects the intended zones based on information submitted to the department for consideration. The rates for zone pay in the "Montana Prevailing Wage Rates for Highway Construction Services 2016" publication, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

Construction Laborers Group 1/Flag Person for Traffic Control

Zone Pay:

- 0-25 mi. free zone
- >25-50 mi. base pay + \$2.50/hr.
- >~~60~~ 50 mi. base pay + \$3.00/hr.

Construction Laborers Group 2

Zone Pay:

- 0-25 mi. free zone
- >25-50 mi. base pay + \$2.50/hr.
- >~~60~~ 50 mi. base pay + \$3.00/hr.

Construction Laborers Group 3

Zone Pay:

- 0-25 mi. free zone
- >25-50 mi. base pay + \$2.50/hr.
- >~~60~~ 50 mi. base pay + \$3.00/hr.

Construction Laborers Group 4

Zone Pay:

- 0-25 mi. free zone

>25-50 mi. base pay + \$2.50/hr.  
>~~60~~ 50 mi. base pay + \$3.00/hr.

3. An inadvertent omission in the calculation of travel pay and per diem for Heating and Air Conditioning classifications in the "Montana Prevailing Wage Rates for Heavy Construction Services 2016" publication was discovered following publication. In short, amendments to wage and fringe rates were made in the notice of amendment and repeal due to a modification in collective bargaining agreements used for calculating those rates. That modification necessitated changes to travel pay and per diem rates as well, but those changes were omitted. The rates for travel pay and per diem in the "Montana Prevailing Wage Rates for Heavy Construction Services 2016" publication, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

Heating and Air Conditioning

Travel:

~~0-70 mi. free zone~~

~~>70 mi.~~

~~\$90.00/day if transportation is provided.~~

~~\$90.00/day + \$0.55/mi. for one trip, there and back if transportation is not provided.~~

Travel:

0-50 mi. free zone

>50 mi.

\$0.25/mi. in employer vehicle

\$0.65/mi. in employee vehicle

Per Diem:

\$65.00/day

4. An inadvertent omission in the calculation of travel pay and per diem for Heating and Air Conditioning classifications in the "Montana Prevailing Wage Rates for Building Construction Services 2016" publication was discovered following publication. In short, amendments to wage and fringe rates were made in the notice of amendment and repeal due to a modification in collective bargaining agreements used for calculating those rates. That modification necessitated changes to travel pay and per diem rates as well, but those changes were omitted. The rates for travel pay and per diem in the "Montana Prevailing Wage Rates for Building Construction Services 2016" publication, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

Heating and Air Conditioning

Travel:

~~District 4~~ All Districts

~~0-54~~ 50 mi. free zone

~~>54~~ 50 mi.

\$0.25/mi. in employer vehicle  
\$0.65/mi. in employee vehicle

~~Districts 2 & 3~~

~~0-40 mi. free zone  
>40-80 mi. \$30.00/day  
>80 mi. \$60.00/day~~

~~If employer provides transportation, travel pay will be ½ of the amounts listed above unless the employee stays overnight. If the employee chooses to stay overnight, the employee will receive the full amount of travel listed above even if the employer furnishes transportation~~

~~District 4~~

~~0-70 mi. free zone  
>70 mi.  
\$90.00/day if transportation is provided.  
90.00/day + \$0.55/mi. for one trip, there and back if transportation is not provided~~

Per Diem:

~~District 4 All Districts~~

~~\$65.00/day~~

~~Districts 2,3 & 4~~

~~No per diem established.~~

5. An inadvertent typographical error was discovered following publication in the "Montana Prevailing Wage Rates for Heavy Construction Services 2016" for the Sheet Metal Workers classification for travel pay. The travel pay rate was adopted from a collective bargaining agreement which sets the zones from zero to fifty miles and greater than fifty miles. The publication incorrectly stated the zones from zero to fifty-one miles and greater than fifty-one miles. The rates for travel pay in the "Montana Prevailing Wage Rates for Heavy Construction Services 2016" publication, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

Sheet Metal Workers

Travel:

~~0-51~~ 50 mi. free zone  
~~>51~~ 50 mi.  
\$0.25/mi. in employer vehicle  
\$0.65/mi. in employee vehicle

6. An inadvertent typographical error was discovered following publication in the "Montana Prevailing Wage Rates for Building Construction Services 2016" for the Sheet Metal Workers classification for travel pay. The travel pay rate was adopted from a collective bargaining agreement which sets the zones from zero to



fifty miles and greater than fifty miles. The publication incorrectly stated the zones from zero to fifty-one miles and greater than fifty-one miles. The rates for travel pay in the "Montana Prevailing Wage Rates for Building Construction Services 2016" publication, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

Sheet Metal Workers

Travel:

All Districts

0-~~51~~ 50 mi. free zone

>~~51~~ 50 mi.

\$0.25/mi. in employer vehicle

\$0.65/mi. in employee vehicle

7. Amended copies of all 2016 publications, identified as "Montana Prevailing Wage Rates for Building Construction 2016," "Montana Prevailing Wage Rates for Heavy Construction 2016," "Montana Prevailing Wage Rates for Highway Construction 2016," and "Montana Prevailing Wage Rates for Nonconstruction 2016" are available online at [www.mtwagehourbopa.com](http://www.mtwagehourbopa.com). A printed version of the 2016 publications is also available by contacting Mike Smith, P.O. Box 201503, Helena, MT 59620-1503; telephone (406) 444-1741; fax (406) 444-7071; TDD (406) 444-0532; or e-mail [msmith3@mt.gov](mailto:msmith3@mt.gov).

/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 January 11, 2016.

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

In the matter of the adoption of New ) NOTICE OF ADOPTION AND  
Rules I through XVIII and the ) AMENDMENT  
amendment of ARM 37.106.1901, )  
37.106.1902, and 37.106.1906 )  
pertaining to adding a forensic mental )  
health facility endorsement to a )  
licensed mental health center )

TO: All Concerned Persons

1. On September 24, 2015, the Department of Public Health and Human Services published MAR Notice No. 37-726 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1424 of the 2015 Montana Administrative Register, Issue Number 18.

2. The department has amended the following rules as proposed: ARM 37.106.1901, 37.106.1902, and 37.106.1906.

3. The department has adopted the following rules as proposed: New Rule I (37.106.1601), II (37.106.1603), III (37.106.1602), IV (37.106.1604), V (37.106.1605), VI (37.106.1608), VII (37.106.1609), VIII (37.106.1610), IX (37.106.1611), X (37.106.1614), XII (37.106.1616), XV (37.106.1621), XVI (37.106.1622), XVII (37.106.1623), and XVIII (37.106.1624).

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

NEW RULE XI (37.106.1615) SECURITY (1) through (10) remain as proposed.

(11) Staff may confine clients to their rooms for all scheduled medication passes, for all staff shift changes, and during any facility emergency. Medication administration and Sshift changes will last no longer than 30 minutes, and must be limited to no more than three ~~changes~~ 30-minute periods in a 24-hour period.

AUTH: 50-5-103, MCA  
IMP: 50-5-103, 50-5-201, 50-5-204, MCA

NEW RULE XIII (37.106.1617) RESTRAINT AND SECLUSION (1) through (6) remain as proposed.

(7) A verbal or written order must be obtained from the licensed health care practitioner prior to initiation or as soon as possible after emergency initiation of seclusion or restraint.

~~(7) (8) A licensed health care practitioner must authorize use of the restraint or seclusion within one hour of initiating the restraint or seclusion. Before a A licensed health care practitioner may authorize restraint or seclusion, the licensed health care practitioner or registered nurse, in accordance with facility policy, must see the client face-to-face within one hour of the initiation of restraint or seclusion to evaluate:~~

~~(a) through (d) remain as proposed.~~

~~(8) remains as proposed, but is renumbered (9).~~

~~(10) Staff must provide clients in restraint or seclusion with constant in-person observation for the first hour; after the first hour in-person observation can be replaced by audio and visual equipment according to facility policy.~~

~~(9) through (14) remain as proposed, but are renumbered (11) through (16).~~

~~(17) The use of simultaneous restraint and seclusion is prohibited.~~

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-204, MCA

NEW RULE XIV (37.106.1618) STAFFING REQUIREMENTS (1) remains as proposed.

(2) Employees must receive orientation and training in areas relevant to the employee's duties and responsibilities including:

(a) through (c) remain as proposed.

(d) rights of persons served; ~~and~~

(e) safety and emergency response procedures;

(f) basic first aid; and

(g) certification in cardiopulmonary resuscitation (CPR).

(3) remains as proposed.

(4) CPR certification must be kept current.

(4) through (8) remain as proposed, but are renumbered (5) through (9).

(10) An FMHF must employ at least one licensed health care practitioner to monitor and evaluate the client's medical and psychiatric treatment. At all times, a licensed health care practitioner must be on duty or on call and available physically to the facility within one hour. The licensed health care practitioner may also be the medical director.

(9) through (11) remain as proposed, but are renumbered (11) through (13).

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-204, MCA

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

Comment #1: A commenter believes that New Rule XIII, as drafted, is well done and appropriately addresses the most important aspects of a restraint and seclusion.

Response #1: The department appreciates and acknowledges the comment.

Comment #2: A commenter is very gratified that the proposed rules have been issued. The commenter believes the need for step-down facilities is great for those who have committed felonies but who are mentally ill.

Response #2: The department appreciates and acknowledges the comment.

Comment #3: A commenter agrees with these rules being designed and operated as a mental health facility for this population.

Response #3: The department appreciates and acknowledges the comment.

Comment #4: A commenter believes that staff should be required to be trained in first-aid techniques and certified in CPR.

Response #4: The department agrees with the commenter and has added the requirement for basic first-aid training and certification in cardiopulmonary resuscitation in New Rule XIV.

Comment #5: A commenter states the definition of mechanical restraint, in New Rule V(9), is so broad that it would allow even antiquated and dangerous methods for mechanical restraint. The commenter believes shackles, straitjackets, face masks, restraint chairs, and other methods should be specifically prohibited.

Response #5: The department does not agree that the definition of mechanical restraint should include prohibited methods. The definition of mechanical restraints is identical to the Code of Federal Regulations. New Rule XIII requires the facility to implement restraint or seclusion in accordance with safe and appropriate restraint and seclusion techniques as developed by facility policy.

Comment #6: A commenter states that the definition of seclusion in New Rule V allows facilities to confine clients to their bedrooms during medication administration or shift changes without any limitation of duration of this confinement allows seclusion for exclusively the convenience of staff.

Response #6: The department does not agree that the proposed rule allows confinement to bedrooms during shift changes without limitation on the duration of time allowed. Proposed New Rule XI limits the duration of time for shift changes to 30 minutes, and no more than three changes in a 24-hour period. However, the department inadvertently left out a time limit for medication administration. Proposed New Rule XI has been amended by adding the time limit for medication administration.

Comment #7: The commenter strongly supports the requirement for single occupancy rooms found in New Rule VII.

Response #7: The department appreciates and acknowledges the comment.

Comment #8: A commenter indicates the rule as written can be read to address only situations where the patient, to be involuntarily medicated, was a danger to self or others, it can also apply to other situations where the patient at issue is not the danger causing the emergency. The commenter suggests the language be amended to make it clear that it only applies to those situations where the patient to be medicated is a danger to self or others.

The commenter suggests the rule was not written to incorporate the due process standards from *Washington v. Harper*, 494 U.S. 210 (1990), for involuntary medication of an inmate and recommends the rule be amended to include medication must be given in the patient's medical interest.

Response #8: The department disagrees that the rule is not clear that medication may only be administered to the patient that is a danger to himself or others. The rule specifically addresses involuntary medication administration to clients and is clearly defined in the definition section of the rule. The rule defines involuntary medication and outlines circumstances which must be present to administer the medication as well as requires the facility to have a formal administrative review process for the use of involuntary medication when clinically indicated for a client who is gravely disabled or poses a likelihood of serious harm to themselves, others, or property as a result of a mental disease or disorder. The department has incorporated the due process standard in the case cited and rule includes the medication that must be clinically indicated.

Comment #9: A commenter believes the rules as proposed in New Rule XIII do not address the possibility of simultaneous restraint and seclusion and suggests language from the Code of Federal Regulations.

Response #9: The department agrees the rule does not address the possibility of simultaneous restraint and seclusion and has amended the rule to prohibit the use of simultaneous restraint and seclusion.

Comment #10: A commenter applauds the similarity of the rules in New Rule XIII to the Code of Federal Regulations; however, the commenter indicates the type of mechanical restraints allowed should be defined as suggested in Comment #5.

Response #10: See Response #5.

Comment #11: A commenter offered specific recommendations to policies for when restraint and seclusion may be allowed to improve clarity and effectiveness of the rule for school staff.

Response #11: The department disagrees with the commenter's suggestions as the rule was specifically written for adults and is similar to the federal language used for adult populations.

Comment #12: A commenter suggests including a requirement, in New Rule XIII, for a debriefing with students and staff involved after every incident of restraint and seclusion.

Response #12: See Response #10.

Comment #13: Two commenters are concerned staff members may interpret the rules as meaning once they have initiated a restraint they must continue the restraint until a licensed health care practitioner evaluates the client and authorizes the restraint. One commenter also believes the staff may not be monitoring the client prior to the one-hour face-to-face evaluation with the licensed health care practitioner which may result in staff missing a client's negative or life-threatening reaction to the restraint.

Response #13: The department disagrees as the rule requires a restraint or seclusion be discontinued at the earliest possible time regardless of the time identified in the order. The rule allows the facility to develop policies that outline monitoring of a client by a licensed health care professional as appropriate. The rule is written in accordance with the Code of Federal Regulations. In addition, the rule requires all staff to be trained in clinical identification of specific behavioral changes that indicate restraint or seclusion is no longer necessary.

Comment #14: A commenter indicates that in New Rule XIII continuous monitoring of the client by trained staff should be required. If continuous monitoring is not required the staff may not observe a client's negative or life-threatening reaction to the restraint.

Response #14: The department agrees and has amended the proposed rule.

Comment #15: A commenter believes that in New Rule XIII the department has incorporated many of the most important requirements that result in a successful rule regarding restraint and seclusion.

Response #15: The department appreciates and acknowledges the comment.

Comment #16: A commenter believes the New Rule XIII, requiring that a licensed health care practitioner must authorize the use of restraint and seclusion, is in conflict with 53-21-146, MCA, and is confusing. The commenter believes the staffing requirements in New Rule XIV anticipates the facility will be principally staffed by RN supervisors who are not licensed health care practitioners but may authorize restraint and seclusion under the statute cited.

A commenter states Montana State Hospital policy, as approved by CMS, does not require a licensed health care practitioner to authorize restraint or seclusion. The commenter states licensing requirements which are more intensive than those in an acute care hospital is inconsistent with both the statute and the concept of a forensic mental health facility.

The commenter suggested the rule be amended to reflect a professional person and not a licensed health care practitioner must authorize seclusion or restraint lasting more than one hour.

Response #16: The department has carefully reviewed 53-21-146, MCA, MSH Policy TX-16, and the Code of Federal Regulations for hospital settings. The department agrees that the definition of a "professional person" as defined in 53-21-102, MCA, is not the same as the definition of a "licensed health care practitioner" in the proposed rule. However, the language in the statute does not prohibit the department from writing a rule that is more restrictive based on the population the facility serves. The statute encompasses all levels of mental health center providers serving clients that range in acuity level from psychiatric treatment facilities to outpatient mental health offices. The FMHF provides forensic psychiatric treatment to adults that are currently residing at MSH and require a more secure setting. Due to the level of acuity, restraint or seclusion should be ordered and monitored by a licensed health care practitioner acting within the scope of their license. The department disagrees that the FMHF will be principally staffed by RN supervisors. A mental health center must employ or contract with a medical director who is a licensed physician by the Montana Board of Medical Examiners. The department acknowledges the proposed rule lacked clarity regarding the requirements for the licensed health care practitioner and has amended the proposed rule. The rule has been amended to allow a registered nurse to perform the assessment/evaluation required within one hour of the restraint or seclusion. The assessment/evaluation is within the scope of practice for a registered nurse. The licensed health care practitioner must still order the restraint or seclusion. The commenter cited MSH policy incorrectly as MSH Policy TX-16 requires a physician/licensed independent practitioner to order a restraint or seclusion. MSH Policy PS 03 defines licensed independent practitioner as the attending physician or advanced practiced registered nurse with a clinical specialty in psychiatric mental health nursing.

Comment #17: New Rule XIII: A commenter indicates proposed New Rule XIII, requiring an order to be renewed every eight hours by a licensed health care practitioner, exceeds 53-21-146, MCA, of every 24 hours. The commenter states the rule exceeds the requirement in MSH policy.

Response #17: The department disagrees with the commenter's interpretation of statute. Section 53-21-146, MCA, states the written order is effective for no more than 24 hours. The proposed rule does not exceed the 24 hours allowed in statute. The statute does not prohibit the department to require the order to be renewed prior to 24 hours. The commenter stated the proposed rule is more restrictive than MSH policy. The department has carefully reviewed 53-21-146, MCA, MSH Policy TX-16, and the Code of Federal Regulations for hospital settings during the rule-writing process and when responding to these comments. MSH policy states that orders for restraint and seclusion are valid for a maximum of four hours and must be renewed by the physician/licensed independent practitioner every four hours up to 24 hours.

The proposed rule extended the order to be valid for up to eight hours; the proposed rule is less restrictive than MSH policy.

Comment #18: The commenter believes New Rule XIII has an ambiguous description of the procedure to renew an order of restraint and seclusion that has lasted 24 hours. The procedure should allow the professional person to authorize restraint and seclusion for another 24 hours.

Response #18: The department disagrees with the commenter as the proposed rule outlines the requirements for each order for restraint and seclusion. After 24 hours a licensed health care practitioner must see and assess the client prior to writing a new order.

/s/ Susan Callaghan  
Susan Callaghan, Attorney  
Rule Reviewer

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

Certified to the Secretary of State January 11, 2016



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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 37.85.105 and 37.86.1807 )  
pertaining to Effective Dates of )  
Montana Medicaid Provider Fee )  
Schedules )

TO: All Concerned Persons

1. On October 29, 2015, the Department of Public Health and Human Services published MAR Notice No. 37-728 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1826 of the 2015 Montana Administrative Register, Issue Number 20. On December 24, 2015, the Department of Public Health and Human Services published an Amended Notice of Public Hearing on Proposed Amendment at page 2238 of the 2015 Montana Administrative Register, Issue Number 24.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) through (3)(k) remain as proposed.

(l) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, January 2016, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective January 1, 2016. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~February 1, 2016~~ July 1, 2015.

(m) through (6) remain as proposed.

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-101, 53-6-402, MCA

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

COMMENT #1: The department received several comments urging the department to delay or not adopt the proposed Medicare fee schedule and a new Medicaid incontinence supply fee schedule in ARM 37.85.105 and 37.86.1807 pertaining to prosthetic devices, durable medical equipment, and medical supplies fee schedule.

RESPONSE #1: The department is amending the proposed notice by leaving the original effective date of July 1, 2015 in ARM 37.85.105(3)(l). The department is reviewing the proposed amendment to ARM 37.86.1807 and may file a new proposed rulemaking at a later time.

4. The department is not amending ARM 37.86.1807 at this time due to the comments received.

5. The department intends to apply this amendment to ARM 37.85.105 retroactively to January 1, 2016. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

/s/ Susan Callaghan  
Susan Callaghan, Attorney  
Rule Reviewer

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

Certified to the Secretary of State January 11, 2016

## **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.

**Water Policy Interim Committee (where the primary concern is the quality or quantity of water):**

- 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 September 30, 2015. This table includes those rules adopted during the period October 1, 2015, through December 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 September 30, 2015, this table, and the table of contents of this issue of the Register.

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 2015/2016 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

### ADMINISTRATION, Department of, Title 2

I-VII	Credit Union Supervisory Committee - Credit Union Investment Rules - Board of Director Training, p. 1556, 2247
2.4.402	Single Audit Act Reporting Fees for Local Governments, p. 781, 1270
2.59.303	and other rules - Closing a Consumer Loan Business - Reimbursement of Department Costs in Bringing an Administrative Action - Credit Insurance - Examination Fees - Licensure Surrender - Annual Reports, p. 1547, 2246
2.59.1710	and other rules - Records to Be Maintained by Mortgage Brokers - Records to Be Maintained by Mortgage Lenders - Reporting Forms for Mortgage Servicers, p. 1563, 2249
2.59.1716	and other rules - Recovery of the Costs in Bringing an Administrative Action - Treatment of Initial License Applications Submitted Near Year-End - Abandonment of Initial License Applications - Mortgage Licensees, p. 499, 923
2.59.1738	Renewal Fees for Mortgage Brokers, Lenders, Servicers, and Originators, p. 959, 1478

(Public Employees' Retirement Board)

I	Redirection of Certain PERS Employer Contributions From the Defined Benefit Trust Fund for the Purposes of Paying Off the Plan Choice Rate Unfunded Actuarial Liability to Defined Contribution Member Accounts, p. 2179
---	--

- I-XI Deferred Retirement Option Plan (DROP) for Members of the Highway Patrol Officers' Retirement System, p. 1778, 2244
- 2.43.1306 Actuarial Rates and Assumptions, p. 1226, 1893
- 2.43.3501 and other rules - Adoption by Reference of the State of Montana Public Employee Defined Contribution Plan Document and the State of Montana Public Employee Deferred Compensation (457) Plan Document, p. 1223, 1891
- 2.43.3502 and other rule - Investment Policy Statement for the Defined Contribution Retirement Plan - Investment Policy Statement for the 457 Deferred Compensation Plan, p. 1220, 1889
- 2.43.3504 and other rule - Defined Contribution Plan Default Investment Fund - Deferred Compensation Plan Investment Options, p. 1229, 1894

AGRICULTURE, Department of, Title 4

- 4.3.407 and other rules - Student Loans - Public Participation - Mint Committee, p. 1571, 2136
- 4.5.206 and other rules - State Noxious Weed List - Regulated Plant List, p. 612, 1042
- 4.5.308 and other rule - Noxious Weed Seed Free Forage Fees, p. 784, 1479
- 4.6.101 and other rules - Commodity Advisory Committees - Corn Crop Advisory Committee - Commodity Assessment, p. 1574, 2137
- 4.9.301 and other rule - Wheat and Barley Committee Grants, p. 1568, 2135
- 4.17.105 and other rules - Organic Application Procedures and Fees - Fees for Services - Annual Report and Assessment Fees, p. 602, 1041

STATE AUDITOR, Office of, Title 6

(Commissioner of Securities and Insurance)

- I-III Fire Tax, p. 394, 1043
- I-XI Surety Insurance Producers Who Sell, Solicit, or Negotiate Commercial Bail Bonds, p. 1785
- 6.6.507B and other rules - Medicare Supplements, p. 689, 1049
- 6.6.3104A and other rule - Long-Term Care, p. 398, 1046
- 6.6.3504 Annual Audited Reports and Establishing Accounting Practices and Procedures to Be Used in Annual Statements, p. 256, 925
- 6.6.4907 Patient-Centered Medical Homes, p. 1796, 2250
- 6.10.209 and other rule - Offerings, p. 962, 1480

COMMERCE, Department of, Title 8

- I Actions That Qualify as Categorical Exclusions Under the Montana Environmental Policy Act, p. 966, 1481
- 8.2.503 Administration of the Quality Schools Grant Program, p. 2060, 17
- 8.94.3816 Administration of the 2017 Biennium Treasure State Endowment Program—Emergency Grants, p. 969, 1484
- 8.99.806 Administration of the Business Workforce Training Grant, p. 971, 1485

- 8.99.917 Implementation of the Big Sky Economic Development Trust Program, p. 1328, 1895
- 8.99.918 Administration of the Big Sky Economic Development Trust Program, p. 789, 1193
- 8.119.201 and other rules - Movie and TV Industries and Related Media–Tax Incentives, p. 1330, 1902

(Board of Horse Racing)

- 8.22.2301 and other rules, Board of Horse Racing, p. 2252

#### EDUCATION, Department of, Title 10

(Office of Public Instruction)

- 10.16.3122 and other rules - Special Education, p. 1578, 2257

(Board of Public Education)

- 10.57.102 and other rules - Educator Licensure, p. 698, 1051
- 10.57.412 and other rules - Educator Licensure, p. 1402, 2091
- 10.63.108 Preschool Hours, p. 616, 1055

(State Library)

- 10.102.1152 Deferrals, p. 1800, 2270

#### FISH, WILDLIFE AND PARKS, Department of, Title 12

- 12.9.804 and other rules - Game Damage Hunts, p. 875, 2138

(Fish and Wildlife Commission)

- I Apprentice Hunter Certificate, p. 791, 1486
- 12.2.601 State Land Access Tax Credit, p. 1803
- 12.6.106 Removal of Shelter, p. 1806
- 12.6.2204 and other rules - Exotic Species Classification, p. 618, 1272
- 12.7.807 Fishing Contests, p. 295, 929
- 12.11.501 and other rule - Recreational Use on Silver Lake in Deer Lodge County, p. 507, 1271
- 12.11.501 and other rules - Recreational Use on the Blackfoot River Recreation Corridor, p. 292, 926

#### GOVERNOR, Office of, Title 14

- I-II Implementation of the Sage Grouse Stewardship Act, p. 2125

#### ENVIRONMENTAL QUALITY, Department of, Title 17

- I-IX Vessel Pumpout Facilities, p. 881, 1388
- 17.36.101 and other rules - Subdivisions/On-Site Subsurface Wastewater Treatment - Application--Contents - Review Procedures--Applicable



- Rules - Re-review of Previously Approved Facilities: Procedures - Setbacks - Sewage Systems: Agreements and Easements - Existing Systems - Water Supply Systems: Operation and Maintenance, Ownership, Easements, and Agreements - Fee Schedules - Disposition of Fees, p. 2192
- 17.40.201 and other rules - Definitions - Classification Systems - Examinations - Experience and Education - Continuing Education Requirements - Approved Training Providers, p. 1593, 2144
- 17.50.523 Transportation, p. 4
- 17.53.113 Hazardous Waste - Registration and Registration Maintenance Fees - Fee Assessment, p. 101, 298, 1194, 1753
- 17.74.101 and other rules - Occupational Noise - Occupational Air Contaminants, p. 2062, 18
- (Board of Environmental Review)
- I-III Clean Air Act, p. 1092, 1903
- 17.4.201 and other rules - Procedural Rules - Water Quality - Public Water Supply and Sewage System Requirements - Water Pollution Rules - Radiological Criteria - State and EPA Coordination - Pretreatment - Definitions - Enforcement Actions for Administrative Penalties - Purpose - Enforcement Procedures - Suspended Penalties, p. 2182
- 17.4.701 and other rules - Fees - Fee Assessment Categories - Departmental Assistance to Applicants, p. 1335
- 17.8.334 and other rules - Emission Standards for Existing Aluminum Plants—Startup and Shutdown - Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants - Mercury Allowance Allocations Under Cap and Trade Budget, p. 1809
- 17.24.201 and other rules - Rules and Regulations Governing the Opencut Mining Act, p. 1951
- 17.30.1001 and other rules - Water Quality - Subdivisions/On-Site Subsurface Wastewater Treatment - Public Water and Sewage System Requirements - Solid Waste Management - Definitions - Adoption by Reference - Wastewater Treatment Systems: Technical Requirements - Plans for Public Water Supply or Public Sewage System - Plans for Public Water Supply or Wastewater System - Incorporation by Reference and Availability of Referenced Documents, p. 2188
- 17.74.359 and other rules - Annual Asbestos Project Permits - Training Provider Requirements - Permit Fees - Accreditation and Accreditation Renewal Fees - Course Approval and Renewal Fees - Course Audit Fees, p. 974, 1333

TRANSPORTATION, Department of, Title 18

- 18.8.431 and other rules - Motor Carrier Services, p. 2205
- 18.8.1505 Motor Carrier Services Out-of-Service Criteria, p. 1096, 1754

CORRECTIONS, Department of, Title 20

- I Authorization for Probation and Parole Officers to Carry Firearms - Firearms Training Requirements - Department Procedures Pertaining to Firearms, p. 2211
- I-IV Implementing the Medicaid Rate as the Reimbursement Rate the State of Montana Will Pay Health Care Providers for Services Provided to Individuals in the Care or Custody of the Department of Corrections or the Department of Public Health and Human Services, p. 2215

(Board of Pardons and Parole)

20.25.101 and other rules - Parole and Executive Clemency, p. 2064

JUSTICE, Department of, Title 23

- 23.12.407 House Number Height for Day Care Centers, p. 621, 931
- 23.16.1712 and other rules - Conduct of Sports Tab Games - The Award of Sports Tab Game Prizes - Sports Tab Games Record Keeping Requirements, p. 793, 1197

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in numerical order by chapter following the department rules.

- I-IX Reopening of Medical Benefits Automatically Closed in Certain Workers' Compensation Claims, p. 2073
- 24.11.101 and other rules - Requests for Information - Unemployment Insurance, p. 357, 510, 932, 1489
- 24.16.101 and other rules - Workplace Safety - Wage Protection - Workforce Services, p. 107, 1056
- 24.17.103 and other rules - Prevailing Wage Rates for Public Works Projects, p. 1813, 2271
- 24.101.402 and other rules - Definitions - Administrative Fees - Purpose - Licensing - Renewal Notification, p. 1232, 1755
- 24.301.146 and other rules - Modifications to the International Building Code Applicable to Department and Local Government Code Enforcement - Incorporation by Reference of International Swimming Pool and Spa Code - Adoption by Reference of ARM 37.111.1115 Review of Plans, p. 1619, 19
- 24.301.301 and other rules - Incorporation by Reference of Uniform Plumbing Code - Fees - Incorporation by Reference of International Wildland-Urban Interface Code (IWUIC), p. 2084

(Board of Barbers and Cosmetologists)

- 24.121.301 and other rules - Definitions - General Requirements - Licensure by Examination - Out-of-State Applicants - Postsecondary School Licensure - Examination Requirements and Process - School Requirements - School Operating Standards - School Curricula - Student Withdrawal, Transfer, or Graduating - Instructor Requirements - Teacher-Training Curriculum - Salons/Booth Rental - Implements, Instruments, Supplies, and Equipment - Salon Preparation Storage and Handling - Continuing Education - Unprofessional Conduct - Nonroutine Application - Granting Exception - Licensure Equivalency - Credited Hours for Montana-Licensed Individuals - Inactive Instructor License - Licensee and Applicant Contact Information, p. 705, 1198
- 24.121.301 and other rules - Definitions - Nonroutine Applications - Premises and General Requirements - Licensing - Military Training or Experience - School Operations - Salons/Booth Rental - Disinfecting Agents - Salon Preparation Storage and Handling - Blood Spills, p. 1340, 2034

(Board of Clinical Laboratory Science Practitioners)

- 24.129.603 and other rules - Licensing, p. 1602

(Board of Dentistry)

- 24.138.406 and other rules - Dental Auxiliaries Functions - Dentist Licensure by Credentials - Dentist Licensure by Credentials for Specialists - Dental Hygiene Limited Access Permit - Denturist Intern - Converting Inactive License to Active - Reactivation of an Expired License - Military Training or Experience - Continuing Education - Screening Panel - Continuing Education in Anesthesia - Introduction, p. 1099, 1904

(Board of Funeral Service)

- 24.147.402 and other rules - Mortician License - Mortuary Transfers, Inspections, and Temporary Permits - Out-of-State Mortician Licensure - Sale of At-Need, Preneed, and Prepaid Funeral Arrangements, p. 1605

(Board of Hearing Aid Dispensers)

- 24.150.401 and other rules - Fees - Examination - Renewals, p. 412, 1057

(Board of Massage Therapy)

- 24.155.601 Licensure by Grandfather Clause, p. 1611

(Board of Nursing)

- 24.159.1010 and other rules - Standards Related to Intravenous (IV) Therapy - Nurse Licensure Compact, p. 516, 1389

(Board of Outfitters)

- 24.171.502 Outfitter Qualifications, p. 521, 624, 1756

(Board of Pharmacy)

24.174.503 and other rules - Administration of Vaccines - Additions, Deletions, and Rescheduling of Dangerous Drugs - Scheduling of Dangerous Drugs, p. 524, 1491

(Board of Physical Therapy Examiners)

24.177.501 and other rules - Examinations - Licensure of Out-of-State Applicants - Dry Needling - Renewals - Complaint Procedure, p. 531, 1907

(Board of Radiologic Technologists)

24.204.401 and other rules - Fees - Military Training - Course Requirements for Limited Permit Applicants - Code of Ethics - Renewals, p. 1818, 2274

(Board of Real Estate Appraisers)

24.207.101 and other rules - Board Organization - Fees - Definitions - Examination - Application Requirements - Qualifying Experience - Mentor Requirements - Registration and Renewal - Record-Keeping Requirements - Unprofessional Conduct - Renewals, p. 1405

(Board of Realty Regulation)

24.210.625 and other rules - Inactive to Active License Status - New Licensee Mandatory Continuing Education - Continuing Real Estate Education - Inactive to Active Status—Property Management - Continuing Property Management Education, p. 416, 933

(Board of Respiratory Care Practitioners)

24.213.412 and other rule - Renewals - Board Seal, p. 259, 1201

(Board of Behavioral Health)

I-III Licensees Authorized to Perform Psychological Assessments - Educational Requirements for Performing Psychological Assessments Without Supervision - Licensees Qualified to Supervise Psychological Assessments, p. 1614, 2276

24.219.101 and other rules - Board Organization - Definitions - Fee Schedules - Supervisor Qualifications - LCSW Licensure - LCPC Licensure - LMFT Licensure - Code of Ethics - Screening Panel - Public Participation - LCPC Education Requirements - LMFT Education Requirements - Social Worker Licensure Candidates - Professional Counselor Licensure Candidates - Marriage and Family Therapist Licensure Candidates - Renewals - Complaint Procedure, p. 1991

LIVESTOCK, Department of, Title 32

32.2.401 and other rules - Feral Swine Mandatory Reporting - Fees - Additional Requirements for Cattle - Semen Shipped Into Montana, p. 2221

32.2.406 Licensee Assessments, p. 2017, 6

32.3.139 and other rules - Appointment as Deputy State Veterinarian - Requirements for Importation - Official Health Certificate - Permits - Brands and Earmarks - Permit Required for Livestock, Game, Furbearing Animals, Wild Animals, Embryos, and Semen, p. 208, 423, 936

(Board of Milk Control)

32.23.102 and other rules - Licensee Assessments, p. 1351, 1908

32.23.301 Licensee Assessments, p. 2227

32.24.506 and other rule - Producer Committee - Pooling Plan Definitions, p. 2230

(Board of Horse Racing)

32.28.101 and other rules, Board of Horse Racing, p. 2252

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

I East Valley Controlled Groundwater Area, p. 2020

I Rye Creek Stream Depletion Zone, p. 2235

36.16.101 and other rules - Water Reservation Rules, p. 1108, 1909

(Board of Land Commissioners)

36.11.432 and other rule - Grizzly Bear Conservation Measures on the Stillwater and Coal Creek State Forest, p. 8

(Board of Oil and Gas Conservation)

I Certify Carbon Sequestration Equipment Placed in Service After January 1, 2014, and Certified by the Department of Environmental Quality Prior to October 1, 2015, p. 798, 1202

I Certification of Carbon Sequestration Equipment, p. 1355, 2035

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

I Short-Term Voluntary Inpatient Mental Health Treatment, p. 1245, 1761

I-IV Implementing the Medicaid Rate as the Reimbursement Rate the State of Montana Will Pay Health Care Providers for Services Provided to Individuals in the Care or Custody of the Department of Corrections or the Department of Public Health and Human Services, p. 1854, 2313

I-X Implementation of the Montana Health and Economic Livelihood Partnership (HELP) Program, p. 1837, 2294

I-XI Production and Sale of Cottage Food Products, p. 1008, 1241, 1494  
37.8.107 and other rules - Update of Vital Records to Reflect Current Practices, p. 891, 1492

37.36.604 Updating the Annual Poverty Guidelines for the Montana Telecommunications Access Program, p. 888, 2146

- 37.40.422 Updating Direct Care Wage Effective Dates and Reimbursement Updates Effective January 1, 2016, p. 2128
- 37.40.830 Updating Hospice Reimbursement Fee Schedules to Reflect New Federal Rates, p. 2024, 20
- 37.57.102 and other rule - Updating Federal Poverty Guidelines to 2015 Levels and to Align Children's Special Health Services (CSHS) With the Healthy Montana Kids (HMK) Financial Assistance Eligibility Criteria, p. 1130, 2148
- 37.70.107 and other rules - Low Income Assistance Program (LIEAP) Amendments for the 2014-2015 and 2015-2016 Heating Season, p. 1624, 2145
- 37.79.304 and other rule - Healthy Montana Kids (HMK)/CHIP Dental Benefits and Evidence of Coverage, p. 1832, 2292
- 37.80.101 and other rules - Child Care Assistance - Implementation of Required Policy Changes Under the Child Care and Development Block Grant of 2014, p. 1652
- 37.81.304 Updating the Big Sky Rx Maximum Premiums to Match the Federal Monthly Benefit Benchmark, p. 2028, 21
- 37.85.104 and other rule - Updating the Fee Schedules for Adult and Children's Mental Health Fee Schedules, p. 1018, 1911
- 37.85.105 and other rule - Effective Dates of Montana Medicaid Provider Fee Schedules, p. 1826, 2238
- 37.86.101 Updating the Physician-Related Services Provider Manual, p. 1667, 2092
- 37.86.1006 Establishment of an Annual Payment Limit for Dental Services Provided Through Medicaid, p. 1859, 2315
- 37.86.2803 and other rules - Addition of Lactation Services to Medicaid Outpatient Hospital Services, p. 1661, 1823, 2289
- 37.86.3503 and other rules - Compliance to ICD-10-CM, p. 1415, 2283
- 37.86.5110 Revision of Exceptions for Passport to Health Services Referrals, p. 1127, 1912
- 37.87.102 and other rules - Revision of Authorization Requirements for Medicaid Mental Health Services for Youth, p. 1023, 1243, 1500
- 37.87.1201 and other rules - Provider Participation - Program Requirements - Reimbursement Procedures for Psychiatric Residential Treatment Facility (PRTF) Services, p. 985, 1239, 2147
- 37.87.2203 and other rules - Non-Medicaid Respite Care Services for Youth With Serious Emotional Disturbance, p. 801, 1274
- 37.106.1901 and other rules - Adding a Forensic Mental Health Facility Endorsement to a Licensed Mental Health Center, p. 1424
- 37.114.701 and other rules - Implementation of HB 158 (2015) Regarding the Modernization of Immunization Laws Related to School, p. 999, 1493

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38.3.104 and other rules - Motor Carriers, p. 628, 1276
- 38.5.1307 and other rules - Telephone Extended Area Service, p. 265, 1203

- 38.5.1902 Cogeneration and Small Power Production, p. 1442, 2318
- 38.5.2202 and other rule - Pipeline Safety, p. 2132
- 38.5.3403 Operator Service Provider Allowable Rates, p. 1134, 1508

REVENUE, Department of, Title 42

- I-III Tax Credits for Contributions to Qualified Education Providers - Student Scholarship Organizations, p. 1682, 2331, 2348
- 42.2.511 Review of Centrally Assessed Property Appraisals - Removing an Outdated Reference to a Form Number, p. 1136, 1509
- 42.4.2902 and other rules - Tax Credits for Historic Property Preservation, p. 1862, 2362
- 42.9.101 and other rules - Pass-Through Entities, p. 1694, 2152
- 42.11.104 and other rules - Liquor Prices - Vendor Product Representatives and Permits - Samples - Advertising - Unlawful Acts - Inventory Policy (Powdered/Crystalline Liquor Products) - Product Availability - Product Listing - Bailment - State Liquor Warehouse Management, p. 1254, 1671, 2093
- 42.11.301 and other rules - Agency Liquor Stores, p. 1735, 2162
- 42.13.301 and other rules - Distillery Deliveries - Alternating Proprietor on a Manufacturer's Premises - Contract Manufacturing - Storage of Alcoholic Beverages, p. 1727, 2157
- 42.13.902 and other rules - Responsible Alcohol Sales and Service Act Server Training Programs, p. 732, 1205
- 42.15.108 and other rules - Fiduciaries, Estates, and Trusts, p. 897, 22
- 42.15.214 Resident Military Salary Exclusion, p. 1679, 2325
- 42.18.124 and other rules - Property Valuation Periods - Property Appraiser Certification Requirements, p. 1448, 2040
- 42.19.401 and other rules - Property Tax Assistance Programs, p. 1453, 2041
- 42.19.1401 Targeted Economic Development Districts, p. 806, 1281
- 42.20.102 and other rules - Property Classification, Appraisal, Valuation, and Exemptions, p. 1709, 2350
- 42.21.113 and other rules - Trended Depreciation Schedules for Valuing Property, p. 1866, 2364
- 42.21.158 and other rules - Personal Property Reporting Requirements - Personal Property Taxation Dates - Livestock Reporting - Livestock Per Capita Fee Payments, p. 1673, 2322
- 42.22.101 and other rules - Centrally Assessed Property, p. 1686, 2149
- 42.29.101 and other rules - Universal System Benefits Programs, p. 13
- 42.38.102 and other rules - Unclaimed Property, p. 1249, 2036

SECRETARY OF STATE, Office of, Title 44

- 1.2.419 Scheduled Dates for the 2016 Montana Administrative Register, p. 1744, 2097
- 1.3.307 and other rule - Rulemaking Notice Requirements, p. 1748, 2098

- 44.3.110 and other rules - Voting Accessibility for Electors With Disabilities - Montana Absent Uniformed Services and Overseas Voter Act, p. 915, 1286
  - 44.5.114 and other rule - Fees Charged by the Business Services Division for the Filing of Annual Reports, p. 2031, 2367
  - 44.5.120 Trademark Fees, p. 1751, 2099
  - 44.5.121 Miscellaneous Fees Charged by the Business Services Division, p. 2241
  - 44.5.122 and other rule - Fees Charged by the Secretary of State, p. 1038, 1364, 1765
  - 44.5.131 Rules Governing the Registration of Business/Mark Names, p. 1469, 2042
  - 44.6.110 and other rules - Secretary of State's Electronic Filing System - Filing of a Title 71 Lien - Requirements for Filing UCC Amendments With the Business Services Division, p. 743, 1764
  - 44.14.202 Retention of Local Government Electronic Long-Term Records, p. 920, 1288
  - 44.14.301 and other rules - Fees Charged by the Records and Information Management Division, p. 1473, 2043
  - 44.14.312 Fees Charged by the Records and Information Management Division, p. 2089, 90
  - 44.15.101 and other rules - Notaries Public, p. 1358, 1913, 2096
- (Commissioner of Political Practices)
- 44.10.101 and other rules - Campaign Finance Reporting, Disclosure, and Practices, p. 1138, 28, 81



## BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in December 2015 appear. Vacancies scheduled to appear from February 1, 2016 through April 30, 2016, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of January 1, 2016.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

**BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2015**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Regents of Higher Education (Education)</b> Mr. Steve Lozar Polson Qualifications (if required): District 2 Democrat	Governor	Robinson	12/18/2015 2/1/2018
<b>District Court Judge District 1 Department 2 (Justice)</b> Judge DeeAnn Cooney Helena Qualifications (if required): none specified	Governor	Sherlock	12/8/2015 1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Architects and Landscape Architects</b> (Labor and Industry) Ms. Shelly Engler, Bozeman Qualifications (if required): Landscape Architect	Governor	3/27/2016
Ms. Maire O'Neill, Bozeman Qualifications (if required): MSU School of Architects	Governor	3/27/2016
Ms. Janet Cornish, Billings Qualifications (if required): Public Representative	Governor	3/27/2016
Mr. Nathan Steiner, Billings Qualifications (if required): Landscape Architect	Governor	3/27/2016
<b>Board of Dentistry</b> (Labor and Industry) Ms. Luella Vogel, Great Falls Qualifications (if required): public representative	Governor	3/29/2016
Dr. Terry Klise, Missoula Qualifications (if required): dentist	Governor	3/29/2016
<b>Board of Optometry</b> (Labor & Industry) Mr. Randall Hoch, Lewistown Qualifications (if required): registered optometrist	Governor	4/3/2016
<b>Board of Public Education</b> (Higher Education) Mr. John W. Edwards, Billings Qualifications (if required): resident of District 2	Governor	2/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Clinical Laboratory Science Practitioners</b> (Labor & Industry)		
Mr. Troy Krieger, Billings Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/2016
<b>Family Support Services Advisory Council</b> (Public Health and Human Services)		
Ms. Sylvia Danforth, Miles City Qualifications (if required): Provider Part C	Governor	4/9/2016
Mr. David Munson, Helena Qualifications (if required): Provider, Part C	Governor	4/9/2016
Ms. Peggy Grimes, Missoula Qualifications (if required): Experience with Homelessness Advocacy	Governor	4/9/2016
Ms. Novelene Martin, Miles City Qualifications (if required): Parent Representative	Governor	4/9/2016
Mr. Ronald Herman, Helena Qualifications (if required): State Agency Representative, Commissioner of Securities and Insurance	Governor	4/9/2016
Ms. Wendy Sturn, no city listed Qualifications (if required): State Agency Representative, Public Health and Human Services	Governor	4/9/2016
Ms. Danni McCarthy, Helena Qualifications (if required): Office of Public Instruction Representative	Governor	4/9/2016
Rep. Jean Price, Great Falls Qualifications (if required): State Legislator	Governor	4/9/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Ms. Lucy Hart-Paulson, Missoula Qualifications (if required): Speech Language Therapists Association	Governor	4/9/2016
Ms. Laura Copp, Bozeman Qualifications (if required): Representative of the Montana School for the Deaf and Blind	Governor	4/9/2016
Ms. Norma Zelzer, Great Falls Qualifications (if required): Family Support Specialist	Governor	4/9/2016
Ms. Laura McGee, Billings Qualifications (if required): Parent Representative	Governor	4/9/2016
Ms. Zoe Barnard, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Jennifer Banna, Missoula Qualifications (if required): Parent Representative	Governor	4/9/2016
Dr. Corey Fish, Bozeman Qualifications (if required): Health Care Representative	Governor	4/9/2016
Ms. Ryane Holzwarth, Laurel Qualifications (if required): Quality Improvement Specialist	Governor	4/9/2016
Ms. Jody Jones, Ronan Qualifications (if required): Head Start Representative	Governor	4/9/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Ms. Debra Kercher, Great Falls Qualifications (if required): Parent Representative	Governor	4/9/2016
Dr. Christine Lux, Bozeman Qualifications (if required): Personnel Preparation Representative	Governor	4/9/2016
Mr. Tim Plaska, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Caitlin Jensen, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Heather Racicot, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Angela R. Thompson, Billings Qualifications (if required): Provider of Part C Services	Governor	4/9/2016
Ms. Kandis Franklin, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Rebecca Bogden-Richards, Great Falls Qualifications (if required): Parent Representative	Governor	4/9/2016
Ms. Catherine Murphy, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Ms. Latosha Vavak, Columbus Qualifications (if required): Parent Representative	Governor	4/9/2016
Ms. Patty Butler, Lewistown Qualifications (if required): Department of Public Health and Human Services Representative	Governor	4/9/2016
Ms. Lori Gaustad, Billings Qualifications (if required): Public Awareness and Education Organization Representative	Governor	4/9/2016
Ms. Marilyn Davis, Bozeman Qualifications (if required): Parent Representative for Region 4	Governor	4/9/2016
Ms. Chelsie Guilford, Billings Qualifications (if required): Part C Provider	Governor	4/9/2016
Ms. Meaghan Kolar, Helena Qualifications (if required): Department of Public Health and Human Services Representative	Governor	4/9/2016
Ms. Laura Simonsen, Billings Qualifications (if required): Parent Representative At-Large	Governor	4/9/2016
<b>Hail Insurance Board</b> (Agriculture) Mr. Jim Schillinger, Baker Qualifications (if required): Public Representative	Governor	4/18/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Potato Commodity Advisory Committee</b> (Agriculture) Mr. Brad Haidle, Fallon Qualifications (if required): Potato Producer	Director	3/1/2016
Mr. Pat Fleming, Pablo Qualifications (if required): Potato Producer	Director	3/1/2016
<b>Public Employees Retirement Board</b> (Administration) Mr. Timm Twardoski, Helena Qualifications (if required): public representative	Governor	4/1/2016
<b>Smith River State Park and River Corridor Advisory Council</b> (Fish, Wildlife and Parks) Director Mary Sexton, Helena Qualifications (if required): State Parks and Recreation Board Member	Director	3/1/2016
Mr. Joe Lamson, Helena Qualifications (if required): Interested Citizen	Director	3/1/2016
Mr. Gary Wolfe, Missoula Qualifications (if required): Fish and Wildlife Commission Member	Director	3/1/2016
Mr. Triel Culver, Billings Qualifications (if required): Interested Citizen	Director	3/1/2016
Mr. Grant Grisak, Billings Qualifications (if required): Agency Representative	Director	3/1/2016



**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Smith River State Park and River Corridor Advisory Council</b> (Fish, Wildlife and Parks) cont. Ms. Jane Kollmeyer, Helena Qualifications (if required): Interested Citizen	Director	3/1/2016
Mr. Colin Maas, Helena Qualifications (if required): Agency Representative	Director	3/1/2016
Mr. Mike Meloy, Helena Qualifications (if required): Smith River Corridor Landowner	Director	3/1/2016
Mr. John Metrione, Helena Qualifications (if required): U.S. Forest Service Representative	Director	3/1/2016
Mr. Ned Morgans, Helena Qualifications (if required): Smith River Corridor Landowner	Director	3/1/2016
Mr. Joe Sowerby, Missoula Qualifications (if required): Smith River Outfitter	Director	3/1/2016
<b>Youth Justice Council</b> (Justice) Sheriff Craig Anderson, Glendive Qualifications (if required): Law Enforcement, Judge, Judiciary	Governor	3/1/2016
Commissioner Laura Obert, Townsend Qualifications (if required): Local Government	Governor	3/1/2016
Mr. Tim Brurud, Havre Qualifications (if required): Private Non-Profit Agency	Governor	3/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Youth Justice Council</b> (Justice) cont. Judge Mary Jane Knisely, Billings Qualifications (if required): Law Enforcement, Judge, Judiciary	Governor	3/1/2016
Mr. Adam Stern, Livingston Qualifications (if required): Local Government	Governor	3/1/2016
Ms. Laura Bomboy Singley, Lewistown Qualifications (if required): Law Enforcement, Judge, Judiciary	Governor	3/1/2016
Mr. Chaz McGurn, Helena Qualifications (if required): Under 24, has been or is under the Jurisdiction of the Juvenile System	Governor	3/1/2016
Mr. Randy Shipman, Dillon Qualifications (if required): Public Agency	Governor	3/1/2016
Mrs. Michelle Miller, Butte Qualifications (if required): Competency Addressing Youth Violence	Governor	3/1/2016
Ms. Kelly McIntosh, Dillon Qualifications (if required): Private Non-Proft Agency	Governor	3/1/2016
Mr. Dave Bailon, Kalispell Qualifications (if required): Volunteer work with delinquents and potential delinquents	Governor	3/1/2016
Ms. Anna Fischer, East Helena Qualifications (if required): Under 24, has been or is under the jurisdiction of the Juvenile Justice System	Governor	3/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2016 THROUGH APRIL 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Youth Justice Council</b> (Justice) cont. Mr. Peter Ohman, Bozeman Qualifications (if required): Public Agency	Governor	3/1/2016
Mr. Jack Shevalier, Helena Qualifications (if required): Under 24, has been or is under the Jurisdiction of the Juvenile Justice System	Governor	3/1/2016
Ms. Kristina Lucero, Helena Qualifications (if required): Special experience and competence in addressing problems related to school violence	Governor	3/1/2016
Mr. Braeden Quinn, Missoula Qualifications (if required): Special experience and competence in addressing problems related to school violence	Governor	3/1/2016
Ms. Geri Small, Lame Deer Qualifications (if required): Special experience and competence in addressing problems related to disabilities	Governor	3/1/2016