

# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 16

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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

In the matter of the adoption of New Rules I through IV and the repeal of ARM 37.87.1303, 37.87.1333, and 37.87.1335 pertaining to integrated co-occurring treatment provider requirements ) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND REPEAL ) ) ) ) )

TO: All Concerned Persons

1. On September 8, 2016, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 1, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I INTEGRATED CO-OCCURRING TREATMENT (ICT),

DEFINITIONS (1) "Community psychiatric supportive treatment (CPST)" means a treatment method that assists a youth and family members or other collaterals to identify strategies or treatment options associated with the youth's mental illness, with the goal of minimizing the negative effects of mental illness symptoms or emotional disturbances or associated environmental stressors which interfere with the youth's daily living, financial management, housing, academic or employment progress, personal recovery or resilience, family or interpersonal relationships, and community integration.

(2) "Fidelity" means adherence to the integrated co-occurring treatment (ICT) model, defined in (3). A program which adheres to the ICT model is more likely to replicate the positive outcomes of the model's initial implementation or testing.

(3) "Integrated co-occurring treatment (ICT) model" means the ICT model developed by the Center for Innovative Practices at Case Western Reserve University. Services are provided to the fidelity of the model in the home or community where the youth lives, with the goal of safely maintaining the youth in the least restrictive, most normative environment. The frequency and intensity of

services may fluctuate based on the needs and unique circumstances of the youth and family. ICT provides a family driven, comprehensive mix of integrated services designed to meet the mental health and substance abuse needs of the youth through implementation of the following services:

- (a) ICT therapeutic interventions as described in (6); and
- (b) CPST as described in (1).

(4) "ICT clinical supervisor" means a person who is an employee of a provider agency who is dually licensed as a mental health professional, as defined in ARM 37.87.102(3) and is a licensed addiction counselor (LAC), under 37-35-202, MCA.

(5) "ICT clinician" means a person who is an employee of a provider agency who:

(a) is licensed as a mental health professional, as defined in ARM 37.87.102(3), or is an in-training mental health professional, as defined in ARM 37.87.702(3); and

(b) is a LAC, or is a candidate for licensure, under 37-35-202, MCA, or will meet the requirements for candidacy under 37-35-202, MCA, within one year of hire and has completed ICT approved core training.

(6) "ICT therapeutic interventions" means crisis response and management; individual and family counseling matched to assessed readiness to change and assessed ability of youth and family, not to include group therapy; and behavioral management and skill training matched to assessed ability of youth and family.

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

IMP: 53-6-101, MCA

#### NEW RULE II INTEGRATED CO-OCCURRING TREATMENT (ICT),

ELIGIBILITY (1) ICT services are available to Medicaid eligible youth as defined in ARM 37.87.102.

(2) The youth must have a co-occurring substance use disorder (SUD) as defined by the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and a serious emotional disturbance (SED) as defined in the Children's Mental Health Bureau's Medicaid Services Provider manual, adopted and incorporated by reference in ARM 37.87.903(8).

(3) The youth must undergo an integrated bio-psycho-social assessment which supports referral to the ICT program.

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

IMP: 53-6-101, MCA

#### NEW RULE III INTEGRATED CO-OCCURRING TREATMENT (ICT),

REQUIREMENTS (1) Providers of ICT must be trained in, and use, ICT as defined by the model.

(2) Providers who wish to provide ICT must undergo and pass the following provided by an entity approved by the department:

- (a) a readiness assessment; and
- (b) an annual fidelity review.

(3) An ICT team must have a minimum of one .125 full-time equivalent (FTE) ICT clinical supervisor and one FTE ICT clinician.

(4) One FTE ICT clinical supervisor may supervise up to eight FTE ICT clinicians.

(5) The ICT clinical supervisor must provide supervision as defined by the model, including:

(a) providing weekly one-on-one supervision; and

(b) providing weekly team case consultation to the ICT clinician who holds primary case responsibility.

(6) A clinical supervisor who is dually licensed as a licensed mental health professional and a licensed addiction counselor (LAC) must be available 24 hours a day, 7 days a week to the ICT clinicians.

(7) One FTE ICT clinician may provide services for up to six families at a time.

(8) The following requirements must be met, as described by the ICT model by the ICT clinical supervisor, the ICT clinicians, or both:

(a) conduct an average of three hours of ICT services per week with each family through the course of treatment at the frequency, location, and duration that are sufficient to meet the identified needs of the family, unless there is a documented reason that an average of three hours of service per week cannot be met; and

(b) provide 24 hours a day, 7 days a week, face-to-face or telephonic crisis response.

(9) Treatment begins when the family consents in writing to begin services.

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

IMP: 53-6-101, MCA

NEW RULE IV INTEGRATED CO-OCCURRING TREATMENT (ICT), REIMBURSEMENT AND AUTHORIZATION (1) A prior authorization (PA) request must be submitted to the Children's Mental Health Bureau no earlier than ten business days prior to the first date of the service for the youth. Requests received earlier than ten days prior to the admission of the youth, will be technically denied. If a request is received after the youth has been admitted, the request will be considered from the date the request was received by the department.

(2) The clinical reviewer will complete the PA review process within two business days of receipt of complete information and take one of the following actions:

(a) request additional information as needed to complete the review and the provider must submit the requested information within five business days of the request for additional information;

(b) authorize the PA for up to 180 days as medically necessary and generate notification to all appropriate parties if the request meets the medical necessity criteria; or

(c) defer the case to a board-certified psychiatrist for review and determination if the PA request does not appear to meet the medical necessity criteria.

(3) The board-certified psychiatrist will complete the review and determination within four business days of receipt of the information from the clinical reviewer.

(4) After a denial, a new PA request may be submitted only if there is new clinical information.

(5) The following services will not be reimbursed concurrently with ICT:

- (a) outpatient therapy;
- (b) home-support services;
- (c) community-based psychiatric rehabilitation and support;
- (d) therapeutic group home;
- (e) psychiatric residential treatment facility;
- (f) day treatment;
- (g) comprehensive school and community treatment;
- (h) acute inpatient hospital services; and
- (i) targeted case management.

(6) CPST services may be provided by the ICT team to a youth that is enrolled in partial hospitalization for up to 14 days.

(7) The ICT provider must provide to the family a document that explains which services cannot be reimbursed concurrently as well as the potential for repayment if such services are provided concurrently.

(8) ICT therapeutic interventions will be reimbursed as follows: procedure code H0040 at \$18.73 per 15-minute unit.

(9) CPST will be reimbursed as follows: procedure code H0039 UA at \$14.30 per 15-minute unit.

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

4. The department proposes to repeal the following rules:

37.87.1303 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM found on page 37-21387 of the Administrative Rules of Montana.

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

37.87.1333 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: REIMBURSEMENT found on page 37-21411 of the Administrative Rules of Montana.

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

37.87.1335 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: NOTICE AND FAIR HEARING found on page 37-21413 of the Administrative Rules of Montana.

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

## 5. STATEMENT OF REASONABLE NECESSITY

The department proposes to adopt New Rules I through IV and repeal ARM 37.87.1303, 37.87.1333, and 37.87.1335. Administrative rules 37.87.1303, 37.87.1333, and 37.87.1335 define the requirements for the Home and Community Based Services Bridge Waiver. The bridge waiver was terminated on March 1, 2016.

New Rules I through IV propose the requirements for Integrated Co-occurring Treatment (ICT). ICT is the model developed by the Center for Innovative Practices at Case Western Reserve University to treat youth with co-occurring severe emotional disturbance (SED) and substance use disorder (SUD). Services are provided in the home or community where the youth lives, with the goal of safely maintaining the youth in the least restrictive and most normative environment. The frequency and intensity of services may fluctuate based on the needs and unique circumstances of the youth and family. ICT provides a family driven, comprehensive mix of integrated services designed to meet the SED and SUD needs of the youth.

The Children's Mental Health Bureau (CMHB) has operationalized ICT through a grant from the Substance Abuse and Mental Health Services Administration (SAMHSA). Grant funding expires on September 29, 2016; therefore CMHB is proposing these rules to continue the ability to fund the program.

Specifically the department proposes the following:

### NEW RULE I

The department proposes New Rule I as the definition section for the new ICT service. This is necessary because ICT is a new service model not previously defined in administrative rule.

### NEW RULE II

The department proposes New Rule II as the eligibility requirements for youth receiving ICT services. This proposed new rule is necessary to ensure that only youth who meet the medical necessity criteria of this service, receive the service. This treatment model is specifically designed for youth who have both an SED and a SUD, one of which must be severe as described in the Diagnostic and Statistical Manual of Mental Disorders (DSM).



### NEW RULE III

The department proposes New Rule III to describe the staffing, treatment, and clinical supervision requirements of the ICT model. This new rule is necessary to ensure that ICT providers adhere to the fidelity of the program model during the provision of ICT services.

### NEW RULE IV

The department proposes New Rule IV to establish the requirements for requesting a prior authorization for ICT and to describe which services will not be reimbursed concurrently with ICT. This is necessary in order for providers of ICT to request prior authorization for reimbursement of ICT services. Additionally, by defining duplicative services, the department ensures compliance with ARM 37.87.903(1) pertaining to duplicative services.

### ARM 37.87.1303, 37.87.1333, and 37.87.1335

The department is proposing to repeal these rules because the Home and Community Based Services Bridge Waiver was terminated on March 1, 2016.

### Fiscal Impact

There is no anticipated fiscal impact due to this proposed rulemaking.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., September 16, 2016.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

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

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of

State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are appropriate for performance-based measurement and therefore are subject to the performance-based measures requirement of 53-6-196, MCA.

The department will track and report the following performance-based measures:

Principal reason for the rule	Measurement	Data Collection Methods/Metrics	Period of Measurement
Provide Integrated Co-occurring Treatment (ICT) for youth with both a Severe Emotional Disturbance (SED) and also has a co-occurring substance abuse disorder using an evidence-based outpatient service addressing both issues.	Youth are served by ICT services.	Track claims data to determine how many claims are paid for ICT services per youth.	Annually.
Provide ICT services to the fidelity of the model.	ICT fidelity monitoring tool.	Providers will be required to have an outside contractor administer the ICT Model fidelity tool.	Annually.

/s/ Brenda K. Elias  
Brenda K. Elias, Attorney  
Rule Reviewer

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

Certified to the Secretary of State August 8, 2016.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.20.173, 42.20.504,	)	PROPOSED AMENDMENT AND
42.20.505, 42.20.601, 42.20.604,	)	REPEAL
42.20.683, and 42.20.745 and the	)	
repeal of ARM 42.20.502, 42.20.503,	)	
and 42.20.516 pertaining to property	)	
reappraisal cycles, assessment	)	
review deadlines, electronic	)	
classification and appraisal notices,	)	
agricultural land regions, and bona	)	
fide agricultural operation	)	
determinations (Montana Tax Appeal	)	
Board ruling)	)	

TO: All Concerned Persons

1. On September 13, 2016, at 9 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 26, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.20.173 STATUTORY DEADLINE FOR CLASSIFICATION AND APPRAISAL REVIEWS (1) The reappraisal cycle for class three and class four property is January 1, ~~2015~~ 2017, through December 31, ~~2016~~ 2018. The department will accept requests for informal classification and appraisal reviews (Form AB-26) for class three and class four property for tax years ~~2015~~ 2017 and ~~2016~~ 2018.

(2) The reappraisal cycle for class ten property is January 1, 2015 through December 31, 2020. The department will accept Form AB-26 requests for class ten property for tax years 2015 through 2020.

(3) A property taxpayer who is dissatisfied with their property's appraised value may submit a Form AB-26 one time per reappraisal cycle. The Form AB-26 must be submitted to the local department office in the county in which the property is located within 30 days after the date on the classification and appraisal notice to be considered for the current tax year.

(2) and (3) remain the same, but are renumbered (4) and (5).

~~(4) For subsequent reappraisal cycles, beginning in tax year 2015, taxpayers~~

(6) Taxpayers may file an informal classification and appraisal review a Form AB-26 in any year of the a reappraisal cycle, but only one time during a the cycle unless the department determines that a change in value occurred and the taxpayer receives a new classification and appraisal notice during the cycle.

(7) The department will deny a property owner's Form AB-26 if no response to the department's final written request to either schedule an appointment or provide additional documentation is received within 14 working days from the date on the request.

AUTH: 15-1-201, MCA

IMP: 15-7-102, 15-7-110, 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.173 to update the calendar years to match the upcoming reappraisal cycle due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle for all class three and class four property from every six years to every two years beginning in tax year 2017.

The department also proposes separating (1) into three sections to more clearly lay out the review process now that there are two different reappraisal cycle lengths covered by this rule.

The department further proposes striking the reference to tax year 2015 in (4), because it is no longer necessary information to include this in the rule, and proposes amending newly numbered (6) to replace "informal assessment review" with the commonly recognized and utilized form name "AB-26" used by taxpayers to request that the department conduct a review of their assessment value.

Additionally, the department proposes adding new (7) to explain what happens if a property owner does not timely respond to the department's request for an appointment or additional information after the property owner files a Form AB-26.

42.20.504 NEW CONSTRUCTION DETERMINATION (1) through (2)(b) remain the same.

(c) properties with condition, desirability, and usefulness utility (CDU rating) rating changes;

(d) and (e) remain the same.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.504 as a matter

of housekeeping to correct a word error discovered during the department's recent biennial review of its rules. The "U" in the acronym CDU stands for "utility" not "usefulness" as currently stated in the rule.

42.20.505 CLASSIFICATION AND APPRAISAL NOTICES AND VALUATION REVIEWS FOR FOREST LAND PROPERTY (1) and (2) remain the same.

(3) Beginning in tax year 2017, a taxpayer may request an electronic version of the classification and appraisal notice for future years. In such cases, the department will notify the taxpayer that the electronic notice is available and how to access the electronic notice.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-102, 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.505 to allow the property taxpayer the option to request an electronic version of their classification and appraisal notice beginning in 2017. The department otherwise mails printed notices to the taxpayer.

42.20.601 DEFINITIONS The following definitions apply to this subchapter:

(1) through (6) remain the same.

(7) "Bona fide agricultural operation" means an agricultural enterprise in which the land actually produces agricultural crops defined in 15-1-101, MCA, that directly contribute agricultural income to a functional agricultural business, ~~consisting of contiguous parcels totaling not less than 1 acre, excluding the 1-acre site beneath a residence.~~

(8) through (14) remain the same.

~~(15) "Farm and ranch reporting form" means a department-designed personal property reporting form (PPB-3) that lists personal property and livestock used in an agricultural business.~~

(16) through (35) remain the same, but are renumbered (15) through (34).

AUTH: 15-7-111, MCA

IMP: 15-1-101, 15-6-133, 15-7-201, 15-7-202, MCA

REASON: The department proposes amending ARM 42.20.601 to strike the 1-acre requirement language from the definition of "bona fide agricultural operation" in (7), to comply with a recent Montana Tax Appeal Board ruling that determined that there is no minimum requirement of land for a bona fide agricultural operation.

The department further proposes striking (15) to remove outdated terminology. The livestock reporting and personal property reporting forms are no longer referred to as a form PPB-3, but are now separately referred to as the "Livestock Reporting Form" and the "Personal Property Reporting Form."

42.20.604 STEPS IN DETERMINING THE PRODUCTIVITY OF AGRICULTURAL LAND (1) remains the same.

(2) Productivity is adjusted to reflect, as near as possible, typical management practices for an area using the following procedures:

(a) for lands whose productivity is based on bushels of spring wheat per acre, the soil survey productivity in the following counties is adjusted on a regional basis by multiplying the soil survey productivity by the regional adjustment. The county designations and regional adjustments are as follows:

(i) Region 1: Beaverhead, Broadwater, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow is 0.86;

(ii) Region 2: Big Horn, Blaine, ~~Broadwater~~, Carbon, Carter, Cascade, Chouteau, Custer, Fallon, Fergus, Garfield, Glacier, Golden Valley, Hill, Judith Basin, ~~Lewis and Clark~~, Liberty, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Teton, Toole, Treasure, Wheatland, and Yellowstone is 0.77; and

(iii) through (e) remain the same.

AUTH: 15-7-111, MCA

IMP: 15-7-201, 15-7-202, MCA

REASON: The department proposes amending ARM 42.20.604(2) as a matter of housekeeping to correct an error discovered during the department's recent biennial review of its rules. Broadwater and Lewis and Clark counties were inadvertently listed under the wrong regions when county names were added to the rule in 2014.

42.20.683 SPECIALTY AND UNIQUE CROPS (1) and (2) remain the same.

(3) The sale of honey and other products from bees will be considered agricultural income. For valuation as agricultural land, the owner of the land must provide proof that:

(a) the landowner is registered with the Montana Department of Agriculture as a landowner an apiary; and

(b) through (5) remain the same.

(6) For valuation as agricultural land, the owner of land used as a garden or produce farm must provide proof that the garden or produce farm:

~~(a) consists of a minimum of 1 acre;~~

(b) and (c) remain the same, but are renumbered (a) and (b).

(7) The sale of Christmas trees will be considered agricultural income if the provisions of (8) are met. ~~Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of trees to reach salable maturity.~~

(8) For valuation as agricultural land, the owner of land must provide proof that all trees are:

(a) ~~all trees are~~ cultivated under accepted, proven husbandry practices; and

(b) ~~all trees are~~ sheared on a regular basis; ~~and~~

~~(c) the property contains a minimum of 2,000 trees.~~

~~(9) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.~~

~~(40)(9)~~ The property owner must include with the application documentation sufficient to prove that:

~~(a) the property continues to meet the requirements of (8); and~~

~~(b) the property produces and the owner or the owner's agent markets at least \$1,500 in gross annual income.~~

~~(41)(10)~~ A fruit tree orchard will be considered agriculture if the provisions of ~~(12)(11)~~ are met. ~~Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of trees to reach salable maturity.~~

~~(42)(11)~~ For valuation as agricultural land, the owner of land must provide proof that:

~~(a) the orchard consists of contiguous parcels of land totaling not less than 1 acre;~~

~~(b) the orchard contains a minimum of 100 live fruit trees; and~~

~~(c) the orchard is maintained using accepted fruit tree husbandry practices including fencing and a watering system.~~

~~(13) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.~~

~~(44)(12)~~ The property owner must include with the application documentation sufficient to prove that:

~~(a) the property continues to meet the requirements of (12); and~~

~~(b) the orchard produces and the owner or the owner's agent markets at least \$1,500 in gross annual income once the trees reach production maturity.~~

~~(45)(13)~~ A vineyard shall be considered agriculture if the provisions of ~~(16)(14)~~ are met. ~~Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of vines to reach salable maturity.~~

~~(46)(14)~~ For valuation as agricultural land, the owner of land must prove that:

~~(a) the vineyard consists of contiguous parcels of land totaling not less than 1 acre;~~

~~(b) the vineyard contains a minimum of 120 live vines;~~

~~(c) through (e) remain the same, but are renumbered (a) through (c).~~

~~(17) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.~~

~~(18) The property owner must include with the application documentation sufficient to prove that the property continues to meet the requirements of (16).~~

~~(19) remains the same, but is renumbered (15).~~

AUTH: 15-1-201, MCA

IMP: 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.683 to clean up the language in (3)(c) by removing an unnecessary and potentially confusing second reference to "a landowner" in that sentence.

Sections (6) through (18) are proposed to be amended and/or language stricken to comply with a recent Montana Tax Appeal Board ruling that the only requirement for consideration as a bona fide agricultural operation is \$1500 in



annual gross income. The rule is further proposed to be renumbered to accommodate for the amendments.

42.20.745 FOREST LAND (1) Forest land productivity values are calculated by using the formula defined in 15-44-103, MCA.

(a) For forest land with an increase in value as a result of the 2015 reappraisal, the department will apply the phase-in percentage as defined in 15-7-111, MCA, and ~~ARM 42.20.503~~ to the full reappraisal productivity values for forest land for the reappraisal cycle beginning January 1, 2015.

(b) remains the same.

(2) The phase-in formula for each year of the reappraisal cycle is as follows:

(a) Change in value = full reappraisal value - value before reappraisal (VBR);

(b) through (3) remain the same.

(4) For value changes that are a result of newly classified forest lands or forest lands that have a decrease in acres due to a land use change, the VBR is calculated. A calculated VBR is the value of the new forest land acres as if the forest land acres had existed before reappraisal. The department phases in the difference between the calculated VBR and the value of the new forest land acres in the current cycle, at the rate of 16.66 percent for each year of the revaluation cycle.

(5) For forest lands that have a decrease or increase in acres due to land use changes that are the result of department updates from the Geographic Information System, or due to incidental fluctuations in agricultural land use due to typical farming practices, the department will use the 2014 value of the current land use as the VBR.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-103, MCA

REASON: The department proposes amending ARM 42.20.745(1) to remove a reference to ARM 42.20.503 because that rule is being repealed. The relevant language from the repealed rule is proposed to be incorporated into this rule instead for ease of locating.

The department proposes amending (2) to add a reference to the acronym "VBR," which stands for value before reappraisal, to identify the term for later use in the rule as proposed to be amended.

New (4) is proposed to be added to address mixed-use properties containing both forest land and agricultural land because the land types are on different reappraisal cycles now due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle length from six years to two years for all but forest land. A change in agricultural land may impact the acreage for forest land on the same parcel. If so, the department will calculate the VBR and phase in the difference as stated in the rule. This will allow for changes to forest land during the forest land's six-year reappraisal cycle.

New (5) is proposed to be added to allow parcels with mixed forest land and agricultural land to use the 2014 value as the VBR in cases where the changes to the forest land acres were due to updates in the Geographic Information System or to typical farm practices.

4. The department proposes to repeal the following rules:

42.20.502 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR)  
FOR FOREST LAND EXCLUDING INDUSTRIAL PROPERTIES

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, MCA

REASON: In a recent biennial review of all its rules, the department determined that ARM 42.20.502 and ARM 42.20.745, contain duplicative language. Therefore the department proposes repealing ARM 42.20.502 to eliminate this redundancy. Any remaining relevant language not already covered in ARM 42.20.745 is proposed to be added to that rule.

42.20.503 DETERMINATION OF CURRENT YEAR PHASE-IN VALUE FOR  
CLASS TEN PROPERTY

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, MCA

REASON: The department proposes repealing ARM 42.20.503 due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle for class ten property from every six years to every two years. This change eliminated the need for the phase-in calculation and therefore this rule is no longer necessary.

42.20.516 APPLICATION OF PHASE-IN PROVISIONS FOR CLASS TEN  
PROPERTIES THAT DECREASE IN VALUE DUE TO REAPPRAISAL

AUTH: 15-1-201, MCA  
IMP: 15-6-134, 15-7-111, MCA

REASON: The department proposes repealing ARM 42.20.516 due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle for class ten property from every six years to every two years. This change eliminated the need for the phase-in calculation and therefore this rule is no longer necessary.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 27, 2016.

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

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at [revenue.mt.gov/rules](http://revenue.mt.gov/rules). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of Senate Bill 157, L. 2015, Senator Bruce Tutvedt, was contacted by letter on July 6, 2015, and subsequently notified on July 25, 2016.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at [revenue.mt.gov/rules](http://revenue.mt.gov/rules) or upon request from the person in 5.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State August 8, 2016.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.19.1401, 42.19.1403,	)	PROPOSED AMENDMENT
42.19.1404, 42.19.1407, 42.19.1408,	)	
and 42.19.1411 pertaining to urban	)	
renewal districts (URD), targeted	)	
economic development districts	)	
(TEDD), and tax increment finance	)	
districts (TIFD)	)	

TO: All Concerned Persons

1. On September 13, 2016, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 26, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.19.1401 DEFINITIONS The following definitions apply to this subchapter:

(1) "Levy district" means a geographically distinct area where all of the properties are subject to the same combination of taxing jurisdictions.

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

(4) "Taxing jurisdiction" means a government entity authorized to impose tax on property.

(3) and (4) remain the same, but are renumbered (5) and (6).

AUTH: 15-1-201, MCA

IMP: 7-15-4202, 7-15-4203, 7-15-4204, 7-15-4205, 7-15-4206, 7-15-4207, 7-15-4208, 7-15-4209, 7-15-4210, 7-15-4211, 7-15-4212, 7-15-4213, 7-15-4214, 7-15-4215, 7-15-4216, 7-15-4217, 7-15-4218, 7-15-4278, 7-15-4279, 7-15-4280, 7-15-4281, 7-15-4282, 7-15-4283, 7-15-4284, MCA

REASON: The department proposes amending ARM 42.19.1401 to add

definitions for "levy district" and "taxing jurisdiction" to clarify the difference between the two terms as used in the rules in this subchapter.

42.19.1403 NEW URBAN RENEWAL DISTRICTS (URD) – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE

(1) The department will certify the base taxable value of a newly created URD if the department determines that the following information exists and has been provided to the department:

(a) and (b) remain the same.

(c) a map representing the URD's boundary including a legal description of the URD (boundary map);

(d) through (k) remain the same.

(2) After the local government has developed the URD boundary map identified in (1)(c), and prior to the submission of the information required by this rule, the local government must submit a copy of the URD boundary map to the Montana Department of Revenue, Centrally Assessed and Industrial Property Unit.

(3) Upon receipt of the local government's URD boundary map, the Centrally Assessed and Industrial Property Unit will:

(a) work with all centrally assessed and industrial taxpayers having property located within the external boundaries of the URD to identify the taxpayer's property; and

(b) provide the local government with a description required in (1)(k) of all centrally assessed and industrial property located within the URD boundary.

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

AUTH: 15-1-201, MCA

IMP: 7-15-4202, 7-15-4210, 7-15-4215, 7-15-4216, 7-15-4282, 7-15-4284,  
MCA

REASON: The department proposes amending ARM 42.19.1403 to include the term "boundary map" in (1)(c) for clarity and to add the language in new (2) and (3) to establish a process for identifying centrally assessed property within a URD. As proposed, this process will make the required identification of centrally assessed property easier and less burdensome for local governments.

42.19.1404 NEW TARGETED ECONOMIC DEVELOPMENT DISTRICTS (TEDD) – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE

(1) remains the same.

(2) After the local government has developed the boundary map identified in (1)(k), and prior to the submission of the information required by this rule, the local government must submit a copy of the TEDD boundary map to the Montana Department of Revenue, Centrally Assessed and Industrial Property Unit.

(3) Upon receipt of the local government's TEDD boundary map, the Centrally Assessed and Industrial Property Unit will:

(a) work with all centrally assessed and industrial taxpayers having property located within the external boundaries of the TEDD to identify the taxpayer's property; and

(b) provide the local government with a description required in (1)(m) of all centrally assessed and industrial property located within the TEDD boundary.  
(2) remains the same, but is renumbered (4).

AUTH: 15-1-201, MCA

IMP: 7-15-4279, 7-15-4282, 7-15-4284, 76-1-103, MCA

REASON: The department proposes amending ARM 42.19.1404 to add new language in (2) and (3) to establish a process for identifying centrally assessed property within a TEDD. As proposed, this process will make the required identification of centrally assessed property easier and less burdensome for local governments.

42.19.1407 DETERMINATION OF BASE YEAR TAXABLE AND INCREMENTAL VALUE VALUES OF A NEWLY CREATED TAX INCREMENT FINANCING DISTRICTS (TIFD) (1) The base year taxable value for the TIFD will be determined as follows:

(a) and (b) remain the same.

~~(c) The base year taxable value of a TIFD may only be calculated as provided for in (1)(a) and (b)~~ department will calculate base taxable values using the total taxable value of all property within a TIFD prior to the application of any local abatement identified in Title 15, chapter 24, MCA.

(d) The department will calculate incremental taxable values by subtracting the base taxable value identified in (1)(c) from the total taxable value of all property within the TIFD after the application of any local abatements identified in Title 15, chapter 24, MCA.

AUTH: 15-1-201, MCA

IMP: 7-15-4284, 7-15-4285, 15-10-420, MCA

REASON: The department proposes amending ARM 42.19.1407(1) to add language in new (c) and (d) to clarify how the department will calculate base taxable values and incremental taxable values and to ensure that those values are calculated in a manner that is consistent with the definitions of base taxable and incremental taxable values as identified in 7-15-4283, MCA.

The department further proposes amending the rule title to reflect the content of the rule as amended to include the calculation of both base values and incremental values.

42.19.1408 DETERMINATION AND REPORT OF BASE YEAR, ACTUAL, AND INCREMENTAL TAXABLE VALUES – TIMING (1) through (4) remain the same.

(5) If a TIFD encompasses two or more levy districts, the department will:

(a) calculate the total base taxable value and total and incremental taxable value for the TIFD; and

(b) apportion the base taxable value and the incremental taxable value to each levy district according to its contribution to the total taxable value of the TIFD.

AUTH: 15-1-201, MCA

IMP: 7-15-4284, 7-15-4285, 15-10-202, 15-10-420, MCA

REASON: The department proposes amending ARM 42.19.1408 to add the language in new (5) to explain, by rule, the process the department will use to calculate base, actual, and incremental taxable values when a TIFD encompasses more than one levy district. This clarification is intended to help local governments understand how values are calculated in these situations for budgeting purposes.

42.19.1411 DETERMINATION OF BASE YEAR TAXABLE VALUES OF AN AMENDED TIFD – REPORTING OF BASE YEAR, ACTUAL, AND INCREMENTAL TAXABLE VALUES (1) In cases where a TIFD boundary amendment adds new property to an existing TIFD:

(a) remains the same.

(b) the base ~~year~~ and incremental taxable value values of the property being added to the TIFD by the boundary amendment will be calculated pursuant to ARM 42.19.1407.

(2) and (3) remain the same.

AUTH: 15-1-201, MCA

IMP: 7-15-4282, 7-15-4284, 7-15-4285, 15-10-420, MCA

REASON: The department proposes amending ARM 42.19.1411(1)(b) to strike the word "year" and add the word "incremental" to clarify how the department will base taxable values and incremental taxable values and to ensure that those values are calculated in a manner that is consistent with the definitions of base taxable and incremental taxable values as identified in 7-15-4283, MCA.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 27, 2016.

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

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

7. An electronic copy of this notice is available on the department's web site at [revenue.mt.gov/rules](http://revenue.mt.gov/rules). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at [revenue.mt.gov/rules](http://revenue.mt.gov/rules) or upon request from the person in 4.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State August 8, 2016.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to requests for nondisclosure of property owner record information ) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION ) ) )

TO: All Concerned Persons

1. On September 13, 2016, at 1 p.m., the Department of Revenue will hold a public hearing in the Third Floor PAD Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rule. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 26, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

NEW RULE I NONDISCLOSURE OF PROPERTY RECORD INFORMATION

(1) Information obtained and records prepared in the course of property tax administration in Montana are available to the public, including the property owner's name. An individual who is at risk of physical harm or to their personal safety may have a reasonable expectation of privacy. A qualified property owner, as defined in (2), may request that the department withhold the name of the owner from the department's web sites upon demonstrating that the right of the individual's privacy clearly exceeds the public's right to access property records.

(2) A "qualified property owner," for the purposes of this rule, means an individual who:

(a) owns real property that is listed on the department's online web application located at [svc.mt.gov/dor/property](http://svc.mt.gov/dor/property); and

(b) can demonstrate that their name, if published with the property record, will create a risk of physical harm or a threat to the safety of the individual.

(3) A qualified property owner must apply for nondisclosure of their name on the department's web sites using an application form provided by the department. In addition to the application, the applicant shall submit:

(a) a statement explaining the reason(s) for the nondisclosure request; and

(b) documentation supporting the reason(s) that the individual's name should be withheld.

(4) After receipt of the application, the nondisclosure request statement, and

the supporting documentation demonstrating individual safety concerns, the department will weigh the asserted privacy interest against the public's right to know to determine if the information should remain public or be maintained as confidential. The department will advise the individual and the local department office of its determination, in writing, within 30 days of receipt of the completed application materials.

(5) If approved for nondisclosure status, the individual's name will be withheld from the department's online web application located at [svc.mt.gov/dor/property](http://svc.mt.gov/dor/property). The Montana State Library, which obtains property record data from the department, will also withhold the individual's name from the Montana Cadastral online web application located at [svc.mt.gov/msl/mtcadastral](http://svc.mt.gov/msl/mtcadastral). However, property record data, including the property owner's name, may remain available on other state or county web applications or web sites or any other media outside the department's or the Montana State Library's control.

(6) The department may not withhold from public scrutiny any more information than is required to protect an individual privacy interest.

(7) Qualified property owners who have been approved for nondisclosure status will be required to submit a renewal application with supporting documentation by May 31 of every odd-numbered calendar year thereafter, for consideration and approval by the department. Examples of when a qualified property owner needs to reapply to maintain nondisclosure status are:

(a) Example 1: applicant is approved for nondisclosure status on July 1, in an odd-numbered calendar year. The nondisclosure status is in effect until May 31 of the next odd-numbered calendar year, or 23 months.

(b) Example 2: applicant is approved for nondisclosure status on July 1, in an even-numbered calendar year. The nondisclosure status is in effect until May 31 of the following year, which is an odd-numbered calendar year, or 11 months.

(8) If the renewal application required in (7) is not timely received or is not approved by the department, the individual's name will appear on the department's online web application located at [svc.mt.gov/dor/property](http://svc.mt.gov/dor/property) and the Montana Cadastral online web site located at [svc.mt.gov/msl/mtcadastral](http://svc.mt.gov/msl/mtcadastral) by June 1.

(9) The property owner's name will always remain on the department's Computer Assisted Mass Appraisal (CAMA) property tax system, used for property tax administration purposes. The information in the CAMA property tax system will remain available to local county and city governments for tax administration purposes, and to contractors and vendors who have entered into agreements with the department to access the system.

AUTH: 15-1-201, MCA

IMP: 2-6-1003, MCA, Montana Constitution, Art. II, Sections 9 & 10

REASON: The department proposes adopting New Rule I to allow the department to withhold information relating to a property owner from the public pursuant to 2-6-1003, MCA, for reasons of individual safety. Over the last ten years, the department has not had standards for when police officers, state and federal judges, and other members of the public have requested that the department not disclose their names on the department's web application or the Montana Cadastral

online web application due to safety concerns. In considering whether to approve or deny each request, no standard existed to determine whether there was a perceived or potential threat against the individual. Approval was typically granted to judges or individuals with valid court orders of protection. Prior to 2015, twenty individuals applied and were removed from the web applications. In 2015, the department received and approved another 200 requests. Due to the increase in the number of requests, the department now proposes the adoption of New Rule I to provide a uniform procedure for processing these requests and withholding names only for verified reasons related to individual safety.

As proposed, New Rule I provides a process for individuals to request removal of their name from the department's online web application and the Montana State Library's Montana Cadastral online web application due to a potential risk to the individual's safety. To apply, the individual must submit to the department a form requesting nondisclosure, a statement explaining the reason(s) for the nondisclosure request, and supporting documentation. Once an individual asserts that there is a potential risk to the individual's safety and requests nondisclosure, the department will consider whether the individual's right to privacy outweighs the public's right to know. The department will advise the individual and the local department office of its determination, in writing, within 30 days of receipt of the completed application. If approved, the department will withhold the individual's name from its online web application for a period of time. In addition, the Montana State Library will withhold the individual's name from the Montana Cadastral online web application. Withholding data on these public web sites will not prevent other media sources from disclosing the applicant's information. Applicants are required to reapply for approval every odd-numbered calendar year.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [lalogan@mt.gov](mailto:lalogan@mt.gov) and must be received no later than September 27, 2016.

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

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

7. An electronic copy of this notice is available on the department's web site at [revenue.mt.gov/rules](http://revenue.mt.gov/rules). The department strives to make the electronic copy of this

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

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses. Documentation of the department's determination is available at [revenue.mt.gov/rules](http://revenue.mt.gov/rules) or upon request from the person in 4.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State August 8, 2016.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 42.20.106 pertaining to golf course valuation ) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT )

TO: All Concerned Persons

1. On September 13, 2016, at 2:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor PAD Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 26, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

NEW RULE I GOLF COURSE VALUATION (1) The department will determine the market value of golf courses using one of the following three valuation methods: income approach to value, sales comparison approach to value, and cost approach to value. The method used will be dependent upon whether sufficient data is available.

(2) When using the income approach, the department will determine market value using a gross income multiplier (GIM), as defined in ARM 42.20.106. Using a GIM, market value is derived by multiplying the gross income (GI), as defined in ARM 42.20.106, by the GIM. Use of a GIM is preferred if:

- (a) the highest and best use of the property will not change over the remaining economic life of the property;
- (b) the subject property and comparable sales are similar; and
- (c) enough sales and gross income data exists to determine an accurate market value.

(3) A taxpayer owning or operating a golf course must submit yearly gross income from all aspects of the golf course operation, including, but not limited to: greens fees, cart rentals, and food and beverages.

(4) If a taxpayer fails to provide yearly gross income information, the department will estimate the total gross income based on the potential number of rounds that can be played in a typical season, multiplied by the average cost per

round, and adding an estimate of income generated by all other golf course operations.

(5) The department will not reduce the estimated value of the property if the taxpayer fails to submit the information required by (3).

(6) When using the sales comparison approach, the department will determine market value by comparing arm's-length sales of similar golf courses from realty transfer certificates, realtors, fee appraisers, multiple listing services and/or nationally recognized publications. The sales comparison approach is preferred if enough recent sales of similar properties exist to determine an accurate market value.

(7) If the department uses the sales comparison approach in (6), the department will look for golf course sales from the subject's market area. If sufficient, relevant information does not exist within the market area the department will seek golf course sales statewide. If sufficient, relevant information does not exist statewide, the department will seek golf course sales in surrounding states and/or regional areas.

(8) When using the cost approach, the department will determine the market value of the golf course improvements such as bunkers, tees, fairways, roughs, drainage and irrigation systems, and course design using the cost tables identified in the Marshall & Swift Valuation Service Manual for the year of reappraisal as well as industry-established guides such as National Golf Course Owners Association, Club Managers Association of America, or American Society of Golf Course Architects to establish the total replacement cost new less depreciation. The Marshall & Swift Valuation Service Manual is published by Marshall & Swift Valuation Service, 777 South Figueroa St., 12th Floor, Los Angeles, California 90017.

(9) If the department uses the cost approach, land will be valued using the sales comparison approach to value. The department will analyze sales of similarly situated parcels, in the subject golf courses market area, that occur within a specific time frame.

AUTH: 15-1-101, MCA

IMP: 15-8-306, MCA

REASON: The department proposes adopting New Rule I to identify the method the department will use to value golf courses. This proposed method will allow the department to consistently and equitably value golf courses statewide. The proposed rule explains the valuation methodologies and how the department will apply the appraisal methods to land and improvements in golf course valuation depending upon available data.

The Montana Tax Appeal Board (board) has heard a number of appeals in the past few years by golf course owners challenging the department's valuations. The board has ruled that the method currently used by the department does not sufficiently identify all forms of depreciation. Therefore, the department is proposing this rule to introduce a statewide standard approach to golf course valuation.

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

42.20.106 DEFINITIONS The following definitions apply to this subchapter:

(1) through (11) remain the same.

(12) "Gross income" means the anticipated income from all operations of the real property before vacancy and operating expenses.

(13) "Gross income multiplier" means the ratio between the sales price of similar properties including golf courses and the gross income of the subject property.

(12) through (23) remain the same, but are renumbered (14) through (25).

AUTH: 15-1-201, 15-6-231, 15-7-111, MCA

IMP: 15-6-101, 15-6-232, 15-7-111, 15-7-112, 15-7-304, 15-7-306, 15-9-101, 15-24-1501, MCA

REASON: The department proposes amending ARM 42.20.106 to add definitions for "gross income" and "gross income multiplier," two terms used in the new golf course valuation rule being proposed in this same notice that will be placed in this subchapter in ARM Title 42 covering the valuation of real property.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [lalogan@mt.gov](mailto:lalogan@mt.gov) and must be received no later than September 27, 2016.

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

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at [revenue.mt.gov/rules](http://revenue.mt.gov/rules). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at [revenue.mt.gov/rules](http://revenue.mt.gov/rules) or upon request from the person in 5.

/s/ Laurie Logan

Laurie Logan  
Rule Reviewer

/s/ Mike Kadas

Mike Kadas  
Director of Revenue

Certified to the Secretary of State August 8, 2016.



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

In the matter of the adoption of a ) NOTICE OF ADOPTION OF A  
temporary emergency rule closing the ) TEMPORARY EMERGENCY RULE  
Bitterroot River from Wally Crawford )  
Fishing Access Site to Angler's Roost )  
Fishing Access Site in Ravalli County )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) The Roaring Lion Fire is burning in the Bitterroot National Forest southwest of Hamilton.

(b) Persons recreating on this stretch of the Bitterroot River would be subjected to erratic and unpredictable fire conditions posing a danger of:

(i) becoming surrounded and trapped by the fire;

(ii) becoming a potential burden to rescue and fire crews;

(iii) potential collisions with large, heavy water buckets suspended from helicopters; or

(iv) death.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 16 of the 2016 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 2, 2016, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The temporary emergency rule is effective August 2, 2016, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

RULE I BITTERROOT RIVER TEMPORARY EMERGENCY CLOSURE

(1) This portion of the Bitterroot River is located in Ravalli County.

(2) The Bitterroot River from Wally Crawford Fishing Access Site to Angler's Roost Fishing Access Site is closed to all public occupation and recreation including, but not limited to, floating, swimming, wading, and boating.

(3) This rule will remain in place as long as there is fire threatening this portion of the Bitterroot River.

(4) This rule will expire when the department determines this section of the Bitterroot River is again safe for occupation and recreation. This will depend on the extent and duration of the fire in the area.

AUTH: 2-4-303, 87-1-303, MCA

IMP: 2-4-303, 87-1-303, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Sharon Rose, Department of Fish, Wildlife and Parks, 3201 Spurgin Road, Missoula, MT 59804; or e-mail shrose@mt.gov. Any comments must be received no later than September 16, 2016.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Sue Daly

Sue Daly

Acting Director

Department of Fish, Wildlife and Parks

/s/ William Schenk

William Schenk

Rule Reviewer

Certified to the Secretary of State August 2, 2016.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT
17.8.818, pertaining to the averaging )	
period for the PM-2.5 significant )	(AIR QUALITY)
monitoring concentration )	

TO: All Concerned Persons

1. On May 6, 2016, the Board of Environmental Review published MAR Notice No. 17-383 regarding a notice of proposed amendment of the above-stated rule at page 801, 2016 Montana Administrative Register, Issue Number 9.

2. The board has amended the rule exactly as proposed.

3. No public comments or testimony were received.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North  
JOHN F. NORTH  
Rule Reviewer

BY: /s/ Joan Miles  
JOAN MILES, CHAIRMAN

Certified to the Secretary of State, August 8, 2016.

BEFORE THE TRANSPORTATION COMMISSION  
AND THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rule I; amendment of ARM 18.6.202,	)	AMENDMENT, AND REPEAL
18.6.203, 18.6.204, 18.6.205,	)	
18.6.206, 18.6.211, 18.6.212,	)	
18.6.213, 18.6.215, 18.6.221,	)	
18.6.231, 18.6.232, 18.6.238,	)	
18.6.239, 18.6.240, 18.6.241,	)	
18.6.243, 18.6.246, 18.6.247,	)	
18.6.251, 18.6.252, 18.6.262,	)	
18.6.264; and repeal of ARM	)	
18.6.244, and 18.6.245 pertaining to	)	
Outdoor Advertising Control	)	

TO: All Concerned Persons

1. On March 4, 2016, the Transportation Commission (commission) and the Department of Transportation (department) published MAR Notice No. 18-158 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 381 of the 2016 Montana Administrative Register, Issue Number 5.

2. The commission and the department have amended ARM 18.6.203, 18.6.204, 18.6.206, 18.6.211, 18.6.212, 18.6.213, 18.6.215, 18.6.221, 18.6.231, 18.6.232, 18.6.238, 18.6.239, 18.6.240, 18.6.241, 18.6.243, 18.6.246, 18.6.247, 18.6.252, 18.6.262, and 18.6.264 and repealed ARM 18.6.244 and 18.6.245 as proposed.

3. The commission and the department have adopted New Rule I (18.6.237) and amended ARM 18.6.202, 18.6.205, and 18.6.251 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (18.6.237) ELECTRONIC BILLBOARD STANDARDS

(1) through (2)(e) remain as proposed.

(f) an EBB message must remain static ~~and nonmoving~~. Paging, scrolling, or streaming messages are prohibited. The message must not use techniques of message display such as fading, rolling, window shading, exploding, dissolving, spinning, revolving, or shaking messages;

(g) through (k) remain as proposed.

~~(l) an EBB must not use wording that implies traffic control or a highway emergency;~~

~~(m) (l)~~ an EBB must not attempt or appear to attempt to direct the movement of traffic and must not interfere with, imitate, or resemble any official traffic sign, signal, or device; and

~~(n) (m)~~ an EBB must contain a default mechanism which will stop the sign face in one position if a malfunction which causes the display to be in violation of this rule occurs, or within three hours when notified by the department; and

~~(o) an EBB must not cause interference with radio, television, or other utility electronic signal.~~

(3) through (5) remain as proposed.

~~(6) All EBBs must undergo an inspection after installation to demonstrate the EBB's ability to comply with all requirements set forth in this rule.~~

(7) remains as proposed, but is renumbered (6).

AUTH: 75-15-121, MCA

IMP: 75-15-111, 75-15-112, 75-15-113, MCA

18.6.202 DEFINITIONS (1) through (10) remain as proposed.

(11) "Controlled route" means any route on the federal-aid interstate, National Highway System (NHS), or primary system in existence on June 1, 1991.

(12) through (47) remain as proposed.

AUTH: 75-15-121, MCA

IMP: 75-15-103, 75-15-111, 75-15-112, 75-15-113, 75-15-121, MCA

18.6.205 OFF-PREMISE SIGNS - LOCATIONS - COMPLIANCE WITH STATUTES, RULES, ORDINANCES (1) through (7) remain as proposed.

~~(8) Local transit authority bus shelters erected within the right-of-way on controlled routes, under an approved department encroachment permit, may display and maintain commercial advertisements, without obtaining an outdoor advertising permit, subject to the following requirements:~~

~~(a) commercial advertisements may only be placed on interior shelter panels with font size and message intended for viewing by shelter occupants, with only incidental visibility to the traveling public;~~

~~(b) commercial advertisements must not exceed 24 square feet on each shelter panel;~~

~~(c) commercial advertisements must not be placed on the roof of the shelter;~~  
and

~~(d) commercial advertisements must not be placed on the exterior panels of the shelter.~~

(9) and (10) remain as proposed but are renumbered (8) and (9).

AUTH: 75-15-121, MCA

IMP: 75-15-104, 75-15-111, MCA

18.6.251 REPAIR OF NONCONFORMING SIGNS (1) Permittees must complete a notification report detailing proposed allowable maintenance or repair of nonconforming signs, on a form provided by the department, prior to

commencement of allowable work. A photo verification of the existing sign condition prompting repair or maintenance must be attached to the notification form. Department response is not required prior to commencement of allowable maintenance, at permittee's risk of later receipt of department noncompliance determination as per (2).

(2) The department will notify a permittee within 30 days of notification report receipt if maintenance or repair work appears to be noncompliant with statute or rule, and must not be commenced or completed.

(3) The department may inspect and verify nonconforming sign repair or maintenance work at any time, and if noncompliant maintenance is identified by the department after completion, the sign must be restored to its original status within 90 days of department notification.

(4) Failure to complete a notification report prior to commencement of maintenance may result in revocation of the permit.

(5) Emergency repairs, or those which must be performed to address a risk to public health or safety, may be completed immediately upon submission of a photo verification of the emergency sign condition requiring repair. Emergency repair may only be made in accordance with this rule, and may only include sign replacement for damage due to vandalism, criminal acts, or tortious acts.

(1) through (2)(e) remain as proposed, but are renumbered (6) through (7)(e).

~~(3) At least 30 days prior to performing any repair or maintenance of a nonconforming sign, the sign owner must submit to the department a repair application detailing the following:~~

~~(a) all proposed repairs or maintenance to be performed, including a list of materials to be used and associated material costs; and~~

~~(b) a listing of all materials required to replace the sign new with current costs.~~

~~(4) The department will review all repair applications and notify the sign owner of approval or denial of the repair application within 30 days of receipt.~~

~~(5) After department approval, the sign owner may proceed with the repair or maintenance identified. All repair or maintenance work must be done within 90 days of approval. The sign owner must provide the department with written and photo verification of the repair or maintenance performed.~~

~~(6) If the department denies a repair application, the department will notify the sign owner of the reason for denial.~~

(7) through (11) remain as proposed, but are renumbered (8) through (12).

~~(12) (13) The department shall notify a sign owner of a violation of this rule. Failure to submit a repair application prior to repairing or maintaining a nonconforming sign may result in revocation of the permit and removal of the nonconforming sign at the sign owner's expense.~~

(13) and (14) remain as proposed, but are renumbered (14) and (15).

AUTH: 75-15-121, MCA

IMP: 75-15-111, 75-15-121, MCA

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

COMMENT #1: Numerous comments were received in support of Electronic Billboards (EBBs) along MDT-controlled routes, as proposed in New Rule I (18.6.237). The comments generally stated EBBs are an effective advertising method, which can help a business with a limited advertising budget, and this new era of advertising should not be denied to small business owners and other advertisers. The comments also stated EBBs can create awareness and instant results, and are cleaner in appearance and generally more appealing to the eye. The comments also stated EBBs are an effective tool for local police and the FBI in issuing Amber Alerts and in taking criminals off the streets. The comments also stated older signs require outdated vinyl coverings to be sent to a landfill, while EBBs are a "greener" alternative. Finally, the comments in support cited a federal FHWA study which concluded EBBs were not more distracting to drivers, thus Montana should keep up with the times by implementing EBBs.

RESPONSE #1: The commission and department acknowledge the comments in support of New Rule I (18.6.237), and appreciate all comments received during the rulemaking process.

COMMENT #2: Numerous comments were received stating opposition to EBBs along MDT-controlled routes, as proposed in New Rule I (18.6.237). The comments generally stated EBBs would negatively affect tourism in Montana, as tourists did not come to Montana to look at flashing billboards, but rather to avoid obnoxious electronic distractions, and to view Montana's natural beauty. The comments also stated a more thorough analysis should be done to determine whether "Montanans" would like to increase the number of EBBs in the state, rather than just a "select group," or the advertising industry. The comments also stated EBBs would distract drivers and create a safety risk, which would increase accidents on Montana highways, and cited studies on the effects of EBBs on driver distraction. The comments also stated EBBs would create "light pollution" obliterating night-time views of the stars and affecting nocturnal animal species. The comments also stated EBBs would waste energy.

RESPONSE #2: The commission and department proposed New Rule I (18.6.237) as a compromise between supporters and opponents of EBBs. For example, the rule allows EBBs, but imposes restrictions to limit the locations, spacing, brightness levels, etc. The rule imposes greater spacing requirements between EBBs, in an effort to stimulate removal of traditional static billboards between EBB sites in order to qualify the new EBB location. In response to specific opponent concerns: the rule limits EBBs to areas within city limits or urban areas, rather than rural or scenic areas so as not to detract from natural scenery; consideration of the various cited studies revealed conflicting conclusions, with some showing distraction and others finding no additional distraction, thus the studies cannot reliably state EBBs are an additional distraction to drivers or pose an additional safety risk; the rule requires

EBBs to use automatic dimming technology to adjust brightness in low light conditions or at night, so the brightness levels will not increase light pollution or interfere with nocturnal animal species within the city locations of the new EBBs; environmental concerns must be balanced between power usage by EBBs and power usage by lighted traditional billboards, which may now be reduced in number.

COMMENT #3: Several comments were received stating New Rule I (18.6.237)(1) should be revised to state EBBs may be located in any area in which conforming billboards may be located, and not just in areas zoned commercial or industrial. The comments stated EBBs should be allowed in all areas where conforming signs are currently allowed by statute.

RESPONSE #3: New Rule I (18.6.237) will limit EBBs to areas zoned commercial or industrial within city limits or urban areas to address concerns about proliferation of EBBs and detracting from natural and scenic beauty in non-urban areas. The location restrictions will also allow local governments to adopt local ordinances which may be more restrictive than state rules if the local citizens choose to do so.

COMMENT #4: Several comments were received stating New Rule I (18.6.237)(2)(f) should not state "...must remain static and nonmoving," as this language is redundant.

RESPONSE #4: The commission and the department agree, and have changed New Rule I (18.6.237) as shown.

COMMENT #5: Several comments were received stating New Rule I (18.6.237)(2)(h) on EBB spacing should state 1000 feet spacing from interchange ramps and "controlled access highways," but should not include the language "...and within 500 feet of an intersection." The comments stated inclusion of "intersection" language requires definitions of different types of intersections. The comments stated the distance from intersections is already addressed in statutes and rules for conforming signs.

RESPONSE #5: ARM 18.6.202(23) contains a definition of "intersection," including a clarification proposed in this notice. New Rule I (18.6.237) also imposes different spacing requirements for EBBs, in an effort to stimulate removal of traditional static billboards in order to qualify the new EBB locations.

COMMENT #6: Several comments were received stating New Rule I (18.6.237)(2)(i) requiring 2000-foot spacing between an EBB and any other permitted sign should be revised. The comments stated (2)(i) should only measure EBBs between other EBBs and not "any permitted billboard" as currently stated. The comments stated enforcement problems could arise if spacing is measured between on-premise signs, or another legal sign category. The comments stated spacing requirements in other states are measurements only between EBB-type billboards, and are not as great as New Rule I (18.6.237)'s 2000-foot requirement, which the comment states is unreasonable. The comments suggested a change to



a 1000-foot spacing requirement between EBBs, but noted other states used spacing of 500 feet between EBBs as per their respective Federal-State Agreements. The comments stated the current 2000-foot spacing requirement will be greater than a city block, and thus eliminate EBB locations in cities.

RESPONSE #6: See response to Comment #2. The spacing requirements of New Rule I (18.6.237) were chosen as a compromise to attempt to eventually reduce the overall number of billboards, since EBBs can accommodate multiple advertisers on only one physical sign structure. New Rule I (18.6.237)(2)(i) requires 2000 feet between an EBB and another permitted sign, thus on-premise signs (which are not granted OAC permits) are clearly excluded. Other state regulations contain a variety of distance requirements depending on the EBB location on an interstate, primary rural route, primary urban route, etc. The distances vary from 500 feet to 5000 feet between signs. The 2000-foot requirement in New Rule I (18.6.237) will encourage reduction in overall number of billboards.

COMMENT #7: Several comments were received stating New Rule I (18.6.237)(2)(l) prohibiting wording that implies traffic control is an attempt to regulate content, which could be a potential First Amendment issue. The comments stated the issue is already addressed in subsection (2)(m) which prohibits an EBB from attempting to direct movement of traffic.

RESPONSE #7: The commission and department agree, and have amended New Rule I (18.6.237) to delete (2)(l) as shown.

COMMENT #8: Several comments were received stating New Rule I (18.6.237)(2)(o) prohibiting interference with electronic signals is extremely vague. The comments stated the language raises a concern over the technical ability to enforce any potential interference with a utility signal or other media. The comments stated the subsection is not necessary.

RESPONSE #8: The commission and department agree, and have amended New Rule I (18.6.237) to delete (2)(o) as shown.

COMMENT #9: Several comments were received stating New Rule I (18.6.237)(3) on upgrading existing non-EBBs to EBBs should not require a new sign permit as a condition to allow an EBB on an existing conforming billboard in a previously approved commercial or industrial area.

RESPONSE #9: See response to Comment #2. New Rule I (18.6.237) is an effort to stimulate removal of traditional static billboards in order to qualify the new EBB location, since EBBs can accommodate multiple advertisers on only one physical sign structure. New Rule I (18.6.237)(3) will require a new permit application to ensure new EBB locations are in compliance with New Rule I (18.6.237), as compliant locations are different for EBBs than traditional static billboards. Not all existing OAC qualifying billboard locations will qualify as an EBB location, thus an existing permit could not be "upgraded" if in a noncompliant location.

COMMENT #10: Several comments were received stating New Rule I (18.6.237)(5) requiring EBB permit applications to be accompanied by local government approvals should delete the last sentence on violation of county or local regulations. The comments stated the department can revoke an EBB permit only after the local authority initiates action.

RESPONSE #10: See response to Comment #3. The location restrictions will allow local governments to adopt local ordinances which may be more restrictive than state rules if the local citizens choose to do so. The language in (5) on violation of city or local regulations states the department's authority to revoke a department-issued OAC permit if local regulations are not met, thus ensuring local government participation in determining the presence of EBBs within their own city limits or urban areas.

COMMENT #11: Several comments were received stating New Rule I (18.6.237)(6) requiring a post-installation inspection should be deleted entirely. The comments stated the operation of an EBB is already regulated by specific criteria within New Rule I (18.6.237). The comments stated extra technical inspection expertise would be needed when an EBB is already in operation.

RESPONSE #11: The commission and department agree, and have amended New Rule I (18.6.237) to delete (6) as shown.

COMMENT #12: A comment was received stating New Rule I (18.6.237)(7) stating violation of New Rule I (18.6.237) may result in revocation of the permit should be deleted. The comment stated New Rule I (18.6.237) only applies to upgrade of a conforming static sign to an EBB. The comment stated violation of New Rule I (18.6.237) should therefore only risk revocation of the EBB upgrade, because the site is conforming and there is nothing that would prevent a new sign permit for that site.

RESPONSE #12: See responses to comments #2 and #9. New Rule I (18.6.237) requires a new EBB permit to ensure the EBB location is compliant with the specialized requirements of New Rule I (18.6.237). Revocation of the EBB permit would not necessarily prevent a traditional static sign from occupying the location, but the site must be evaluated under the traditional billboard requirements, which may only be done with a new OAC permit application.

COMMENT #13: Several general comments were received stating schools should be allowed to use EBBs for school signs located along controlled routes, even when the sign location is not on school property. The comments stated the school signs would provide school activity messages, community activity messages, and public service messages, so the signs would not contain commercial advertising. The comment stated many schools in Montana are in favor of allowing school EBBs.

RESPONSE #13: New Rule I (18.6.237) would allow schools to apply for an OAC permit for an EBB under the rule standards. The department may consider future rules on school signs, but it is outside the scope of the current rulemaking.

COMMENT #14: Several general comments were received stating New Rule I (18.6.237) on EBBs should be separated from the additional rule amendments contained in the proposed rule notice. The comments stated the notice of proposed rulemaking should be "withdrawn" on all rules except New Rule I (18.6.237), and all other proposed OAC rules should be "republished" at a later date after consulting with stakeholders on the procedures.

RESPONSE #14: The Montana Administrative Procedure Act (MAPA) does not limit the number of proposed adoptions, amendments, or repeal of rules which may be contained in a single rule notice. The commission and the department included all proposed changes to OAC rules in MAR Notice No. 18-158 for more expeditious consideration of public comments on outdoor advertising control rules.

COMMENT #15: Several copies of a comment sheet were received stating proposed amendments to ARM 18.6.202(1)(a), (b), (c), (e), (f), (g), should be revised as follows: (1)(a) which proposes to define "abandoned sign" as including a sign which remains in the absences of a valid lease or written permission from the landowner, should be deleted. The comments stated many signs do not have anything in writing, but have verbal agreements with landowners, thus the sign owner is taking the risk, and MDT should not govern what happens between a sign owner and a landowner. (1)(a) should remove reference to permission from landowner for the definition of "abandoned sign" and replace with "as determined by a court with jurisdiction"; (1)(b) should leave the language "...has been without a message for a period of at least six months"; (1)(c) should define "obsolete" and add language "for a period of at least six months"; (1)(e) and (f) should reinstate the word "structure" and add "after expiration of the time allowed per the approved permit issued by the department"; (1)(g) [not proposed for amendment] should add language "after receiving written notice by the department allowing 30 days to pay past due fees" for flexibility.

RESPONSE #15: The commission and the department respond as follows: (1)(a) – Section 75-15-122, MCA, requires the department to obtain information the landowner has consented to the presence of a sign, which must be in writing to ensure its reliability. The proposed change to (1)(a) will expand the sign owner's and landowner's ability to provide a lease or any other type of written permission showing landowner consent; (1)(b) – the amendment will delete a six-month time requirement for blank faces and allow the department to determine abandonment any time a sign face is blank; (1)(c) – the amendment is updating awkward language on obsolete advertising in favor of a cross reference to the existing definition of "obsolete." A six-month timeline would not be consistent with other parts of the definitional rule on abandoned signs; (1)(e) and (f) – the amendment deletes the redundant word "structure" for consistency of use throughout the rules. The rules already contain wording on timelines for sign erection and sign removal elsewhere,

thus it is not necessary to insert language on timelines in this definitional rule; (1)(g) – comments are outside the scope of the current rulemaking, as no amendments were proposed to (1)(g).

**COMMENT #16:** Several copies of a comment sheet were received stating proposed amendments to ARM 18.6.202(5), (11), (13), (23), (25), and (46) should be revised as follows: (5) should define blank sign as "a sign structure that has no face or has no advertising for a period of six months" with an option to allow nine months or one year, since other areas of the rules allow these time periods for other deadlines; (11) should keep the definition of "controlled route," but retain the language "primary system as of June 1, 1991," as this language is important and has served to define effective control and set parameters to determine which off-premise signs along highways need permits; (13) on destroyed sign should either make no change to existing definition, or use the federal guidance memo language which states "60 percent or more of the upright supports of a sign structure are physically damaged such that normal repair procedures would call for" etc., as the current criteria for destroyed signs has been in effect for several decades, thus a sudden regulatory change without justification does not merit support; (23) should retain language on intersection definition to keep language on "main travelled way" and "an alley, undeveloped right-of-way etc., are not regarded as an intersecting street," as this language relates directly to the Federal-State Agreement; [former] (25) defining "industrial activity" should not be deleted; and (46) should retain the existing definition of "urban area."

**RESPONSE #16:** The commission and the department respond as follows: (5) – the addition of six-month, nine-month, or one-year time frames in this definitional rule would create conflicts with time frames written elsewhere in the rules, and are not appropriate; (11) – the department and the commission agree with the comment and will amend the rule as shown above to both update the controlled route definition to use the current naming system of "National Highway System," and retain language on the former "federal aid primary system as of June 1, 1991"; (13) – the amendment is deleting redundant, unnecessary language. The definition of "destroyed sign" already states the sign was destroyed due to factors other than vandalism or criminal acts, thus it is not necessary to list all possible other causes such as wind damage. The amendment does not represent a regulatory change as the comment suggests; (23) – the amendment brings the definition of "intersection" in line with the statutory definition as well as other federal resources. The deletion of language on alleys, etc., will remove language which had formerly caused confusion on placement of signs in proximity to those types of facilities; [former] (25) – the deletion of the former (25) defining "industrial activity" is necessary because "industrial zone" is already defined in statute at 75-15-103, MCA, and rules may not unnecessarily repeat statutory language. ARM 18.6.206 on Unzoned Industrial Activity already contains criteria to determine whether an activity qualifies as an unzoned industrial area; (46) – the amendment will add a definition of "urban area," which was not previously defined in these rules, as that term is now used elsewhere in the rules, including New Rule I (18.6.237). The definition is not being deleted as the comment states, but rather, is being added as an amendment to the rule.

COMMENT #17: Several comments were received stating proposed amendments to ARM 18.6.203(1)(e), (f), (g), and (4)(c) should be revised as follows: (1)(e) should delete language requiring a restroom in the qualifying business and the requirement for six months scheduled business, as the new language is adding too much oversight, where discretion should be allowed; (1)(f) should delete the term "commercial," as it relates to a building, as the language is unnecessary; [former] (1)(g) should allow seasonal commercial business language to remain as is, as these are valid commercial businesses that many Montana residents put thousands of dollars into running and maintaining; (4)(c) should not add a requirement for a business owner to build a separate building for an office.

RESPONSE #17: The commission and the department respond as follows: (1)(e) – the amendment will add facility and scheduled hour requirements to evaluate a commercial activity, which is necessary to prevent sham businesses from springing up, which then close when the sign permit has been issued. The amendment is consistent with other criteria for determination of commercial activities, and will clarify the criteria for applicants, without creating subjective discretion; (1)(f) – the amendment uses the term "commercial activity" for consistency with the listed subsections which all start with this phrase to distinguish the rule from a later rule on industrial activity; [former] (1)(g) – the former subsection (1)(g) is deleted, as it conflicts with (1)(e) requiring the commercial activity to be open to the public at least six months of a calendar year. The six-month requirement is necessary to prevent sham businesses, as noted above; (4)(c) – the amendment does not require a business owner to build a separate building for an office, as the comment suggests, but rather lists criteria to evaluate activities which do not create a commercial area, including activities in buildings used solely for storage.

COMMENT #18: Numerous comments were received stating opposition to ARM 18.6.205(8) on proposed bus shelter advertising amendments. The comments generally stated the rule amendment would jeopardize the current bus shelter business model in which one company privately owns the shelters, charges advertisers for placement of ads, and uses the bulk of the revenue to pay for the construction, placement, and maintenance of the shelters. The comments stated this system has been working well for bus passengers, municipalities, and the state, but the proposed amendments would shut down the current bus shelter provider due to lack of advertising revenue and destroy the commercial value of the shelters, which would result in a loss for all groups. The comments also stated the local governments do not have the money to build and maintain bus shelters without the current shelter provider. The comments also stated the Federal Highway Administration (FHWA) has "left this issue [bus shelter advertising] up to the states" and stated bus shelter advertising is permissible "if the State provides satisfactory assurance to the FHWA that such use will not adversely affect the highway or interfere with the free and safe flow of traffic thereon." The comments stated proposed ARM 18.6.205(8) limits the font size and readability of the advertising such that only 50 or so shelter users per day will receive the ad, and not thousands of passersby. The comments also stated the proposed rule should continue the

requirement of an MDT-issued encroachment permit, but defer to local control of advertising by transit agencies.

RESPONSE #18: The commission and the department acknowledge the comments in opposition and will not adopt the proposed change to ARM 18.6.205(8). The commission and the department will continue to work on bus shelter advertising rules for a future rulemaking notice.

COMMENT #19: Several comments were received stating proposed amendments to ARM 18.6.206(1)(b), (e), and (g) should be revised as follows: (1)(b) should retain language that references a "residence" on the property, as the Federal-State Agreement notes the principal use must be business-related; (1)(e) should not delete the word "seasonal"; and (1)(g) should be revised to remove the phrase "with department approval" as this language gives too much power to the department to deny valid permit requests that would otherwise be approved.

RESPONSE #19: The commission and the department respond as follows: (1)(b) – the existing language referencing a "residence on the property" as a use which will not qualify an activity for determination as an industrial activity is not proposed for amendment in this notice; (1)(e) – see response to comment #17. The removal of the word "seasonal" is consistent with 75-15-103, MCA, and will make the rule language consistent with the rule on unzoned commercial activities in length of time in business to prevent sham businesses from springing up and then closing once an outdoor advertising permit has been issued; (1)(g) – the amendment will allow the department to evaluate government-issued authorizations for the industrial location, when a business license is not required for the site. This evaluation is necessary to allow for flexibility in considering other documentation when an applicant cannot produce a business license with an application, but must substitute another authorization for evaluation.

COMMENT #20: Several comments were received stating proposed amendments to ARM 18.6.211(5) should be revised as follows: (5) should remove the language "the permit plate must not be leased to any other party," as the language is confusing and needs clarification of what the department intended. The comments stated most outdoor advertising companies sublease structures from other companies.

RESPONSE #20: The amendment will clarify the permit plate must remain with its original permitted sign, but cannot be "leased" to another permit holder, or placed on a different sign structure than that for which it was originally issued. A sublease of a structure should not cause any change in placement or maintenance of the original permit plate with the original structure.

COMMENT #21: A comment was received stating ARM 18.6.211(8) should remove the proposed language on failure to obtain a permit prior to erection may result in denial of a pending application, as the language is redundant.

RESPONSE #21: The amendment will address instances which have occurred in the past where a permit applicant has erected a sign in anticipation of permit approval. The amendment will clarify the sequence of events to be followed in applying for an outdoor advertising permit, including sufficient time for the department to complete its application review and site inspection, and explain the possible penalty for applicants who do not wait for all steps to be completed.

COMMENT #22: Several copies of a comment sheet were received stating ARM 18.6.211(9), which proposes to require a landowner to sign a transfer sheet along with the sign owner whenever a sign permit is transferred to a new permit holder, should not require the landowner's signature. The comment stated many sign owners have verbal lease agreements, and take the risk when they transfer signs without permanent lease agreements in place. The comments stated MDT should not decide whether a permit can be transferred, thus determining the value of the signs and businesses. Section (9) should not be amended, as the transfer of a permit should never be dependent on a landowner signature, as the department should not interfere with the permit holder-landowner contract to conduct business, including permit transfers which are typically addressed in a private lease agreement. The comments also stated (9) should not include a time frame for submission of the transfer to the department, as the department does not know when the agreement was finalized.

RESPONSE #22: See response to Comment #15. Section 75-15-122, MCA, requires the department to obtain information the landowner has consented to the presence of a sign. Verbal agreements cannot be verified by the department, thus some form of written landowner permission must be submitted. When a sign is transferred from one permit holder to another, the department must, by statute, be able to show landowner consent to its presence. The amendment will allow landowner signature on the transfer form or submission of an easement to meet this statutory requirement. The amendment does not cause departmental "interference" with permit transfers, nor impose a time frame which cannot be met, but instead requires the permit holders to keep records and ownership information current with the department.

COMMENT #23: Several copies of a comment sheet were received stating ARM 18.6.212(5)(d) and (e) should be revised as follows: (5)(d) which proposes to require measurements for sign locations to be made from the qualifying activity's building, but not from the property lines, should be amended. The comments stated the section should be worded that measurements can be taken from the portions of the property being used for the commercial or industrial activity. The comment stated the proposed amendment would diminish an already small opportunity to permit new qualifying sign locations in this state. The comments also stated the word "scale" should be removed from the first line; (5)(e) should not include an additional requirement for a landowner signature, but should instead allow a copy of the signed agreement between the sign owner and landowner or other document provided by the parties.

RESPONSE #23: The commission and the department respond as follows: (5)(d) – the amendment will clarify measurements for qualifying activities must be measured from the activity's buildings, because measurements made from property lines or boundaries may encompass large areas not used by the activity on a larger tract. The use of buildings for measurements will ensure the qualifying activity is being conducted a proper distance from a sign site. The word "scale" in (5)(d) indicates all drawing submitted with a permit application must be drawn to an identified scale to assist department staff in evaluating proper distances for sign locations, as required by statute and rule; (5)(e) - See responses to comments #15 and #22. Landowner signature indicates statutorily required consent of the landowner.

COMMENT #24: A comment was received stating proposed amendments to ARM 18.6.212(6) should add language that flagging tape on the right-of-way fence indicating the sign location is an acceptable means of site identification. The comment stated this would help in instances where a stake has blown over or accidentally been removed.

RESPONSE #24: Flagging tape will not suffice to establish a site identification, as the fencing may not correctly indicate the right-of-way boundary, or right-of-way fencing may not be in place in certain locations.

COMMENT #25: A comment was received stating proposed amendments to ARM 18.6.212(8) should add "within 30 days" or "within 60 days" at the end of this paragraph on the department's ability to return rejected applications to the applicant for corrections.

RESPONSE #25: The amendment will clarify the department's ability to return an application for incompleteness. Imposition of an arbitrary timeline will limit the department's ability to assist an applicant in review for completeness and in returning it to the applicant for correction of deficiencies.

COMMENT #26: A comment was received stating ARM 18.6.213(5) should remove the language regarding destruction and disposal of the permit plate after revocation of the permit, as there is no way to verify compliance.

RESPONSE #26: The amendment will clarify the department's requirement for permit plate destruction. Enforcement of administrative rules is addressed elsewhere in the rules.

COMMENT #27: Several comments were received stating proposed amendments to ARM 18.6.215 increasing the inspection fee, without documentation to justify the increase, could be considered a tax, which can only be established by the Montana Legislature.

RESPONSE #27: The fee increase amendment was justified in the statement of reasonable necessity which accompanied the rule, and stated the increase was



necessary to cover the department's increased costs of staff and travel time to travel to often-distant sign locations. Imposition of fees is authorized by 75-15-122, MCA.

COMMENT #28: A comment was received stating proposed amendments to ARM 18.6.221(1), (2), and (5) should be revised as follows: (1) [not proposed for amendment in this notice] should use "180 days" from the date of permit issuance for commencement of work on a sign and 365 days for completion of work; (2) [not proposed for amendment in this notice] on extension of time to erect the structure is not needed if 365 days is allowed; (5) on penalty for failure to abide by the rule should also contain language on failure to comply after receiving a notice from the department.

RESPONSE #28: The commission and the department respond as follows: (1) – the comment is outside the scope of the current rulemaking, since no amendments were proposed to (1); (2) – the comment is outside the scope of the current rulemaking, since no amendments were proposed to (2); (5) – the amendment will clarify for new permit holders that a penalty will be imposed for failure to follow the required steps for new sign erection. Failure to comply with OAC administrative rules generally is addressed elsewhere in the rules.

COMMENT #29: Several comments were received stating proposed amendments to ARM 18.6.231(2) and (3) should be revised as follows: (2) should not remove the words "on controlled routes" as signs not on controlled routes or signs that don't require an MDT permit are not regulated by these rules; (3)(a) [not proposed for amendment] contains an unclear reference on grandfathered status; and (3)(o) is unclear why the scenic area language is proposed for deletion.

RESPONSE #29: The commission and the department respond as follows: (2) – the amendment removes redundant language, as the department has jurisdiction only over outdoor advertising on controlled routes, thus it is not necessary to repeat this information in this section; (3)(a) – the comment is outside the scope of the current rulemaking, since no amendments were proposed to (3)(a); (3)(o) – the deletion of the language prohibiting sign locations in scenic or parkland areas will remove redundant language, as the information is already contained in statute at 75-15-113, MCA, and rules may not unnecessarily repeat statutory language.

COMMENT #30: Several copies of a comment sheet were received stating ARM 18.6.251(1)(b) and (2)(b) [not proposed for amendment in this notice], be amended to allow repair of nonconforming signs if damaged by acts of God, to include storms, winds, or fire. The comments stated the rules could require the signs be rebuilt with like materials.

RESPONSE #30: The comment is outside the scope of the current rulemaking, since no amendments were proposed to (1)(b) or (2)(b).

COMMENT #31: Several copies of a comment sheet were received stating ARM 18.6.251(3)(a), (3)(b), (4), (5), (6), and (12), which would require sign owners to

submit repair applications to MDT 30 days prior to performing any repair or maintenance of a nonconforming sign, should not be adopted, but should be replaced with a reasonable criteria to allow customary maintenance of nonconforming signs. The comments stated the proposed amendments would "create a nightmare" for sign owners and MDT. The comments stated MDT does not have the resources to handle the number of repairs applications which would be generated by the proposed rule. The comments also stated the proposed amendments do not allow for emergency repairs or subsequent damages which may be caused by inability to repair damages in a timely manner while waiting for MDT approval of a repair application. The comments further suggested MDT should not travel around the state or monitor sign compliance, but should instead require each permit holder to submit an image of the permitted sign during the three-year renewal process, to allow MDT to determine whether a rule violation has occurred. The comments stated (12) should retain existing language on the department allowing a permittee to restore the sign as originally permitted, as the proposed new language creates a negative working environment, and provides no opportunity to cure a fault.

RESPONSE #31: The commission and the department agree with the comment on repair applications, and will amend the rule as shown to change the process to department notification only. This will allow emergency and de minimus repairs to proceed immediately, while continuing to allow the department 30 days to review the notifications and identify any which appear to be noncompliant with statute and rule. The commission and the department do not agree with the commenter's suggestion to allow permit holders to submit an image at permit renewal time, as the department would be unable to determine the reliability of any image without staff verification.

COMMENT #32: A comment was received stating proposed amendments to ARM 18.6.252(1) and (5) should be revised as follows: (1) should not delete existing language on upgrade or relocation of conforming signs; (5) should add language that the permit holder will have 180 days to commence work and 365 days to complete work from the date the application is approved or the permit is issued.

RESPONSE #32: The commission and the department respond as follows: (1) – the amendments did not delete existing language on upgrade or relocation of conforming signs, but clarified the existing language, and added information on imposition of an inspection fee; (5) – the amendment imposed a 90-day deadline for upgrade or relocation work for consistency with other deadlines elsewhere in the rules.

COMMENT #33: A comment was received stating proposed amendments to ARM 18.6.262(1) on notification of abandoned signs should grant an appeal hearing, as well as allow for request of an extension to accomplish the work, with further extensions at the department's sole discretion.

RESPONSE #33: The administrative contested case process for corrective action notices or permit revocation notices is already contained in ARM 18.6.264, and should not be repeated unnecessarily in this rule.

COMMENT #34: A comment was received stating proposed amendments to ARM 18.6.264(2) and (3) should be revised as follows: (2) should not require landowner involvement in notice of rule violations; and [existing] (3) [not proposed for amendment in this notice] should allow for 90 days completion of a corrective action instead of 45 days.

RESPONSE #34: The commission and the department respond as follows: (2) – the comment is outside the scope of the current rulemaking, since no amendment to the landowner notification language was proposed in (2); (3) – the comment is outside the scope of the current rulemaking, since no amendments were proposed to (3).

/s/ Carol Grell Morris  
Carol Grell Morris  
Rule Reviewer

/s/ Michael T. Tooley  
Michael T. Tooley  
Director  
Department of Transportation

/s/ Rick Griffith  
Rick Griffith  
Chair  
Transportation Commission

Certified to the Secretary of State August 8, 2016.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 18.8.1502, 18.8.1503, and )  
18.8.1505, pertaining to Motor Carrier )  
Services Safety Requirements )

TO: All Concerned Persons

1. On July 8, 2016, the Department of Transportation published MAR Notice No. 18-160 pertaining to the proposed amendment of the above-stated rules at page 1113 of the 2016 Montana Administrative Register, Issue Number 13.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Valerie D. Wilson  
Valerie D. Wilson  
Rule Reviewer

/s/ Michael T. Tooley  
Michael T. Tooley  
Director  
Department of Transportation

Certified to the Secretary of State August 8, 2016.

BEFORE THE BOARD OF BEHAVIORAL HEALTH  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of )  
ARM 24.154.301 definitions, )  
24.154.401 fee schedule, 24.154.403 )  
military training or experience, )  
24.154.405 education requirement, )  
24.154.407 application procedures, )  
24.154.408 licensure by )  
endorsement, 24.154.409 supervised )  
work experience, 24.154.420 )  
nonresident licensed addiction )  
counselor services, 24.154.422 )  
inactive status and conversion from )  
inactive to active status, 24.154.2105 )  
continuing education requirements, )  
24.154.2107 continuing education )  
procedures and documentation, and )  
24.154.2301 unprofessional conduct, )  
the adoption of NEW RULES I )  
supervisor qualifications, II qualified )  
treatment setting, III addiction )  
counselor licensure candidate )  
application procedures, IV addiction )  
counselor licensure candidate )  
requirements, V addiction counselor )  
licensure candidate annual )  
registration requirements, and VI )  
gambling disorder education )  
requirement for current licensed )  
addiction counselor licensees, and )  
the repeal of 24.154.201 procedural )  
rules, 24.154.202 public participation )  
rules, 24.154.2101 renewals, and )  
24.154.2401 complaint procedure )

NOTICE OF AMENDMENT,  
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On April 22, 2016, the Board of Behavioral Health (board) published MAR Notice No. 24-219-30 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 646 of the 2016 Montana Administrative Register, Issue No. 8.

2. On May 13, 2016, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the May 20, 2016, deadline.

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

COMMENT 1: Numerous commenters questioned whether the board properly considered the financial impact of the rule changes on small businesses as required by the Montana Administrative Procedure Act.

RESPONSE 1: The board, after discussion, determined there were no significant and direct impacts on small businesses by the amendment, adoption, and repeal of these rules in compliance with the Montana Administrative Procedure Act at 2-4-111, MCA. If the board determines no significant and direct impact will occur, no further analysis is required.

COMMENT 2: Numerous commenters suggested the board is overregulating addiction counseling when compared to education requirements for applicants for other licenses regulated by the board.

RESPONSE 2: The board appreciates all comments received during the rulemaking process, but disagrees with the commenters' analysis.

COMMENT 3: Several commenters suggested requiring the board to issue a licensure candidate license within 10 days of receipt of a complete application.

RESPONSE 3: This suggestion is outside the scope of this rulemaking, since all applications are processed in a standardized manner by the licensing bureau.

COMMENT 4: One commenter congratulated the board for working with addiction counselor licensure candidates to establish a sense of professional identity.

RESPONSE 4: The board appreciates all comments made during the rulemaking process.

COMMENT 5: Numerous commenters suggested that 37-35-202(2), MCA, be amended to include other degrees.

RESPONSE 5: This suggestion requires legislative action and is thus outside the scope of the board's rulemaking authority.

#### ARM 24.154.301 DEFINITIONS

COMMENT 6: Numerous commenters objected to the proposed requirement for gambling treatment training.

RESPONSE 6: House Bill 61 (2013) added gambling dependence impulse control disorder counseling to the knowledge and skills necessary for licensure as an addiction counselor. The board concluded that removal of gambling dependence impulse control disorder from the knowledge and skills necessary for licensure requires legislative action, and is thus beyond the scope of the board's rulemaking authority.

Proposed ARM 24.154.405 EDUCATION REQUIREMENT

COMMENT 7: Several commenters opposed the proposed education requirements as being inconsistent with the educational requirements for candidate licensure in statute.

RESPONSE 7: The board has the authority and charge to establish minimum competency requirements under 37-35-103 and 37-35-202, MCA, and has done so. The current education standards reflect national standards for addiction counselors. The board will continue to evaluate the education requirements for licensed addiction counselors.

COMMENT 8: Numerous commenters suggested reducing the addiction-specific education requirement.

RESPONSE 8: See RESPONSE 7. Additionally, the board recognizes concerns about the education requirements, but is proceeding with the rule changes exactly as proposed. The board will continue to evaluate the education requirements for licensed addiction counselors and will place the item on an agenda at a later date.

COMMENT 9: Several commenters suggested acceptance of a college level or master's level ethics course, rather than requiring an addiction-specific ethics course.

RESPONSE 9: The board acknowledges the suggestion, and will consider placing this item on a future agenda.

COMMENT 10: Numerous commenters suggested the proposed education requirements are cost prohibitive.

RESPONSE 10: See RESPONSE 8.

COMMENT 11: Many commenters opposed the proposed educational requirements as creating an unnecessary barrier to entry into the addiction counseling profession.

RESPONSE 11: See RESPONSE 8.

ARM 24.154.407 LICENSED ADDICTION COUNSELOR APPLICATION PROCEDURES

COMMENT 12: Numerous commenters suggested allowing addiction counselor licensure candidates to obtain the addiction-specific education after the issuance of the licensure candidate license and concurrent with the required supervised work experience.

RESPONSE 12: Section 37-35-202, MCA, requires a licensure candidate to have completed the education requirements prior to issuance of a licensure candidate license. This suggestion requires a statutory change, and thus is outside the scope of the board's rulemaking authority.

4. The board has amended ARM 24.154.301, 24.154.401, 24.154.403, 24.154.405, 24.154.407, 24.154.408, 24.154.409, 24.154.420, 24.154.422, 24.154.2105, 24.154.2107, and 24.154.2301 exactly as proposed.

5. The board has adopted NEW RULES I (ARM 24.154.412), II (24.154.413), III (24.154.501), IV (24 154.504), V (24.154.507), and VI (24.154.406) exactly as proposed.

6. The board has repealed ARM 24.154.201, 24.154.202, 24.154.2101, and 24.154.2401 exactly as proposed.

BOARD OF BEHAVIORAL HEALTH  
DR. PETER DEGEL, LCPC

/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 August 8, 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 37.104.3006, 37.104.3007, )  
37.104.3014, and 37.104.3020, )  
pertaining to trauma care councils )  
and registry )

TO: All Concerned Persons

1. On June 3, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-754 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1001 of the 2016 Montana Administrative Register, Issue Number 11.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Nicholas Domitrovich  
Nicholas Domitrovich  
Rule Reviewer

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

Certified to the Secretary of State August 8, 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 37.86.1105 )  
pertaining to Montana Medicaid )  
pharmacy reimbursement )

TO: All Concerned Persons

1. On June 17, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-757 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1043 of the 2016 Montana Administrative Register, Issue Number 12.

2. The department has amended the following rule as proposed: ARM 37.86.1105.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY  
ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID  
PROVIDER FEE SCHEDULES (1) and (2) remain as proposed.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) through (e) remain as proposed.

(f) The outpatient drugs reimbursement, dispensing fees range as provided in ARM 37.86.1105(3)(b) is effective July 1, 2016:

(i) for pharmacies with prescription volume between 0 and 39,999, the minimum is \$2.00 and the maximum is ~~\$14.77~~ \$15.00;

(ii) for pharmacies with prescription volume between 40,000 and 69,999, the minimum is \$2.00 and the maximum is ~~\$14.54~~ \$13.00; or

(iii) for pharmacies with prescription volume greater than 70,000, the minimum is \$2.00 and the maximum is ~~\$10.54~~ \$11.00.

(g) through (6) remain as proposed.

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

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

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

COMMENT #1: Several commenters expressed concern about the cost savings associated with the reimbursement changes.

RESPONSE #1: Federal law requires the average acquisition cost (AAC) drug reimbursement change. The savings to the Medicaid program from the federal change in AAC reimbursement is greater than the increase in pharmacy professional dispensing fee rates.

COMMENT #2: The department received several comments proposing modifications to the dispensing fee structure outlined in this rulemaking. Some commenters expressed support, others proposed different volume bands and dispensing fee, some commenters asked for a rural rate, and others requested a flat dispensing fee for all pharmacy providers.

RESPONSE #2: The department has increased the proposed maximum dispensing fees based on the comments received, but the prescription volume will remain unchanged for each tier. The survey data did not support the commenters' recommended prescription volume levels. The changes to the proposed maximum dispensing fees were made in ARM 37.85.105(3)(f).

COMMENT #3: A commenter requested that the department assign everyone the maximum dispensing fee for the appropriate dispensing fee bands until 2017.

RESPONSE #3: The department will assign pharmacy providers the lower of their calculated cost to dispense, based on the annual Montana Dispensing Fee Questionnaire, or the maximum allowed for their store's prescription volume.

COMMENT #4: A commenter stated they are losing money every day and will begin looking at their staffing and patients they can serve. They see patients from long term care and mental health group homes, and state that there is "no way" pharmacies will continue to provide patients with proper medications. Another commented on the high cost of doing business in a small town.

RESPONSE #4: The department will implement the amended tiered professional dispensing fee with a retroactive effective date of July 1, 2016. The department will adjust claims to account for the increase in the professional dispensing fee. The department has determined reimbursement rates are competitive and adequately compensate providers for their product and services.

COMMENT #5: Comments were received that some providers strongly oppose any proposals to provide tiered dispensing fees.

RESPONSE #5: The tiered dispensing fee structure was selected based on comments and the statistical analysis completed using the results of the department's annual dispensing fee survey. The tiered dispensing fee structure should adequately compensate providers for their professional services.

COMMENT #6: The department received comments requesting an increase in the maximum dispensing fee for rural pharmacy providers.

RESPONSE #6: The department has determined that a professional dispensing fee formula based on a pharmacy's expenses and prescription volume better represents the cost to dispense as opposed to a pharmacy's location.

5. The effective date for ARM 37.85.105 is October 1, 2016. The department intends to apply the rule amendment in ARM 37.85.105(3)(f) retroactively to July 1, 2016. The department intends to apply the rule amendment in ARM 37.85.105(3)(a) to October 1, 2016.

The effective date for ARM 37.86.1105 is August 20, 2016, which is the day after publication in the Register. The department intends to apply the rule amendments in ARM 37.86.1105 retroactively to July 1, 2016.

A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

/s/ Geralyn Driscoll  
Geraldyn Driscoll, Attorney  
Rule Reviewer

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

Certified to the Secretary of State August 8, 2016

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF DECISION ON  
ARM 1.2.104 pertaining to ) PROPOSED AMENDMENT  
administrative rules services fees )

TO: All Concerned Persons

1. On April 22, 2016, the Secretary of State published MAR Notice No. 44-2-217 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 716 of the 2016 Montana Administrative Register, Issue Number 8.

2. A public hearing on the notice of proposed amendment of the above-stated rule was held on May 16, 2016.

3. The proposed amendment of ARM 1.2.104 generated several comments from county officials that reveal there is some confusion regarding both the Secretary of State's duty to provide a copy of the Administrative Rules of Montana (ARM) to each of the counties and whether or not the Secretary of State is required to provide that copy without charge.

The Secretary of State also received support for the proposed amendment from one county stating "that distribution of updates to the Administrative Rules is a costly and unnecessary practice" and that "all of the information contained in the updates is available online."

Per 2-4-313(1), MCA, the Secretary of State is required to "distribute copies of the ARM and supplements or revisions to the ARM" to the entities listed in that section of the statute, including the governing body of each county. The Secretary of State is also required by 2-4-313(1), MCA, to provide the ARM and its supplements or revisions in "an electronic format, unless a hard copy is requested."

In addition, 2-4-313(2), MCA, requires each county in the state to "maintain a complete, current set of the ARM, including supplements or revisions to the ARM," but also states that "[a]n entity required by this section to maintain a copy or set of the ARM and supplements or revisions to it and a copy of the register complies with this section if it provides access to an electronic version of the current ARM and the current year's issues of the register or the current year's issues and register archives for the prescribed period of time."

To meet the mandates of 2-4-313(1), MCA, and assist counties with providing the electronic access contemplated in 2-4-313(2), MCA, the Secretary of State provides electronic access to the ARM and its supplements and its revisions, as well as current and historical copies of the Register, through the Secretary of State's web site at <http://sos.mt.gov/ARM>.

When 2-4-313, MCA, was enacted, the Secretary of State's Office operated on general fund dollars, meaning the money to run the office was appropriated by the Montana Legislature. However, in 1993, the funding structure of the Secretary of State's Office was changed to an enterprise account, meaning that the office operates on the fees it charges to the customers to whom it provides services.

An historical review of 2-4-313, MCA, especially in light of the funding structure of the Secretary of State's Office, indicates the Montana Legislature intended for the Secretary of State to recover the cost of supplying copies of the ARM and its supplements or revisions to the entities listed in 2-4-313(1), MCA, including counties.

Prior to the passage of House Bill 639 in 2001, the pertinent parts of 2-4-313, MCA (1999) read as follows:

- (1) The secretary of state shall distribute copies of the ARM and supplements or revisions to the ARM to the following:
  - (a) attorney general, one copy;
  - (b) clerk of United States district court for the district of Montana, one copy;
  - (c) clerk of United States court of appeals for the ninth circuit, one copy;
  - (d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;
  - (e) state law library, one copy;
  - (f) state historical society, one copy;
  - (g) each unit of the Montana university system, one copy;
  - (h) law library of the university of Montana-Missoula, one copy;
  - (i) legislative services division, two copies;
  - (j) library of congress, one copy;
  - (k) state library, one copy.

\* \* \*

- (3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or revisions to the ARM and the register available to any person at prices fixed in accordance with subsection (4).

- (4) The secretary of state shall determine the cost of supplying copies of the ARM and supplements or revisions to the ARM and the register to persons not listed in subsection (1). The cost must be the approximate cost of publication of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in the cost of printing different parts of the

ARM and supplements or revisions to the ARM and the register. Fees are not refundable.

(5) The secretary of state shall deposit all fees in a proprietary fund.

(6) The secretary of state may charge agencies a filing fee for all material to be published in the ARM or the register. The secretary of state shall fix the fee to cover the costs of supplying copies of the ARM and supplements or revisions to the ARM and the register to the persons listed in subsection (1). The cost must be the approximate cost of publication of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in the cost of printing different parts of the ARM and supplements or revisions to the ARM and the register.

On their face, (4) and (6) above contemplated that the Secretary of State would recover the cost of providing copies of the ARM and its supplements or revision to the entities listed in subsection (1) through adjustments to the filing fees charged state agencies for material to be published in ARM.

In 2001, when House Bill 639 was passed, the pertinent parts of 2-4-313, MCA, were changed to read:

- (1) The secretary of state shall distribute copies of the ARM and supplements or revisions to the ARM to the following:
  - (a) attorney general, one copy;
  - (b) clerk of United States district court for the district of Montana, one copy;
  - (c) clerk of United States court of appeals for the ninth circuit, one copy;
  - (d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;
  - (e) state law library, one copy;
  - (f) state historical society, one copy;
  - (g) each unit of the Montana university system, one copy;
  - (h) law library of the university of Montana-Missoula, one copy;
  - (i) legislative services division, two copies;
  - (j) library of congress, one copy;
  - (k) state library, one copy.

\* \* \*

(3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or revisions to the ARM and the register available to any person for a fee set in accordance with subsection (5). Fees are not refundable.

- (4) The secretary of state may charge agencies a filing fee for all material to be published in the ARM or the register.
- (5) The secretary of state shall set and deposit the fees authorized in this section in accordance with 2-15-405.

Notably, in 2001 the limitation of recovering the cost of providing copies of the ARM and its supplements or revision to the entities listed in (1) through adjustments to the filing fees charged state agencies for material to be published in ARM was removed. This, in turn, allowed the Secretary of State to begin recovering the cost through fees set in accordance with 2-15-405, MCA.

4. The Secretary of State believes the Montana Legislature intended that the Secretary of State be able to charge the entities listed in 2-4-313(1), MCA, including counties, for the copies of the ARM and its supplements or revisions that the Secretary of State distributes. The comments received in response to the proposed amendment of ARM 1.2.104, however, clearly indicate there is confusion regarding the plain language of 2-4-313, MCA.

For that reason, the Secretary of State will not proceed with the adoption of the proposed amendment and will seek to clarify the statutory language with proposed legislation in 2017.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 8th day of August, 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 March 31, 2016. This table includes those rules adopted during the period April 1, 2016, through June 30, 2016, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2016, 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 2016 Montana Administrative Register.

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## BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in July 2016 appear. Vacancies scheduled to appear from September 1, 2016 through November 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 August 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 JULY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Agriculture Land Valuation Advisory Council (Revenue)</b>			
Mr. Anton Beckerman Bozeman Qualifications (if required): Knowledgeable in agriculture	Governor	O'Brien	7/1/2016 6/30/2020
Rep. Jane DeBruycker Dutton Qualifications (if required): Knowledgeable in agriculture	Governor	O'Brien	7/1/2016 6/30/2020
Mr. James Johnson Bozeman Qualifications (if required): Knowledgeable in agriculture	Governor	reappointed	7/1/2016 6/30/2020
Rep. Mike Jopek Whitefish Qualifications (if required): Knowledgeable in agriculture	Governor	reappointed	7/1/2016 6/30/2020
Director Keith Kelly Helena Qualifications (if required): Knowledgeable in agriculture	Governor	O'Hara	7/22/2016 6/30/2020
Mr. Dennis McDonald Melville Qualifications (if required): Knowledgeable in agriculture	Governor	reappointed	7/1/2016 6/30/2020
Mr. Jerry Nielsen Bozeman Qualifications (if required): Knowledgeable in agriculture	Governor	reappointed	7/1/2016 6/30/2020

**BOARD AND COUNCIL APPOINTEES FROM JULY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Agriculture Land Valuation Advisory Council (Revenue) cont.</b>			
Mr. John Schutter Manhattan	Governor	reappointed	7/1/2016 6/30/2020
Qualifications (if required): Knowledgeable in agriculture			
Ms. Helen (Jo) Shipman Lewistown	Governor	reappointed	7/1/2016 6/30/2020
Qualifications (if required): Knowledgeable in agriculture			
<b>Board of Hearing Aid Dispensers (Labor and Industry)</b>			
Ms. Helen Hallenbeck Missoula	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): Licensed Hearing Aid Dispenser			
<b>Board of Radiologic Technologists (Labor and Industry)</b>			
Mr. Mike Nielsen Billings	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): Radiologic Assistant or Radiologic Practioner Assistance			
<b>Board of Regents of Higher Education (Board of Education)</b>			
Mr. Levi Birky Bozeman	Governor	Hohman	7/1/2016 6/30/2017
Qualifications (if required): Student Regent			
<b>Board of Sanitarians (Labor and Industry)</b>			
Mrs. Stephanie Jean Ler Sidney	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): registered sanitarian			



## BOARD AND COUNCIL APPOINTEES FROM JULY 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Building Codes Council</b> (Labor and Industry)			
Mr. John Edwin Carmody Butte	Governor	Broquist	7/22/2016 10/1/2017
Qualifications (if required): Practicing professional engineer			
<b>Equal Pay for Equal Work Task Force</b> (Labor and Industry)			
Ms. Jane Karas Kalispell	Governor	Brockie	7/22/2016 11/1/2016
Qualifications (if required): higher education			
Rep. Diane Sands Missoula	Governor	Mack	7/22/2016 11/1/2016
Qualifications (if required): Elected official			
<b>Montana Agriculture Development Council</b> (Agriculture)			
Commissioner Greg Jergeson Chinook	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): Public representative who is or was actively engaged in agriculture			
Ms. Amy Kellogg Kalispell	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): Public representative who is or was actively engaged in agriculture			
<b>Montana Historical Society Board of Trustees</b> (Board of Education)			
Secretary Bob Brown Whitefish	Governor	reappointed	7/1/2016 7/1/2021
Qualifications (if required): Public Representative			

## BOARD AND COUNCIL APPOINTEES FROM JULY 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Historical Society Board of Trustees</b> (Board of Education) cont.			
Mr. Thomas Nygard Bozeman	Governor	reappointed	7/1/2016 7/1/2021
Qualifications (if required): Public Representative			
Ms. Crystal Wong Shors Helena	Governor	reappointed	7/1/2016 7/1/2021
Qualifications (if required): Public Representative			
<b>Potato Crop Commodity Advisory Council</b> (Agriculture)			
Mr. Brad Haidle Fallon	Governor	reappointed	7/1/2016 3/1/2019
Qualifications (if required): Potato producer			
<b>State Banking Board</b> (Administration)			
Mr. Bart Langemeier Red Lodge	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): Active officer of a national bank doing business in Montana			
Ms. Amy Rapp Great Falls	Governor	reappointed	7/1/2016 7/1/2019
Qualifications (if required): Member of the public			
<b>State Electrical Board</b> (Labor and Industry)			
Ms. Dawn Achten Billings	Governor	reappointed	7/1/2016 7/1/2021
Qualifications (if required): Member representing the public			

**BOARD AND COUNCIL APPOINTEES FROM JULY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Statewide Interoperability Governing Board</b> (Administration)			
Mr. Doug Russell Kalispell	Governor	Myhre	7/22/2016 10/1/2017
Qualifications (if required): Representative of Montana League of Cities and Towns			
<b>Teacher's Retirement Board</b> (Administration)			
Mrs. Janice Muller Hamilton	Governor	reappointed	7/22/2016 7/1/2021
Qualifications (if required): Active member of the retirement system			
Ms. Marilyn J. Ryan Missoula	Governor	reappointed	7/22/2016 7/1/2021
Qualifications (if required): Active member of the retirement system			
<b>Youth Justice Council</b> (Justice)			
Mr. Jackson Kindsather Bozeman	Governor	McGurn	7/22/2016 3/1/2018
Qualifications (if required): Active member of the retirement system			
Mr. Nathan Sax Helena	Governor	Putnam	7/22/2016 12/31/2016
Qualifications (if required): State employee representative			

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Alternative Health Care Board</b> (Labor and Industry)                      Dr. Christine White Deeble, Missoula                      Qualifications (if required): naturopathic physician</p>	Governor	9/1/2016
<p><b>Board of Barbers and Cosmetologists</b> (Labor and Industry)                      Ms. Darlene Battaiola, Butte                      Qualifications (if required): cosmetologist</p>	Governor	10/1/2016
<p>Ms. Juanita Mace, Billings                      Qualifications (if required): barber</p>	Governor	10/1/2016
<p><b>Board of Medical Examiners</b> (Labor and Industry)                      Dr. Dean Center, Bozeman                      Qualifications (if required): doctor of medicine</p>	Governor	9/1/2016
<p>Dr. James Feist, Bozeman                      Qualifications (if required): Doctor of Medicine</p>	Governor	9/1/2016
<p><b>Board of Outfitters</b> (Labor and Industry)                      Mr. Patrick Tabor, Swan Lake                      Qualifications (if required): Big Game Hunting Outfitter</p>	Governor	10/1/2016
<p><b>Board of Psychologists</b> (Labor and Industry)                      Dr. Marla Lemons, Butte                      Qualifications (if required): public health psychologist</p>	Governor	9/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Burial Preservation Board</b> (Administration) Mr. Videll Stump Sr., Box Elder Qualifications (if required): representative of the Chippewa Cree Tribe	Governor	9/1/2016
Dr. Ruthann Knudson, Great Falls Qualifications (if required): representative of the Montana archaeological association	Governor	9/1/2016
Mr. Terry Bullis, Hardin Qualifications (if required): representative of the Montana coroners' association	Governor	9/1/2016
Councilman Richard Parenteau, Great Falls Qualifications (if required): Representative of Little Shell Band of Chippewa Indians	Governor	9/1/2016
<b>Commission on Community Service</b> (Governor) Mr. Holter Bailey, Missoula Qualifications (if required): youth representative	Governor	10/1/2016
<b>Corn Crop Advisory Committee</b> (Agriculture) Sen. Donald J. Steinbeisser, Sidney Qualifications (if required): Corn Crop Producer	Director	10/23/2016
Mr. Donald Fast, Glasgow Qualifications (if required): Corn Crop Producer	Director	10/23/2016
Mr. Glenn Rohde, Glasgow Qualifications (if required): Corn Crop Producer	Director	10/23/2016

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Corn Crop Advisory Committee</b> (Agriculture) cont.            Mr. Jason Brewer, Forsyth            Qualifications (if required): Corn Crop Producer</p>	Director	10/23/2016
<p>Mr. Kim Nile, Forsyth            Qualifications (if required): Corn Crop Producer</p>	Director	10/23/2016
<p>Mr. Jack Dion, Terry            Qualifications (if required): Corn Crop Producer</p>	Director	10/23/2016
<p><b>Equal Pay for Equal Work Task Force</b> (Labor and Industry)            Sheriff Craig Anderson, Glendive            Qualifications (if required): Elected Official</p>	Governor	11/1/2016
<p>Director Sheila Hogan, Helena            Qualifications (if required): Co-Chair</p>	Governor	11/1/2016
<p>Ms. Aimee Grmoljez Shanight, Helena            Qualifications (if required): Business Background</p>	Governor	11/1/2016
<p>Rep. Clarena M. Brockie, Harlem            Qualifications (if required): Higher Education</p>	Governor	11/1/2016
<p>Ms. Jacquie Helt, Missoula            Qualifications (if required): Organized Labor</p>	Governor	11/1/2016
<p>Ms. Barbara Stiffarm, Havre            Qualifications (if required): Tribal Member</p>	Governor	11/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Equal Pay for Equal Work Task Force</b> (Labor and Industry) cont.                      Ms. Kimberly Rickard, Helena                      Qualifications (if required): Organized Labor</p>	Governor	11/1/2016
<p>Commissioner Pam Bucy, Helena                      Qualifications (if required): Co-Chair</p>	Governor	11/1/2016
<p>Mr. Scott Wilson, Bozeman                      Qualifications (if required): Business Background</p>	Governor	11/1/2016
<p>Ms. Deb Larson, Bozeman                      Qualifications (if required): Business Background</p>	Governor	11/1/2016
<p>Ms. Jen Euell, Helena                      Qualifications (if required): Non-Profit Representative</p>	Governor	11/1/2016
<p>President Waded Cruzado, Bozeman                      Qualifications (if required): Higher Education</p>	Governor	11/1/2016
<p>Mrs K'Lynn Sloan Harris, Helena                      Qualifications (if required): Interagency Committee for Change by Women</p>	Governor	11/1/2016
<p>Ms. Stacy Klippenstein, Miles City                      Qualifications (if required): Higher Education</p>	Governor	11/1/2016
<p>Mayor Gene Mim Mack, Stevensville                      Qualifications (if required): Elected Official</p>	Governor	11/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Governor's Council on Healthcare Innovation</b> (Public Health and Human Services) Dr. Monica Berner, Helena Qualifications (if required): Public and private payers	Governor	10/1/2016
Ms. LeeAnn Bruised Head, Missoula Qualifications (if required): Indian/Tribal Health Representatives	Governor	10/1/2016
<b>Historical Preservation Review Board</b> (Historical Society) Ms. Lesley M. Gilmore, Gallatin Gateway Qualifications (if required): historic architect	Governor	10/1/2016
Mr. Charles McLeod, Missoula Qualifications (if required): archaeologist	Governor	10/1/2016
Mr. Jon Axline, Helena Qualifications (if required): architectural historian	Governor	10/1/2016
<b>Trauma Care Committee</b> (Public Health and Human Services) Dr. Freddy Bartoletti, Anaconda Qualifications (if required): representative of the Montana Medical Association	Governor	11/2/2016
Ms. Lauri Jackson, Great Falls Qualifications (if required): representative of the Central Region Trauma Care Advisory Council	Governor	11/2/2016
Mr. Bradley Von Bergen, Billings Qualifications (if required): representative of the Eastern Region Trauma Care Advisory Council	Governor	11/2/2016



**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2016 THROUGH NOVEMBER 30, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Trauma Care Committee</b> (Public Health and Human Services)            Dr. Brad Pickhardt, Missoula            Qualifications (if required): representative of the Western Region Trauma Advisory Council</p>	Governor	11/2/2016
<p>Mr. Rick Haraldson, Sidney            Qualifications (if required): Montana Hospital Association</p>	Governor	11/1/2016
<p><b>Vocational Rehabilitation Council</b> (Public Health and Human Services)            Ms. Robin Haux, Montana city            Qualifications (if required): Organized Labor</p>	Governor	10/1/2016
<p><b>Water and Waste Water Operators' Advisory Council</b> (Environmental Quality)            Mr. John Alston, Bozeman            Qualifications (if required): representative of a municipality</p>	Governor	10/16/2016