

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 24

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARINGS ON  
ARM 14.6.101 and 14.6.102 and ) PROPOSED AMENDMENT AND  
adoption of New Rules I, II, III, and ) ADOPTION  
IV, pertaining to implementation of )  
the Sage-Grouse Stewardship Act )

TO: All Concerned Persons

1. The Sage Grouse Habitat Conservation Program will hold three public hearings at the following dates and times to consider the proposed amendment and adoption of the above-stated rules:

2:00 p.m. on January 12, 2017, Beaverhead-Deerlodge National Forest Office, 420 Barrett St., Dillon, MT 59725;

2:00 p.m. on January 16, 2017, Musselshell County Ambulance Barn, 704 1st St. E, Roundup, MT 59072;

2:00 p.m. on January 17, 2017, First State Bank of Malta, 1 S. 1st St E, Malta, MT 59538.

2. The Governor's Office 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 Governor's Office no later than 5:00 p.m. on January 6, 2017, to advise us of the nature of the accommodation that you need. Please contact Carolyn Sime, Sage Grouse Habitat Conservation Program Manager, Montana Sage Grouse Oversight Team, c/o Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-0554; fax (406) 444-6721.

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

14.6.101 DEFINITIONS Unless the context clearly requires otherwise, to aid in the implementation of the Montana Greater Sage-Grouse Stewardship Act and as used in these rules:

(1) "Additionality" means conservation benefits of a compensatory mitigation measure that improve upon the baseline conditions of the impacted resources and their values, services, and functions in a manner that is demonstrably new, or avoids losses, and would not have occurred without the compensatory mitigation measure.

(1) remains the same but is renumbered (2).

(3) "Baseline" means the starting point for calculating the difference between baseline and post-project habitat function and functional acres. Baseline does not necessarily mean pre-project condition.

(4) "Compensatory Mitigation" means the preservation, enhancement, restoration and/or establishment of a resource to compensate for, or offset, unavoidable adverse impacts to the resource.

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

(6) "Direct impacts" means impacts caused by an action that occur at the same time and place which affect and diminish the ability for sage grouse to shelter, feed, or breed.

(7) "Durability" means mitigation measures will be effective at least as long as the impacts those measures are designed to offset, using legal and financial assurances to ensure the mitigation offsets will be in place for the entire duration of the impact. Considerations include the ecological, administrative, and financial assurances that secure the biological benefits of a compensatory mitigation project; and that protect the conservation status of a compensatory mitigation site.

(8) "Effectiveness" means the proposed compensatory mitigation plan demonstrates timeliness, ecological durability and is accompanied by a durable site protections and financial assurances that secure and protect the conservation status of the mitigation site and credits for at least as long as associated impacts persist.

(9) "Enhancement" means manipulation of existing habitat to heighten, intensify, or improve a specific resource function that results in a gain of selected resource functions.

(10) "Indirect impacts" means impacts caused by or the result of an action, which occur later in time or farther removed in distance from the action, but are still reasonably foreseeable, and which affect and diminish the ability for sage grouse to shelter, feed, or breed.

(11) "In-kind" means a resource of a similar structural and functional type as the impacted resource. When used in reference to a species, in-kind means the same species.

(3) remains the same but is renumbered (12).

(13) "Landscape" means the geographic extent that encompasses an interacting mosaic of ecosystems and human systems that is characterized by a set of common management concerns.

(14) "Lek" means an activity area where sage grouse congregate to breed.

(15) "Material change" means a change that is substantive and likely affects the outcomes of the crediting or debiting project.

(16) "Mitigation sequence" means taking steps to:

(a) avoid impacts by not taking a certain action or parts of an action;

(b) minimize impacts by limiting the degree or magnitude of the action and its implementation;

(c) rectify impact by repairing, rehabilitating, or restoring the affected environment;

(d) reduce or eliminate impact over time by preservation and maintenance operations during the life of the action; and

(e) compensate for impact by replacing or providing substitute resources or environments.

(4) remains the same but is renumbered (17).

(18) "Net conservation gain" means the actual benefit or gain above baseline conditions, when the baseline is re-measured at a later time, after deductions for impacts, in habitat function or value to species covered by a mitigation program.

(5) remains the same but is renumbered (19).

(20) "Out-of-kind" means a resource of different structural and functional type to the impacted resource, which still addresses impacts to the same species.

(21) "Performance standards" means observable or measurable administrative or ecological attributes, whether physical, chemical, or biological, that are used to determine if a compensatory mitigation project meets the agreed upon objectives.

(22) "Preservation" means maintenance or retention of existing habitat with specific resource functions for sage grouse through legal protection of existing and functioning habitat through a deed restriction or conservation easement that is permanent or in place for a long period of time.

(23) "Program" means the Montana Sage Grouse Habitat Conservation Program.

(24) "Restoration" means returning a site to its natural and/or historic habitat type and condition with the same or similar ecological functions after the original natural and/or historic site has been degraded, damaged, or lost.

(25) "Service area" means the geographic area within which impacts to a species' habitat can be offset at a particular habitat offset site as designated; the geographic area within which habitat credit trading occurs if a habitat exchange is operational in Montana.

(26) "Sufficiency review" means review of the underlying scientific methodology and data sources to ensure that the habitat quantification tool is based on reliable and repeatable quantitative science-based methods and is consistent with applicable U.S. Fish and Wildlife Service policies.

(27) "Tool" means Habitat Quantification Tool.

(28) "Verification" means a standardized process for monitoring and reporting to ensure that mitigation program rules have been followed.

AUTH: 76-22-104, MCA

IMP: 76-22-105, 76-22-109, 76-22-110, 76-22-112, 76-22-118, MCA

REASONABLE NECCESITY: Compliance with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at 76-22-101, et seq. MCA) required MSGOT to adopt additional rules regarding compensatory mitigation. Additional definitions are needed to clarify terms in these additional rules.

14.6.102 GRANTS (1) through (8) remain the same.

(9) MSGOT will give greater priority to applications for conservation activities eligible for funding under 76-22-110, MCA, which would be implemented in core areas. MSGOT may still consider funding conservation activities in general habitat and connectivity areas where high resource values for sage grouse exist and credits could be generated consistent with 76-22-109, MCA.

AUTH: 76-22-104, MCA

IMP: 76-22-105, 76-22-109, 76-22-110, 76-22-112, 76-22-118, MCA

REASONABLE NECCESITY: Compliance with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at 76-22-101, et seq. MCA) required MSGOT to adopt rules to "administer . . . the eligibility and evaluation criteria for grants distributed pursuant to 76-22-110 MCA." This amendment also provides flexibility for MSGOT by allowing MSGOT to consider funding projects in areas outside of core if high resource values for sage grouse can be protected.

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

NEW RULE I HABITAT QUANTIFICATION TOOL (1) MSGOT will designate a habitat quantification tool (Tool) to assess the quality and quantity of sage grouse habitat and to calculate the value of credits and debits by June 1, 2017. After designating a Tool, MSGOT will amend this rule to incorporate it by reference.

(2) Prior to the time MSGOT designates a Tool and the U.S. Fish and Wildlife Service completes its sufficiency review, MSGOT may adopt and apply an interim process for calculating the value of credits and debits consistent with the provisions of this rule to assess the quality and quantity of sage grouse habitat, and to calculate the value of credits and debits.

(3) MSGOT will apply the interim process or the Tool MSGOT designates in the following circumstances:

(a) when evaluating applications for funding from the Sage Grouse Stewardship special revenue account consistent with the statutory requirements of the Greater Sage Grouse Stewardship Act expressed in 76-22-101, MCA et seq. and ARM 14.6.101 and 14.6.102; and

(b) when calculating credits or debits for sage grouse compensatory mitigation.

(4) Any other entities engaged in sage grouse compensatory mitigation in Montana, including a U.S. Fish and Wildlife Service-approved habitat exchange that receives credits transferred by MSGOT, or funding from the Sage Grouse Stewardship special revenue account, must apply the Tool or interim process designated by MSGOT.

(5) MSGOT will designate a Tool that:

(a) is based on the best available science;

(b) takes a landscape-scale approach, incorporating at least two spatial scales relevant to sage grouse ecology, and considers any of the threats identified by the U.S. Fish and Wildlife Service;

(c) incorporates environmental data gathered and analyzed at an appropriate, meaningful scale and resolution, such as a combination of remote sensing data and on-site visits;

(d) incorporates a clearly defined unit of measurement for habitat assessment that includes both habitat quantity and quality;

(e) uses the same methods to calculate both credits and debits;

(f) provides a reliable and repeatable quantitative method; and

(g) is consistent with applicable U.S. Fish and Wildlife Service policy and the Greater Sage Grouse Range-Wide Mitigation Framework (2014).

(6) Data included in the Tool may consist of, but is not limited to:

- (a) habitat classification as core area, general habitat, or connectivity area;
- (b) anthropogenic disturbance including cultivation, wildfire, and other threats identified by the U.S. Fish and Wildlife Service;
- (c) land use conditions;
- (d) sage grouse occupancy, lek locations, lek densities, trends in the number of males on leks;
- (e) habitat and vegetation characteristics;
- (f) non-native or invasive species;
- (g) sage grouse seasonal habitats;
- (h) proposed disturbance type and spatial influence of the disturbance; and
- (i) landscape setting and landscape attribute information; or
- (j) any other factors necessary to quantify habitat quality and quantity for a given area of impact or area of conservation.

(7) MSGOT and the Sage Grouse Habitat Conservation Program will solicit and consider independent peer reviews of the Tool it is considering for designation prior to designating a Tool and amending this rule to incorporate it by reference. MSGOT and the Program may make non-material revisions to the Tool without soliciting independent peer reviews, such as updating a remote sensing GIS data layer to the most recent available, or to correct typographical or technical errors.

(8) MSGOT and the Program must submit a designated Tool to the U.S. Fish and Wildlife Service for sufficiency review. If the U.S. Fish and Wildlife Service's review determines that the Tool is not sufficient, MSGOT will designate a new version of the Tool and submit the new version for U.S. Fish and Wildlife Service sufficiency review.

(9) MSGOT and the Program will review the designated Tool's methodology and underlying data sources every five years to ensure they are consistent with the best available science.

(a) The first review will take place within five years after the date of its approval by MSGOT.

(b) MSGOT and the Program may review and adjust the designated Tool's methodology and underlying data sources sooner than five years after the sufficiency review by the U.S. Fish and Wildlife Service, and more frequently than once every five years if MSGOT and the Program believe the Tool's methodology requires revision so as to be consistent with the best available science, or MSGOT and the Program believe improved methodologies or new data are available for incorporation into the Tool.

(c) MSGOT may only adjust the designated Tool's methodology or underlying data sources after a publicly announced MSGOT meeting and after accepting written and oral public comment.

(10) If MSGOT makes material changes to the Tool, those changes will be submitted to the U. S. Fish and Wildlife Service for sufficiency review. MSGOT will continue to apply a designated and sufficiency-reviewed Tool during the period of time required for U.S. Fish and Wildlife Service to provide a sufficiency review for any material changes to the Tool's methodology and underlying data sources.

(11) Any material change to the Tool's methodology and underlying data sources adopted by MSGOT after public comment and sufficiency review by the U.S. Fish and Wildlife Service will be incorporated by reference through amending this rule.

(12) Once a designated Tool has been applied to calculate the credits of a proposed mitigation site, or the debits of a proposed development site; the Program has completed its review; and the Project developer obtains the necessary state or federal permits, any subsequent Tool designated by MSGOT will not apply.

(a) Once the Tool has been applied to calculate credits or debits, the number of calculated credits or debits will not be changed without written approval from all affected parties, including, but not limited to:

- (i) MSGOT;
- (ii) the project developer;
- (iii) the credit provider; and
- (iv) any affected third parties.

(b) Permit amendments will be subject to the Tool applied to calculate debits at the development site at the time of the original permit.

(13) The Tool that MSGOT designates will be made available to the public on the Sage Grouse Habitat Conservation Program's web site upon completion and approval by MSGOT and the U.S. Fish and Wildlife Service.

AUTH: 76-22-104, MCA

IMP: 76-22-105, 76-22-109, 76-22-110, 76-22-111, 76-22-112, 76-22-113, 76-22-114, 76-22-118, MCA

**REASONABLE NECESSITY:** This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at 76-22-101, et seq. MCA) which requires MSGOT to: "adopt rules to administer...the designation of a habitat quantification Tool, subject to the approval of the United States fish and wildlife service." This rule partially implements the requirements of that bill.

**NEW RULE II MITIGATION** (1) Implementation of the mitigation sequence is required for all activities subject to agency review, approval, or authorization for which direct, indirect, temporary, or permanent adverse impacts to sage grouse would remain following application of the mitigation sequence, including temporal impacts that are later rectified through reclamation and restoration activities. Mitigation will be required even if the remaining adverse impacts to sage grouse are indirect or temporary.

(2) The mitigation sequence is applicable to development in sage grouse habitats designated as core areas and is also applicable in habitats designated as general habitat and connectivity areas under less rigorous standards.

(3) MSGOT will designate a compensatory mitigation guidance and procedures document to implement the Tool MSGOT designates and other aspects of compensatory mitigation by June 1, 2017. After designating a compensatory mitigation guidance and procedures document, MSGOT will amend this rule to incorporate it by reference.

(4) Prior to the time MSGOT designates a Tool and U.S. Fish and Wildlife Service completes its sufficiency review, MSGOT may designate and apply an interim compensatory mitigation guidance and procedures document to implement an interim process and other aspects of compensatory mitigation for up to one year from the effective date of this rule. The compensatory mitigation guidance and procedures document will direct how MSGOT and the Program or another party approved by MSGOT administer one or more of the following:

- (a) a conservation bank;
- (b) participation in a habitat credit exchange;
- (c) making a financial contribution to the sage grouse stewardship account if sufficient credits are not available; or
- (d) funding stand-alone mitigation actions to offset impacts to sage grouse habitat.

(5) The compensatory mitigation guidance and procedures document that MSGOT designates will be made available to the public on the Program's web site upon completion and approval by MSGOT.

(6) MSGOT and the Program will review the compensatory mitigation guidance and procedures document every five years, concurrent with the five-year review of the Tool. The first review will take place within five years after the date of the U.S. Fish and Wildlife Service approval of the Tool.

(7) MSGOT and the Program may review and adjust the compensatory mitigation guidance and procedures document sooner than five years after the U.S. Fish and Wildlife Service's initial sufficiency review of the Tool and more frequently than once every five years if MSGOT and the Program believe the compensatory mitigation guidance and procedures document requires revision to be consistent with any changes in the Tool.

(a) MSGOT may only adjust the designated Tool's methodology or underlying data sources after a publicly announced MSGOT meeting and accepting written and oral public comment.

(8) MSGOT and the Program may make non-material revisions to the designated compensatory mitigation guidance and procedures document such as to incorporate the most recently available GIS data layers or to correct typographical or technical errors without formal rulemaking, but may only make such changes after a publicly announced MSGOT meeting and accepting written and oral public comment.

(9) Any material change to the compensatory mitigation guidance and procedures document adopted by MSGOT after public comment will be incorporated by reference by amending this rule.

(10) Through the mitigation guidance and procedures document described in (3), MSGOT may incentivize or discourage specific practices in particular locations by adjusting the value of credits or debits generated by those practices. Some variables that may drive adjustments include, but are not limited to:

- (a) a transparent method to adjust credits or debits to ensure net conservation gain;
- (b) incorporating ratios or multipliers that are intended to incentivize avoidance of important areas, incentivize voluntary conservation and landowner stewardship;

(c) duration of habitat benefits to match or exceed the duration of habitat impacts; and

(d) ensuring additionality.

(11) MSGOT will authorize and approve compensatory mitigation plans that involve sage grouse habitat restoration, habitat enhancement, or habitat preservation through participation in one or more of the following:

(a) a conservation bank;

(b) participation in a habitat credit exchange;

(c) making a financial contribution to the sage grouse stewardship account if sufficient credits are not available; or

(d) funding stand-alone mitigation actions to offset impacts to sage grouse habitat.

(12) All compensatory mitigation plans involving habitat restoration, enhancement, or preservation, and approved by MSGOT, must:

(a) meet the same standards provided in this rule;

(b) be consistent with the U.S. Fish and Wildlife Service Greater Sage Grouse Range-Wide Mitigation Framework (2014) and the designated compensatory mitigation guidance and procedures document; and

(c) apply the Tool designated by MSGOT.

(13) Project developers may not utilize research or education to provide compensatory mitigation.

(14) Compensatory mitigation plans must be approved by MSGOT, and implementation completed, before any impacts requiring compensatory mitigation occur. MSGOT may approve post-impact mitigation if the party proposing the mitigation provides adequate assurances the mitigation will occur and the credit amount compensates for the temporal impact to the species created by the delay in implementation.

(15) Compensatory mitigation plans may be prepared by a project developer with potential debits, potential credits, or both.

(16) Compensatory mitigation plans must, at a minimum, meet the following standards:

(a) avoid or minimize impacts to all possible extent;

(b) demonstrate that reasonable alternatives have been considered to avoid and minimize impacts that have not been avoided or minimized;

(c) provide net conservation gain for the duration of any habitat impacts mitigation is intended to offset;

(d) provide additionality;

(e) mitigate actions in core areas, connectivity areas, general habitat or other priority locations identified by the Montana Sage-Grouse Oversight Team; and

(f) create a significant number of credits relative to the cost of the project.

(17) Compensatory mitigation plans must provide for in-kind replacement of habitat quality and quantity. MSGOT may, on a case-by-case basis, approve out-of-kind mitigation if greater benefits to sage grouse are clearly demonstrated.

(18) Compensatory mitigation plans submitted for debit projects must incorporate at a minimum:

(a) a participant agreement between the credit provider and the credit purchaser;

- (b) the location and duration of impacts to sage grouse habitat;
- (c) the location of the mitigation site;
- (d) estimated debits (baseline condition and anticipated impacts);
- (e) the location of the mitigation site offsetting the impacts;
- (f) baseline condition;
- (g) monitoring protocols;
- (h) performance standards;
- (i) mechanisms to address credit impairment or project failure through financial assurances; and
- (j) a description of the service area.

(19) Compensatory mitigation plans submitted for credit projects must incorporate at a minimum:

- (a) the location, duration, and type of conservation activities used for mitigation;
- (b) estimated credits, baseline condition, and desired future conditions;
- (c) management and long-term stewardship activities and costs;
- (d) performance measures, monitoring protocols, and credit verification procedures to track progress toward anticipated conservation benefits;
- (e) reporting requirements;
- (f) assurances and contingency plans for maintaining habitat quantity and value for the duration of the project;
- (g) mechanisms for adaptive management;
- (h) a site protection instrument; and
- (i) a description of the service area.

(20) All projects used for compensatory mitigation must submit an annual monitoring report to MSGOT and the Program describing credits generated, credits transferred, management activities taken, and project performance consistent with the compensatory mitigation guidance and procedures document.

(21) Site protection instruments executed in compensatory mitigation plans approved by MSGOT must:

- (a) designate the Program, or any other party approved by MSGOT, as a third-party beneficiary with rights of entry for monitoring, credit verification, and enforcement;
- (b) permit the Program, or any other party approved by MSGOT, to calculate and verify credits on the site; and
- (c) prohibit incompatible uses that would jeopardize the conservation objectives of the mitigation site.

(22) Compensatory mitigation plans approved by MSGOT must include financial assurances guaranteeing:

- (a) the availability of funds for the inspection, monitoring, verification, and completion of all mitigation activities; and
- (b) methods to account for mitigation project failure and credit impairment, including program-level assurances against project failure, such as a credit reserve account.

(23) Financial assurances of credit development projects may be provided through a number of methods, including but not limited to establishment of an endowment fund, insurance, or a bond.

(24) MSGOT will designate service areas that reflect the need for genetic connectivity between designated core areas, general habitat areas, and connectivity in the state of Montana.

(25) MSGOT will require compensatory mitigation to occur in the same core area, general habitat area, or connectivity area as the impacts in Montana.

(a) MSGOT may consider and approve compensatory mitigation plans in a different core area, general habitat area, or connectivity area as the impact, on a case-by-case basis when suitable compensatory mitigation sites cannot be secured within the same core area as the impact within Montana; and

(b) when a greater conservation benefit to the species or population can be provided by compensatory mitigation outside of the core area, general habitat area, or connectivity area.

(26) MSGOT may consider and approve compensatory mitigation plans in a different service area as the impact:

(a) on a case-by-case basis when suitable compensatory mitigation sites cannot be secured within the same service area as the impact within Montana; and

(b) when a greater conservation benefit to the species or population can be provided by compensatory mitigation outside of the service area.

AUTH: 76-22-104, MCA

IMP: 76-22-105, 76-22-109, 76-22-110, 76-22-111, 76-22-112, 76-22-113, 76-22-114, 76-22-118, MCA

REASONABLE NECESSITY: This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at 76-22-101, et seq. MCA) which requires MSGOT to: "adopt rules to administer...methods of compensatory mitigation available...". This rule partially implements the requirements of that bill.

NEW RULE III METHOD TO TRACK AND MAINTAIN THE NUMBER OF CREDITS AND DEBITS AVAILABLE AND USED (1) MSGOT will assign a unique identifier for each credit created through funds disbursed from the Sage Grouse Stewardship special revenue account.

(2) MSGOT will assign a unique identifier for each credit created through conservation activities funded or implemented independently from the Sage Grouse Stewardship special revenue account.

(3) MSGOT will assign a unique identifier for each debit created by a project developer.

(4) MSGOT will establish a database and tracking system that contains, but is not limited to:

(a) the number of credits generated by conservation activities funded, at least in part, by funds disbursed from the Sage Grouse Stewardship special revenue account;

(b) the number of credits generated by conservation activities not funded through the Sage Grouse Stewardship special revenue account and used as compensatory mitigation by project developers;

- (c) the number of debits created by unavoidable impacts to habitat due to the activities of a project developer;
  - (d) the location of all credits generated and debits generated; and
  - (e) credit transactions between parties.
- (5) The information within the tracking system will be available to the public on the Program's web site.

AUTH: 76-22-104, MCA

IMP: 76-22-104, 76-22-105, 76-22-109, 76-22-110, 76-22-111, 76-22-112, 76-22-118, MCA

**REASONABLE NECESSITY:** This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at 76-22-101, et seq. MCA) which requires MSGOT to: (1) "adopt rules to administer...a method to track and maintain the number of credits attributable to projects funded . . . that are available to a project developer to purchase for compensatory mitigation to offset debits under 67-22-111;" (2) "adopt rules to administer . . . review and monitoring or projects funded pursuant to [Part 1]; (3) "review compensatory mitigation plans proposed under 76-22-111. If the plan includes a financial contribution to the sage grouse stewardship account established in 76-22-109, the oversight team will, using the habitat quantification tool, determine how to secure enough credits with the financial contribution to offset the debits of a project." This rule partially implements the requirements of that bill.

**NEW RULE IV METHOD TO ADMINISTER THE REVIEW AND MONITORING OF MSGOT FUNDED PROJECTS** (1) MSGOT and the Program will establish a database and tracking system to review and monitor projects funded by MSGOT using the Sage Grouse Stewardship special revenue account.

- (2) The database and tracking system will contain information including, but not limited to:
- (a) the name of the Stewardship Fund grant recipient(s);
  - (b) the amount awarded;
  - (c) the date the state funds were transferred to the grant recipient(s) if a one-time lump sum grant, or
  - (d) the dates state funds were transferred to the grant recipient(s) if the award was a reimbursable grant;
  - (e) a description of characteristics of the project including, but not limited to:
    - (i) type of project;
    - (ii) number of acres; and
    - (iii) land ownership;
  - (f) the duration of the project;
  - (g) any expected conservation benefits of the project;
  - (h) the geospatial location where the project was implemented;
  - (i) the number of credits generated, and their characteristics;
  - (j) the unique identifier assigned to each of the those credits;
  - (k) transactions of credits created;
  - (l) progress and final reports submitted by the grant recipient(s);

(m) annual monitoring reports in the case of conservation easements or leases;

(n) sage grouse leks on and in the vicinity of the project area and trend data on the number of breeding males on those leks; and

(o) the grant agreement number assigned by the Program.

AUTH: 76-22-104, MCA

IMP: 76-22-104, 76-22-105, 76-22-109, MCA

**REASONABLE NECESSITY:** This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at 76-22-101, et seq. MCA) which requires MSGOT to: (1) "adopt rules to administer...the review and monitoring of projects funded." This rule partially implements the requirements of that bill.

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: Carolyn Sime, Sage Grouse Habitat Conservation Program Manager, Montana Sage Grouse Oversight Team, c/o Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-0554; fax (406) 444-6721; or through the public comment web application tool located on the MSGOT web page at <https://sagegrouse.mt.gov/msgot.html>. All comments must be received no later than 5:00 p.m., January 23, 2017.

6. Carolyn Sime, Sage Grouse Habitat Conservation Program Manager, Montana Sage Grouse Oversight Team, has been designated to preside over and conduct these hearings.

7. The Governor's Office 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 must 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. Such written request may be mailed or delivered to the Natural Resource Policy Advisor, P.O. Box 200801, 1301 East Sixth Avenue, Helena, MT 59620; fax (406) 444-4151; or may be made by completing a request form at any rules hearing held by the Governor's Office.

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

may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on November 2, 2016, and again on November 30, 2016.

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

/s/ Andy Huff  
Andy Huff  
Rule Reviewer

/s/ Tim Baker  
Tim Baker  
Natural Resource Policy Advisor  
Governor's Office

Certified to the Secretary of State December 12, 2016

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING
ARM 17.24.645, 17.24.646,	)	ON PROPOSED AMENDMENT
17.30.502, 17.30.607, 17.30.608,	)	
17.30.609, 17.30.610, 17.30.611,	)	(RECLAMATION)
17.30.619, 17.30.621, 17.30.622,	)	(WATER QUALITY)
17.30.623, 17.30.624, 17.30.625,	)	(SUBDIVISIONS)
17.30.626, 17.30.627, 17.30.628,	)	(CECRA)
17.30.629, 17.30.641, 17.30.646	)	(UNDERGROUND STORAGE
17.30.650, 17.30.651, 17.30.652,	)	TANKS)
17.30.653, 17.30.654, 17.30.655,	)	
17.30.656, 17.30.657, 17.30.702,	)	
17.30.715, 17.30.1001, 17.30.1007,	)	
17.30.1322, 17.36.345, 17.55.109,	)	
17.56.507, and 17.56.608, pertaining	)	
to ground and surface water	)	
monitoring, definitions, use and	)	
classification standards, and adoption	)	
by reference	)	

TO: All Concerned Persons

1. On February 10, 2017, at 9:00 a.m., the Board of Environmental Review and the Department of Environmental Quality will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The board and department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Hillary Houle, no later than 5:00 p.m., February 3, 2017, to advise us of the nature of the accommodation that you need. Please contact Hillary Houle, Director Office Support Coordinator, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or e-mail [hhoule@mt.gov](mailto:hhoule@mt.gov).

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

17.24.645 GROUND WATER MONITORING (1) through (5) remain the same.

(6) Methods of sample collection, preservation, and sample analysis must be conducted in accordance with 40 CFR Part 136 titled "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (July ~~2003~~ 2015) and the department's

document titled "Department Circular DEQ-7, Montana Numeric Water Quality Standards," ~~October 2012~~ [effective month and year of this rule amendment] edition. Copies of Department Circular DEQ-7 are available at the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901. Sampling and analyses must include a quality assurance program acceptable to the department.

(7) and (8) remain the same.

AUTH: 82-4-204, MCA  
IMP: 82-4-231, 82-4-232, MCA

REASON: See reasons below (ARM 17.24.646 and ARM 17.30.502).

17.24.646 SURFACE WATER MONITORING (1) through (5) remain the same.

(6) Methods of sample collection, preservation, and sample analysis must be conducted in accordance with 40 CFR Part 136 titled "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (July 2003 2015) and Part 434 titled "Coal Mining Point Source Category BPT, BAT, BCT Limitations and New Source Performance Standards" (January 2002), and the ~~October 2012~~ [effective month and year of this rule amendment] edition of the department's document titled "Department Circular DEQ-7, Montana Numeric Water Quality Standards." Copies of 40 CFR Part 136, 40 CFR 434, and Department Circular DEQ-7 are available at the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901. Sampling and analyses must include a quality assurance program acceptable to the department.

(7) remains the same.

AUTH: 82-4-204, MCA  
IMP: 82-4-231, 82-4-232, MCA

REASON: See reason statement below (ARM 17.30.502) for DEQ-7 amendment.

Outdated versions of 40 CFR Part 136 are referenced at ARM 17.24.645 and 646, ARM 17.30.619, 641, and 646, ARM 17.30.1007, and ARM 17.30.1322. The board proposes updating these references to the 2015 version in order to stay current with federal requirements and maintain primacy for regulation under the Federal Water Pollution Control Act. A summary of new and revised approved analytical methods in the 2015 version of 40 CFR 136 can be seen in the Federal Register from February 19, 2015. (See 80 Fed. Reg. 8956 available at <https://www.epa.gov/cwa-methods/cwa-methods-regulatory-history>. Copies are also available at the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901.)

17.30.502 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, and ARM Title 17, chapter 30, subchapters 6 and 7, apply throughout this subchapter:

(1) through (13) remain the same.

(14) The board adopts and incorporates by reference Department Circular DEQ-7, entitled "Montana Numeric Water Quality Standards" (~~October~~ 2012 [effective month and year of this rule amendment] edition), which establishes numeric water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters. Copies of Department Circular DEQ-7 are available from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

AUTH: 75-5-301, 80-15-105, MCA

IMP: 75-5-301, 80-15-201, MCA

REASON: The proposed Circular DEQ-7 can be viewed on the department's website at <http://deq.mt.gov/Water/WQPB/Standards>. Modifications to the circulars and the reasons for the modifications are as follows:

Grammar, wordsmithing, and technical edits: The board proposes the following edits to improve the readability, searchability, and accuracy of DEQ-7: adding units to all columns in the table; correcting the spelling of Indeno(1,2,3-cd)pyrene; and using dashes instead of hyphens throughout the document and noting in the introduction that dashes must be used for the search function to work properly. Finally, PCBs is not possessive and the apostrophe has been removed in order to be consistent with the department's editorial guidelines.

The board also proposes removing the numbers assigned by N. Irving Sax (SAX) to dangerous materials. These numbers are taken from Dangerous Properties of Industrial Materials. They are not available for all chemicals included in DEQ-7. Additionally, the board found that users seeking SAX numbers obtain them directly from SAX's Dangerous Properties of Industrial Materials rather than obtaining information within DEQ-7. Chemical Abstract Service Registry Numbers (CASRN) and National Institute for Occupational Safety and Health (NIOSH) numbers are included in DEQ-7. These numbers are much more widely used chemical identifiers. CASRN and NIOSH numbers will continue to be maintained and updated in DEQ-7. However, the board proposes removing SAX numbers to avoid unnecessary updates to information that is not essential in DEQ-7.

The board proposes to edit the wording in footnote (1) as follows to remove confusion about the origin of the harmful category in DEQ-7: "Footnote (1) discusses the categories of parameters (harmful, toxic, or carcinogenic)." In the previous version of DEQ-7 the harmful category was mentioned separately from the other two, and it was unclear whether it was intended as a separate category.

Correction of errors: The board proposed a correction of errors in the human health criterion for dioxin in surface water listed in DEQ-7, which is  $5 \times 10^{-9}$ . Dioxin is a priority pollutant and EPA's human health criterion for dioxin with a  $1 \times 10^{-6}$  excess lifetime cancer risk is  $5 \times 10^{-9}$ . Section 75-5-301(2)(a), MCA, requires that the criteria be based on an excess lifetime cancer risk level of  $1 \times 10^{-5}$ . The board proposes correcting the surface water human health criterion for dioxin to  $5 \times 10^{-8}$  in order to comply with the statute.

The board proposes to correct a misplaced decimal place in the criteria for beta emitters and gamma emitters. DEQ-7 currently has both parameters set at 0.4

millirem (mrem) per yr. The EPA maximum contaminant levels (MCL), which DEQ-7 references for beta emitters and gamma emitters, are both listed at 4 mrems/yr. Section 75-5-203, MCA, states that Montana's water quality standards cannot be more stringent than federal standards unless the board finds evidence that a more stringent standard is necessary to protect public health. The board does not have evidence that a more stringent standard is necessary to protect human health, and proposes correcting the human health criteria for beta emitters and gamma emitters to 4 mrems/year in order to comply with Montana statute.

Footnote (7): The units in footnote (7) are currently stated in micrograms per liter ( $\mu\text{g/L}$ ) in order to provide more consistency throughout the document. However, the equations presented in footnote (7) are written in milligrams per liter ( $\text{mg/L}$ ). The board proposes changing the units for the equations back to  $\text{mg/L}$  for accuracy. The tables in footnote (7) are accurately presented in  $\mu\text{g/L}$  and will remain as such.

Footnote (19): Required reporting values (RRVs) in DEQ-7 are based on data provided by environmental laboratories for the methods they use for each pollutant. Revised footnote (19) provides that, based on the method of calculation and the number of programs that use DEQ-7, there are situations where DEQ may require alternate reporting values to meet analytical and reporting needs. The Montana Pollutant Discharge Elimination System (MPDES) permitting program uses RRVs. For certain parameters, such as total residual chlorine, the RRV in DEQ-7 is not low enough to meet their needs.

Footnote (39): The board is proposing that footnote (39) relating to endosulfans only apply to aquatic life criteria in order to be consistent with 304(a) national recommended water quality criteria (NRWQC). In the aquatic life table of NRWQC, the listings for alpha- and beta-endosulfan include the following note: "This value was derived from data for endosulfan and is most appropriately applied to the sum of alpha-endosulfan and beta-endosulfan." The NRWQC's recommendations for human health do not contain the same note.

EPA has generally approved multiple methods for Clean Water Act pollutants under 40 CFR part 136 and 40 CFR chapter I, subchapters N and O. Some of the approved analytical methods have greater sensitivities and lower minimum levels or method detection limits than other approved methods for the same pollutant. In August 2014, EPA amended its Clean Water Act regulations to state that NPDES program (the federal equivalent of the MPDES program) permit applicants must use EPA-approved sufficiently sensitive analytical methods for analysis of pollutants or pollutant parameters in permits. These sufficiently sensitive methods must be capable of detecting and measuring the pollutants at or below the applicable water quality criteria or permit limits.

By requiring sufficiently sensitive methods for analysis of pollutants under a MPDES permit, MPDES permit writers will have the ability to require an approved method that is sufficiently sensitive to meet the needs of the permit, and DEQ will ensure that data meaningful to the decision-making process will be generated and reported. Therefore, the board proposes including a statement in footnote (19) referring to EPA's sufficiently sensitive method requirement and stating that it supersedes the RRVs in DEQ-7 where the sufficiently sensitive methods generate lower reporting limits than those required by the RRVs.

Updates to human health criteria: In June 2015, EPA updated ambient water

quality criteria for the protection of human health for 94 chemical pollutants. These updated criteria reflect the latest scientific information and EPA policies, including updated body weight, drinking water consumption rate, fish consumption rate, bioaccumulation factors, health toxicity values, and relative source contributions. (See 80 Fed. Reg. 36986 (June 29, 2015) available at <https://www.epa.gov/wqc/human-health-water-quality-criteria>. Copies are also available at the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901). The board proposes adoption of these updated human health criteria and revisions to the introduction of DEQ-7 to reflect the updated exposure inputs (drinking water intake was updated from 2 liters of water to 2.4 liters of water, the average adult body weight was updated from 70 kilograms (kg) to 80 kg, and the fish consumption rate was updated from 17.4 grams per day to 22 grams per day). The board also proposes revising the source of the criteria in DEQ-7 consistent with EPA's recommended criteria (e.g., chlorobenzene changes from MCL to priority pollutant (PP)).

The board also proposes updating an additional 67 human health criteria in DEQ-7. These criteria are primarily pesticides for which EPA and DEQ have calculated health advisories. They are being recalculated using EPA's 2015 adopted exposure inputs described above in order to remain consistent with federal requirements.

The board proposes updating the human health criterion for total trihalomethanes. This criterion is based on the Safe Drinking Water Act maximum contaminant level. This change is proposed to make DEQ-7 consistent with federal requirements and DEQ's drinking water program.

Addition of new human health criterion: Dinitrophenols is an EPA 304(a) recommended criterion not currently listed in DEQ-7. The board proposes including this pollutant in DEQ-7 for consistency and compliance with federal regulations.

Updates to aquatic life criteria: The board proposes adoption of carbaryl as new aquatic life criteria and revisions to the cadmium aquatic life criteria consistent with the EPA 304(a) recommended criteria. For more information see: <https://www.epa.gov/wqc/aquatic-life-criteria-carbaryl> and <https://www.epa.gov/wqc/aquatic-life-criteria-cadmium>. Copies are also available at the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901.

Addition of new pesticides: The Montana Agricultural Chemical Groundwater Protection Act requires the board to adopt pesticide human health criteria for groundwater when new pesticides without criteria are found in groundwater in Montana. New pesticides discovered in groundwater in Montana for which criteria have been calculated include clothianidin, glufosinate ammonium, saflufenacil, thiamethoxam, and sulfentrazone.

Removal of criteria for color, turbidity, pH, and temperature: The board proposes removal of color, turbidity, pH, and temperature from DEQ-7. The purpose of DEQ-7 is to house numeric water quality criteria. The criteria for color, turbidity, pH, and temperature describe the values for those criteria based on natural conditions. In some stream classifications, these criteria reflect a slight variation of the natural condition. Natural conditions vary based on many factors, including changes in season and flow. Because color, turbidity, pH, and temperature do not

have a set maximum value, they are not true numeric criteria. They are narrative parameters because they rely on determination of the natural condition of the parameter in the receiving water.

In addition to removing these narrative criteria from the table in DEQ-7, the board proposes removal of a sentence in the introduction of DEQ-7 that provides examples of numeric standards that change with each stream classification because it erroneously lists color, turbidity, pH, and temperature as numeric criteria. Also, footnote (18) is specific to narrative criteria and is only used for pH and color, and, therefore, is proposed to be removed from DEQ-7. These changes are necessary to resolve confusion about how these criteria should be implemented. Additionally, the criteria for color, turbidity, pH, and temperature are described in detail in the use class descriptions in ARM Title 17, chapter 30, subchapter 6 and their inclusion in DEQ-7 is redundant and unnecessary.

Trigger Values for Nitrate: The board proposes correcting the trigger values for nitrate (as nitrogen [N]) and nitrate plus nitrite (as N) as follows: surface water trigger values are 10 micrograms per liter (µg/L), ground water trigger values are 5,000 µg/L. The trigger values would also include a reference to ARM 17.30.715. Trigger values are used to determine if an increase in concentration of a toxic parameter is nonsignificant per the nondegradation rules ARM 17.30.701, et seq. Due to clerical errors, "10" was omitted from both of the parameters above in the 2012 version of DEQ-7. Because of the removal of the "10," the trigger values read that the surface water trigger value is 5,000 µg/L, and that the ground water trigger value is included in ARM 17.30.715. This is incorrect and makes assessment of nondegradation for nitrate (as N) and nitrate plus nitrite (as N) impractical. The proposed changes would allow for nondegradation review of these two parameters as intended.

The board also proposes to include a reference to DEQ Circular 12 in the introduction to DEQ-7. This is necessary for clarity and consistency between the two documents.

17.30.607 WATER-USE CLASSIFICATIONS--CLARK FORK COLUMBIA RIVER DRAINAGE EXCEPT THE FLATHEAD AND KOOTENAI RIVER DRAINAGES (1) The water-use classifications adopted for the Clark Fork of the Columbia River drainage are as follows:

- (a) Clark Fork River drainage except waters listed in (1)(a)(i) through (xv) ..... B-1
- (i) through (vii) remain the same.
- (viii) Tin Cup Joe Creek drainage to the Deer Lodge water supply intake (approximately at latitude 46.3892, longitude -112.8543) ..... A-Closed
- (ix) remains the same.
- (x) Fred Burr Lake and headwaters from source to the outlet of the lake (Philipsburg water supply at approximate latitude 46.3096, longitude -113.1746) ..... A-Closed
- (xi) South Boulder Creek drainage to the Philipsburg water supply intake (approximately at latitude 46.3447, longitude -113.2266) ..... A-1
- (xii) Rattlesnake Creek drainage to the Missoula water supply intake (approximately at latitude 46.9149, longitude -113.9638) ..... A-Closed

(xiii) through (xv) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.611).

17.30.608 WATER-USE CLASSIFICATIONS--FLATHEAD RIVER

DRAINAGE (1) The water-use classifications adopted for the Flathead River are as follows:

(a) through (a)(viii) remain the same.

(b) Flathead Lake north of the Flathead Indian Reservation and waters of its tributaries from Flathead River inlet to U.S. Highway 93 bridge at Polson that lie outside of the Flathead Indian Reservation boundary except Swan River as listed in (1)(b)(i) and portions of Hellroaring Creek as listed in (1)(b)(i) through (iii) but including Swan Lake proper and Lake Mary Ronan proper ..... A-1

(i) remains the same.

~~(ii) Hellroaring Creek drainage to the Polson water supply intake..... A-Closed~~

~~(iii) Remainder of Hellroaring Creek drainage..... B-1~~

(c) Waters outside of the Flathead Indian Reservation that are tributary to the Flathead River drainage below the highway bridge at Polson to confluence with Clark Fork River except tributaries the Little Bitterroot River mainstem listed in (1)(c)(i) through (viii) and including the Flathead River drainage west of the Flathead Indian Reservation boundary ..... B-1

~~(i) Second Creek drainage to the Ronan water supply intake (approximately at latitude 47.546, longitude -114.0268)..... A-Closed~~

~~(ii) Crow Creek (mainstem) from road crossing in section 16, T20N, R20W to the Flathead River ..... B-2~~

~~(iii) Little Bitterroot River (mainstem) from Hubbart Reservoir dam to the Flathead River Indian Reservation boundary..... B-2~~

~~(iv) Hot Springs Creek drainage to the Hot Springs water supply intake (approximately at latitude 47.6096, longitude -114.688)..... A-Closed~~

~~(v) Hot Springs Creek (mainstem) from the Hot Springs water supply intake to the Little Bitterroot River ..... C-3~~

~~(vi) Tributaries to Hot Springs Creek (if any) from the Hot Springs water supply intake to the Little Bitterroot River ..... B-1~~

~~(vii) Mission Creek drainage to the St. Ignatius water supply intake ..... A-1~~

~~(viii) Mission Creek (mainstem) from U.S. Highway No. 93 crossing to the Flathead River ..... B-2~~

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.611).

17.30.609 WATER-USE CLASSIFICATIONS--KOOTENAI RIVER

DRAINAGE (1) The water-use classifications adopted for the Kootenai River are as

follows:

- (a) All waters except those listed in (1)(a)(i) through (iv)..... B-1
- (i) Deep Creek drainage (tributary to the Tobacco River) to the Fortine water supply intake (approximately at latitude 48.7631, longitude -114.8980) ..... A-1
- (ii) Rainy Creek drainage to the W.R. Grace Company water supply intake (approximately at latitude 48.4485, longitude -115.4203) ..... A-1
- (iii) Rainy Creek (mainstem) from the W.R. Grace Company water supply intake (approximately at latitude 48.4485, longitude -115.4203) to the Kootenai River ..... C-1
- (iv) remains the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.611).

17.30.610 WATER-USE CLASSIFICATIONS--MISSOURI RIVER DRAINAGE EXCEPT YELLOWSTONE, BELLE FOURCHE, AND LITTLE MISSOURI RIVER DRAINAGES (1) The water-use classifications adopted for the Missouri River are as follows:

- (a) Missouri River drainage to and including the Sun River drainage except tributaries listed in (1)(a)(i) through (xiii) ..... B-1
- (i) through (iv) remain the same.
- (v) Rattlesnake Creek drainage to the Dillon water supply intake (approximately at latitude 45.2442, longitude -112.7953) ..... A-1
- (vi) Indian Creek drainage to the Sheridan water supply intake (approximately at latitude 45.4787, longitude -112.1592) ..... A-1
- (vii) Basin Creek drainage to the Basin water supply intake (approximately at latitude 46.2820, longitude -112.2730) ..... A-1
- (viii) through (c) remain the same.
- (d) Marias River drainage except waters on the Blackfeet Indian Reservation and the tributaries and segments listed in (1)(d)(i) through (vi) ..... B-2
- (i) Cutbank Creek drainage except waters listed in (1)(d)(i)(A) and (B) ..... B-1
- (A) ~~Willow Creek (mainstem) from the Montana Highway No. 464 crossing about one-half mile north of Browning to Cutbank Creek~~ ..... B-2
- (B) ~~Cutbank Creek (mainstem) from Old Maids Coulee near Cut Bank to Two Medicine Creek~~ ..... B-2
- (ii) Two Medicine Creek drainage to the Blackfeet Indian Reservation Boundary except for the waters listed in (1)(d)(ii)(A) through (C) and (B) ..... B-1
- (A) ~~Midvale Creek drainage to the East Glacier water supply intake~~ Blackfeet Indian Reservation Boundary ..... A-Closed
- (B) Summit Creek drainage to the Summit water supply intake (approximately at latitude 48.3184, longitude -113.3527) ..... A-Closed
- (C) ~~Two Medicine Creek (mainstem) from Badger Creek to Birch Creek~~ ..... B-2
- (iii) through (vi) remain the same.
- (e) Missouri River drainage from Marias River to Fort Peck Dam except waters listed in (1)(e)(i) through (vi) (v) ..... C-3

- (i) through (D) remain the same.
- (iv) ~~Cow Creek drainage to but excluding Al's Creek~~..... B-1
- ~~(v)~~ Musselshell River drainage to Deadman's Basin diversion canal above Shawmut except for the water listed in (1)(e)(v)(A) ..... B-1
  - (A) remains the same.
  - ~~(vi)~~ (v) Musselshell River drainage below Deadman's Basin diversion canal above Shawmut except for the waters listed in (1)(e)~~(iv)~~(v)(A) through (D) ..... C-3
    - (A) through (f) remain the same.
    - (g) ~~Milk River drainage from source (or from the Glacier National Park Boundary) to the eastern mainstem crossing of the International Boundary~~ ..... B-1
    - ~~(h)~~ Milk River drainage from the International Boundary to the Missouri River except waters within tribal boundaries and the tributaries listed in (1)~~(h)~~(g)(i) through (iv) ..... B-3
      - (i) remains the same.
      - (ii) Big Sandy Creek drainage from the Rocky Boy's Indian Reservation Boundary to Town of Big Sandy infiltration wells (approximately at latitude 48.1831, longitude -110.0851)..... B-1
        - (iii) remains the same.
        - (iv) Peoples Creek drainage ~~to and including~~ the South Fork of Peoples Creek drainage except waters within the Fort Belknap Indian Reservation..... B-1
        - ~~(v)~~ (h) Missouri River drainage from Milk River to North Dakota boundary except tribal waters and waters listed in (1)~~(i)~~(h)(i) through ~~(iv)~~ (iii) ..... C-3
          - (i) remains the same.
          - (ii) ~~Wolf Creek drainage near Wolf Point~~..... B-2
          - ~~(iii)~~ Antelope Creek drainage near Antelope, and ..... B-3
          - ~~(iv)~~ (iii) Poplar River drainage to the Fort Peck Indian Reservation boundary ..... B-2

AUTH: 75-5-201, 75-5-301, MCA  
 IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.611).

17.30.611 WATER-USE CLASSIFICATION--YELLOWSTONE RIVER

DRAINAGE (1) The water-use classifications adopted for the Yellowstone River are as follows:

- (a) Yellowstone River drainage to the Laurel water supply intake (approximately at latitude ~~45.6557~~ 45.6545, longitude ~~-108.7594~~ -108.7590) ..... B-1
- (b) Yellowstone River drainage from the Laurel water supply intake (approximately at latitude 45.6545, longitude -108.7590) to the Billings water supply intake (approximately at latitude 45.7745, longitude -108.4778) except waters on the Crow Indian Reservation and the tributaries listed in (1)(b)(i) through (iii) ... B-2
  - (i) through (iii) remain the same.
  - (c) Yellowstone River drainage from the Billings water supply intake to the North Dakota state line excluding waters on the Crow Indian Reservation and the Northern Cheyenne Indian Reservation and including the Big Horn River drainage except the waters listed in (1)(c)(i) through ~~(ix)~~ (vii) ..... C-3

- (i) remains the same.
- (ii) Pryor Creek drainage to ~~Interstate 90~~ outside the Crow Indian Reservation boundary ..... B-1
- (iii) Big Horn drainage above but excluding Williams Coulee near Hardin and excluding waters within the Crow Indian Reservation..... B-1
- (iv) ~~Little Big Horn drainage above and including Lodgegrass Creek drainage near Lodge Grass~~..... B-1
- (v) ~~Little Big Horn River drainage below Lodge Grass Creek~~..... B-2
- (vi) Big Horn River mainstem from Williams Coulee the Crow Indian Reservation boundary to Yellowstone River ..... B-2
- (vii) through (ix) remain the same, but are renumbered (v) through (vii).

AUTH: 75-5-201, 75-5-301, MCA  
 IMP: 75-5-301, MCA

REASON: The board proposes updating the surface water use designations that use drinking water intakes by including a more specific, defined endpoint location using latitude and longitude. This will remove confusion about where specific use classes begin and end on a stream.

The board proposes removing tribal waters from Montana's use class designations because the State of Montana does not have jurisdiction over tribal waters, and respects the water quality standards, including use class designations, for tribal waters set by the respective jurisdictional agencies. Therefore, it is unnecessary to include use class designations for these waters in state standards.

ARM 17.30.609(1)(a) references "waters except those listed in (1)(a)(i)," and should reference "waters except those listed in (1)(a)(i) through (iv)." The board proposes making this revision for accuracy.

17.30.619 INCORPORATIONS BY REFERENCE (1) The board adopts and incorporates by reference the following state and federal requirements and procedures as part of Montana's surface water quality standards:

(a) Department Circular DEQ-7, entitled "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition), which establishes numeric water quality standards for toxic, carcinogenic, bioconcentrating, radioactive, and harmful parameters and also establishes human health-based water quality standards for the following specific nutrients with toxic effects:

- (i) through (b) remain the same.
- (c) 40 CFR Part 136 (July 1, ~~2011~~ 2015), which establishes guidelines and procedures for the analysis of pollutants;
- (d) 40 CFR 131.10(g), (h) and (j) (2000), which establishes criteria and guidelines for conducting a use attainability analysis; ~~and~~
- (e) Department Circular DEQ-12A, entitled "Montana Base Numeric Nutrient Standards" (July 2014 edition), which establishes numeric water quality standards for total nitrogen and total phosphorus in surface waters; and
- (f) the provision in ARM 17.30.1350(1) that authorizes compliance schedules contained in the Montana Pollutant Discharge Elimination System Permit regulations.

(2) and (3) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, 75-5-313, MCA

REASON: See reason for ARM 17.30.502, setting forth reasons for updates and revisions to DEQ-7.

The board also proposes to incorporate by reference the authorizing provision for compliance schedules for water quality-based effluent limitations (WQBELs) contained in the MPDES rules at ARM 17.30.1350(1) because in 2015, EPA revised 40 CFR 131.15, requiring EPA review and approval of state rules authorizing compliance schedules for water quality-based effluent limits in MPDES permits. EPA considers such authorizing provisions to be water quality standards.

Compliance schedules are Clean Water Act NPDES permitting tools that can be used in situations in which a discharger is unable to immediately achieve compliance with effluent limitations based on water quality standards. They allow dischargers additional time to take steps (e.g., planning and construction of required facilities) necessary to achieve compliance with such effluent limitations. (See 80 Fed. Reg. 51020, 51041 (August 21, 2015) available at <https://www.epa.gov/wqs-tech/final-rulemaking-update-national-water-quality-standards-regulation>. Copies are also available at the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901.)

ARM 17.30.1350(1) gives the MPDES program authority to use compliance schedules and details their requirements. This provision was adopted in 1989, but has not been submitted to EPA for approval because it was not considered a water quality standard at that time. The state will submit this provision to EPA in order to comply with the new regulatory requirement.

The board also proposes to update the reference to 40 CFR Part 136 to reference the most current regulation.

17.30.621 A-CLOSED CLASSIFICATION STANDARDS (1) and (2) remain the same.

(3) No person may violate the following specific water quality standards for waters classified A-Closed:

(a) The geometric mean number of *Escherichia coli* bacteria may not exceed 32 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 64 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for *Escherichia coli* are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

(b) through (i) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.622 A-1 CLASSIFICATION STANDARDS (1) and (2) remain the same.

(3) No person may violate the following specific water quality standards for waters classified A-1:

(a) The geometric mean number of Escherichia coli bacteria may not exceed 32 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 64 colony forming units per 100 milliliters during any 30-day period if resulting from domestic sewage. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

(b) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA  
IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.623 B-1 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified B-1:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to season, as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA  
IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.624 B-2 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified B-2:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to season, as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA  
IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.625 B-3 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified B-3:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to season, as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.626 C-1 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-1:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to season, as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.627 C-2 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-2:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to season, as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.628 I CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified I:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to seasons as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.629 C-3 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-3:

(a) Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b). The water quality standard for Escherichia coli bacteria (E-coli) varies according to season, as follows:

(i) through (k) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, 75-5-313, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.641 SAMPLING METHODS (1) Water quality monitoring, including methods of sample collection, preservation, and analysis used to determine compliance with the standards must be in accordance with 40 CFR Part 136 (July 1, ~~2007~~ 2015) or other method allowed by the department.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: The board proposes to update the reference to 40 CFR Part 136 to reference the most current regulation.

17.30.646 BIOASSAYS (1) Bioassay tolerance concentrations must be determined using the latest available research results for the materials, by bioassay tests procedures for simulating actual stream conditions as set forth in 40 CFR Part 136 (July 1, ~~2007~~ 2015). Any bioassay studies made must be made using a representative sensitive local species and life stages of economic or ecological importance, except that other species whose relative sensitivity is known may be

used when there is difficulty in providing the more sensitive species in sufficient numbers or when such species are unsatisfactory for routine confined bioassays. All bioassay methods and species selections must be approved by the department.

AUTH: 75-5-201, 75-5-301, MCA  
IMP: 75-5-301, MCA

REASON: The board proposes to update the reference to 40 CFR Part 136 to reference the most current regulation.

17.30.650 D-1 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified D-1:

(a) remains the same.

(b) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

(3) remains the same.

AUTH: 75-5-301, MCA  
IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.651 D-2 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified D-2:

(a) through (c) remain the same.

(d) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

AUTH: 75-5-301, MCA  
IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.652 E-1 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for

waters classified E-1:

(a) remains the same.

(b) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

(3) remains the same.

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.653 E-2 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified E-2:

(a) through (c) remain the same.

(d) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.654 E-3 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified E-3:

(a) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period; Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b); and

(b) and (3) remain the same.

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.655 E-4 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified E-4:

(a) and (b) remain the same.

(c) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement below (ARM 17.30.657).

17.30.656 E-5 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified E-5:

(a) remains the same.

(b) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by reference in 40 CFR 136.3(b).

(3) remains the same.

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: See reason statement (ARM 17.30.657).

17.30.657 F-1 CLASSIFICATION STANDARDS (1) remains the same.

(2) No person may violate the following specific water quality standards for waters classified F-1:

(a) through (c) remain the same.

(d) the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% percent of the samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. Water quality criteria for Escherichia coli are expressed in colony forming units per 100 milliliters of water or as most probable number, which is a statistical representation of the number of organisms in a sample, as incorporated by

reference in 40 CFR 136.3(b).

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: Traditional plate tests for Escherichia coli (E. coli), including membrane filtration, estimate or count "colonies" of bacteria reported as colony forming units (cfu). These provide a direct count of an indicator organism (E. coli) in water based on the development of colonies in/on media and a calculation is performed. While these microscopic counts may be more accurate, they are costly and time consuming, and the problem of bacteria viability remains. Very few tests are conducted to determine live and dead colonies. Exact counts are generally not feasible to obtain. Newer tests, such as Colilert report data, are reported as most probable number (mpn) which is a statistical representation of what level of E. coli is likely present in a sample. While mpn and cfu are not entirely equivalent, for the purposes of reporting, these terms are currently used interchangeably by the EPA. EPA has approved both these methods for enumeration in federal rule for ambient water (40 CFR, 2003) and for wastewater and sludge (40 CFR, 2007). The board proposes adding mpn to the E. coli surface water criteria so that E. coli may be reported to the department in either cfu or mpn.

17.30.702 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter (Note: 75-5-103, MCA, includes definitions for "base numeric nutrient standards," "degradation," "existing uses," "high quality waters," "mixing zone," and "parameter"):

(1) through (7) remain the same.

(8) "High quality waters" is defined in 75-5-103(10)(13), MCA, and does not include Class I surface waters (ARM 17.30.628) or Class III or Class IV ground waters (ARM 17.30.1006(3) through (4)).

(9) through (26) remain the same.

(27) The board adopts and incorporates by reference:

(a) Department Circular DEQ-7, entitled "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition), which establishes numeric water quality standards for toxic, carcinogenic, bioconcentrating, radioactive, and harmful parameters and also establishes human health-based water quality standards for the following specific nutrients with toxic effects:

(i) through (c) remain the same.

(d) 40 CFR Part 136 (July 1, ~~2007~~ 2015) which contains guidelines establishing test procedures for the analysis of pollutants.

(e) remains the same.

AUTH: 75-5-301, 75-5-303, MCA

IMP: 75-5-303, MCA

REASON: See reasons for ARM 17.30.502 setting forth reasons for updates and revisions to DEQ-7.

ARM 17.30.702(8) references the MCA definition of high quality waters as 75-5-103(10), MCA. Because of revisions to that statute, that definition is now at 75-5-103(13), MCA. The board proposes to remove the reference to the subsection in order to make the citation accurate and to eliminate the need to amend the rule because of a future amendment to the statute. The board also proposes to update the reference to 40 CFR Part 136 to reference the most current regulations.

17.30.715 CRITERIA FOR DETERMINING NONSIGNIFICANT CHANGES IN WATER QUALITY (1) The following criteria will be used to determine whether certain activities or classes of activities will result in nonsignificant changes in existing water quality due to their low potential to affect human health or the environment. These criteria consider the quantity and strength of the pollutant, the length of time the changes will occur, and the character of the pollutant. Except as provided in (2), changes in existing surface or ground water quality resulting from the activities that meet all the criteria listed below are nonsignificant, and are not required to undergo review under 75-5-303, MCA:

(a) through (e) remain the same.

(f) changes in the quality of water for any harmful parameter, nutrients listed at ARM 17.30.631, and parameters listed in Department Circular DEQ-12A, except as specified in (1)(g), for which water quality standards have been adopted other than carcinogenic, bioconcentrating, or toxic parameters, in either surface or ground water, if the changes outside of a mixing zone designated by the department are less than ten percent of the applicable standard and the existing water quality level is less than 40 percent of the standard;

(g) through (4) remain the same.

AUTH: 75-5-301, 75-5-303, MCA

IMP: 75-5-303, MCA

REASON: Most numeric nutrient standards for Montana are housed in Circular DEQ-12A and were adopted by the board in 2014. However, the board previously adopted numeric nutrient standards on the Clark Fork River and these are contained in ARM 17.30.631. During the adoption of DEQ-12A, which included the circular's inclusion in the nondegradation nonsignificance criteria (ARM 17.30.715), the earlier-adopted nutrient standards for the Clark Fork River were inadvertently excluded from nondegradation review. This change will address this oversight. Although benthic algal chlorophyll a criteria are included with the nitrogen and phosphorus criteria in ARM 17.30.631, chlorophyll a is not subject to nondegradation review under ARM 17.30.715(1)(f). This is because nitrogen and phosphorus are the nutrient parameters included in the rule, and growth of chlorophyll a is the result of an overabundance of those nutrients. Therefore, controlling nitrogen and phosphorus through nondegradation will prevent overgrowth of chlorophyll a and will ensure that the chlorophyll a criteria are met.

17.30.1001 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter:

(1) remains the same.

(2) "DEQ-7" means Department Circular DEQ-7, entitled "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition), which establishes numeric water quality standards for toxic, carcinogenic, radioactive, bioconcentrating, nutrient, and harmful parameters.

(a) The board adopts and incorporates by reference Department Circular DEQ-7, entitled "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition), which establishes numeric water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters.

(3) through (17) remain the same.

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-301, 75-5-401, MCA

REASON: See reason for ARM 17.30.502 setting forth reasons for update and revisions to DEQ-7.

17.30.1007 SAMPLE COLLECTION, PRESERVATION, AND ANALYSIS METHODS (1) Methods of sample collection, preservation, and sample analysis used to determine compliance with the standards in this subchapter must be in accordance with 40 CFR Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (July ~~2007~~ 2015), or the following:

(a) through (4) remain the same.

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

REASON: The board proposes to update the reference to 40 CFR Part 136 to reference the most current regulation.

17.30.1322 APPLICATION FOR A PERMIT (1) through (17) remain the same.

(18) The board adopts and incorporates by reference the following federal regulations as part of the Montana pollutant discharge elimination system. Copies of these federal regulations may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

(a) 40 CFR Part 136 (July 1, ~~2014~~ 2015), which sets forth guidelines establishing test procedures for the analysis of pollutants;

(b) through (f) remain the same.

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board proposes to update the reference to 40 CFR Part 136 to reference the most current regulation.

17.36.345 ADOPTION BY REFERENCE (1) For purposes of this chapter, the department adopts and incorporates by reference the following documents. All references to these documents in this chapter refer to the edition set out below:

(a) through (d) remain the same.

(e) Department Circular DEQ-7, "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition);

(f) through (2) remain the same.

AUTH: 76-4-104, MCA

IMP: 76-4-104, MCA

REASON: See ARM 17.30.502, setting forth reasons for update and revisions to DEQ-7.

17.55.109 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the department adopts and incorporates by reference:

(a) Department Circular DEQ-7, "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition);

(b) through (5) remain the same.

AUTH: 75-10-702, 75-10-704, MCA

IMP: 75-10-702, 75-10-704, 75-10-711, MCA

REASON: See ARM 17.30.502, setting forth reasons for update and revisions to DEQ-7.

17.56.507 ADOPTION BY REFERENCE (1) For purposes of this subchapter, the department adopts and incorporates by reference:

(a) Department Circular DEQ-7, "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition);

(b) through (3) remain the same.

AUTH: 75-11-319, 75-11-505, MCA

IMP: 75-11-309, 75-11-505, MCA

REASON: See ARM 17.30.502, setting forth reasons for update and revisions to DEQ-7.

17.56.608 ADOPTION BY REFERENCE (1) For purposes of this subchapter, the department adopts and incorporates by reference:

(a) Department Circular DEQ-7, "Montana Numeric Water Quality Standards" (~~October 2012~~ [effective month and year of this rule amendment] edition);

(b) through (3) remain the same.

AUTH: 75-11-319, 75-11-505, MCA

IMP: 75-11-309, 75-11-505, MCA

REASON: See ARM 17.30.502, setting forth reasons for update and revisions to DEQ-7.

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 Hillary Houle, Director Office Support Coordinator, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to [hhoule@mt.gov](mailto:hhoule@mt.gov), no later than 5:00 p.m. February 20, 2017. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. The board and department maintain 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 that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. 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 Hillary Houle, Director Office Support Coordinator, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Hillary Houle at [hhoule@mt.gov](mailto:hhoule@mt.gov); or may be made by completing a request form at any rules hearing held by the department.

6. Andres Haladay, attorney for the board and the department, has been designated to preside over and conduct the hearing.

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

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

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

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

BY: /s/ Joan Miles  
JOAN MILES, CHAIRMAN

Certified to the Secretary of State, December 12, 2016.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) AMENDED NOTICE OF PUBLIC  
Rules I through XIII pertaining to ) HEARING ON PROPOSED  
Ignition Interlock Devices ) ADOPTION

TO: All Concerned Persons

1. On December 9, 2016, the Department of Justice published MAR Notice No. 23-3-245 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 2305 of the 2016 Montana Administrative Register, Issue Number 23. The original hearing date of January 18, 2017, at 10:00 a.m. remains the same.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Justice no later than 5:00 p.m. on January 9, 2017, to advise us of the nature of the accommodation that you need. Please contact John Paveo, Department of Administration, Human Resources Policy & Program Bureau, State Diversity Program Coordinator, P.O. Box 200127, Helena, Montana, 59620-0127; telephone (406) 444-3984; fax (406) 444-0703; or e-mail jpaveo@mt.gov.

3. The statement of reasonable necessity is being amended as follows, new matter underlined, deleted matter interlined:

REASON: The 1997 Montana Legislature passed Senate Bill 303. Section 3 of that bill was codified as 61-8-441, MCA. That section of law directed the Montana Department of Justice to adopt rules providing for the approval of ignition interlock devices (IIDs) and the installation, calibration, repair, and removal of approved devices. These rules are proposed to fulfill that legislative mandate.

Section 61-8-411, MCA, is very specific as to what the proposed rules are to address. It also requires the rules to be based upon federal standards issued for similar devices. In developing this rule proposal, the department considered the required federal standards and also looked to what neighboring states had adopted when dealing with similar statutory mandates. Because IIDs are fitted in vehicles capable of interstate travel, it is important to consider what other states have done to conform to the federal standards.

In conformance with the requirements of 61-8-411, MCA, the department is proposing rules which address the general requirements for IIDs (proposed New Rule II), for the certification of IIDs and the renewal of such certifications (proposed New Rules I, III, IV, and IX), and for the certification and regulation of manufacturers and vendors of IIDs (proposed New Rules V and VI). Requirements for the installation and maintenance of IIDs are also proposed (proposed New Rule X). The

proposed rules also address the procedural process for issuance and renewal of certifications (proposed New Rule VII), the process for the revocation or surrender of certifications (proposed New Rule VIII), and the appeal process should a manufacturer or vendor wish to contest a department action on IIDs (proposed New Rules XII and XIII).

Each of the proposed new rules is considered by the department to be reasonably necessary to the creation of an effective and efficient regulatory system mandated by 61-8-411, MCA. The department also believes that the proposed rules are reasonably necessary to conform Montana requirements to those of the federal government and other states and necessary for the protection of an applicant's due process rights.

4. The deadline in which to notify interested persons was not met by the department. The department will notify interested persons within three days of the publication of this notice.

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: Michele Snowberger, Department of Justice, Motor Vehicle Division, P.O. Box 201430, Helena, Montana, 59620-1430; telephone (406) 444-1776; fax (406) 444-2086; or e-mail [msnowberger@mt.gov](mailto:msnowberger@mt.gov), and must be received no later than 5:00 p.m., February 17, 2017. The department has extended the comment period fourteen days.

/s/ Matthew T. Cochenour  
Matthew T. Cochenour  
Rule Reviewer

/s/ Timothy C. Fox  
Timothy C. Fox  
Attorney General  
Department of Justice

Certified to the Secretary of State December 12, 2016.

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.121.301 definitions,	)	PROPOSED AMENDMENT AND
24.121.406 nonroutine applications,	)	REPEAL
24.121.601 licensure by examination,	)	
24.121.603 licensure by credentialing	)	
with an out-of-state license,	)	
24.121.604 licensure equivalency for	)	
professional education, 24.121.605	)	
application for postsecondary school	)	
licensure, 24.121.801 inspection -	)	
school layout, 24.121.807 school	)	
curricula, 24.121.1105 teacher-	)	
training curriculum and teaching	)	
methodology coursework,	)	
24.121.1301 salons/booth rental, and	)	
24.121.1509 implements,	)	
instruments, supplies, and	)	
equipment, and the repeal of	)	
24.121.404 anonymous complaints	)	

TO: All Concerned Persons

1. On January 17, 2017, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Barbers and Cosmetologists no later than 5:00 p.m., on January 10, 2017, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or [dlibsdcos@mt.gov](mailto:dlibsdcos@mt.gov) (board's e-mail).

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

24.121.301 DEFINITIONS (1) remains the same.

(2) "Approved school" means a school licensed or otherwise approved by a governmental agency of a state or Canadian jurisdiction that issues licenses to practice in the fields of barbering or cosmetology.

(2) through (36) remain the same but are renumbered (3) through (37).

AUTH: 37-1-131, 37-1-319, 37-31-203, 37-31-204, MCA

IMP: 37-1-131, 37-31-101, 37-31-203, 37-31-204, 37-31-303, 37-31-305, 37-31-309, 37-31-311, MCA

REASON: The board is amending this rule to define "approved school" as used in the board's rules regarding the training required for licensure. The department, relying on board rules, makes routine licensing decisions and must frequently determine if an applicant's training was provided in an approved school. Without a definition, routine applications may be delayed until a meeting where the board determines whether the training came from an "approved school."

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

24.121.406 NONROUTINE APPLICATIONS (1) The board shall review an application containing any of the following criteria:

(a) remains the same.

(b) other unprofessional conduct:

(i) and (ii) remain the same.

(iii) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving a potential health risk to the public; or

~~(iv) the applicant was accused of unlicensed practice, unless the accusation has been resolved in favor of the applicant; or~~

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

(c) remains the same.

(d) application discrepancies:

(i) remains the same.

(ii) the department may, but is not required to, submit an otherwise "routine" application for board review if:

(A) remains the same.

(B) inconsistencies, irregularities, or other matters of concern, including but not limited to allegations of unlicensed practice, exist in the application or related documentation;

(e) and (f) remain the same.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-101, 37-1-131, 37-1-307, 37-31-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule and streamline the board's application process by aligning with the department's recently implemented nonroutine application and complaint procedures. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.121.601 LICENSURE BY EXAMINATION (1) through (3)(d) remain the same.

- (e) For a manicurist license:
  - (i) remains the same.
  - (ii) proof of graduation from an approved school or course of manicuring with at least 400 hours of training as provided in ARM ~~24.121.608~~ 24.121.604;
  - (iii) through (6) remain the same.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-131, 37-31-303, 37-31-304, 37-31-308, MCA

REASON: This amendment is necessary to correct an erroneous internal citation. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.121.603 LICENSURE BY CREDENTIALING WITH AN OUT-OF-STATE LICENSE (1) through (3) remain the same.

(4) An out-of-state applicant applying for a license by credentialing must also meet the following requirements:

- (a) remains the same.
- (b) To qualify for a barber nonchemical license the applicant must possess a license type in good standing that includes scope of training and practice equal to ARM 24.121.604(3) and either have completed a course of training of at least 800 hours in a school or attest to 1,000 hours of work experience as a licensed barber nonchemical.

~~(b)~~ (c) To qualify for a cosmetologist license the applicant must possess either:

- (i) a license type in good standing that includes scope of training and practice equal to the cosmetologist requirements in ARM 24.121.604~~(3)~~(4) and either have completed a course of training of at least 1,500 hours in a school or attest to 1,500 hours of work experience as a licensed cosmetologist; or

- (ii) a combination of licensure in good standing that includes scopes of training and practice equal to:

- (A) ARM 24.121.604~~(3)~~(4)(d) through (g) and have completed a course of training equal to or exceeding 900 hours in a school;

- (B) ARM 24.121.604(4)(7) and have completed a course of training equal to or exceeding ~~200~~ 400 hours in a school; and

- (C) ARM 24.121.604~~(5)~~(6) and have completed a course of training equal to or exceeding ~~400~~ 200 hours in a school.

- ~~(c)~~ (d) To qualify for an electrology license the applicant must possess a license type in good standing that includes the scope of training and practice equal to ARM 24.121.604(4)(5) and either have completed at least 450 hours of electrology training in a school or attest to at least 750 hours of work experience as a licensed electrologist.

- ~~(d)~~ (e) To qualify for a manicurist license the applicant must possess a license type in good standing that includes the scope of training and practice equal to ARM 24.121.604~~(5)~~(6) and either have completed at least 200 hours of

electrology manicurist training in a school or attest to at least 750 hours of work experience as a licensed manicurist.

(e) (f) To qualify for an esthetician license the applicant must possess a license type in good standing that includes the scope of training and practice equal to ARM 24.121.604~~(5)~~(7) and either have completed at least 400 hours of esthetician training in a school or attest to at least 750 hours of work experience as a licensed esthetician.

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

(5) through (9) remain the same.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-304, 37-31-303, 37-31-304, 37-31-305, 37-31-308, MCA

REASON: The 2015 legislature enacted Chapter 15, Laws of 2015 (House Bill 81), which created a barber nonchemical license. The board previously adopted rules to implement House Bill 81, but has not yet set criteria for licensure by credentialing for out-of-state license holders. The board is amending (4)(b) to establish this criteria.

Other amendments are necessary to correct several references to ARM 24.121.604, which is being renumbered in this notice. Additionally, the board is amending the rule to correct an inaccurate "electrology" reference to "manicurist," and ensure the courses reference the correct required hours.

24.121.604 LICENSURE EQUIVALENCY FOR PROFESSIONAL EDUCATION (1) and (2) remain the same.

(3) The scope of training required for the practice of barbering nonchemical is as follows:

(a) haircutting with proper uses of tools (e.g., shears, razor, clippers, and thinning shears);

(b) shampooing and scalp treatments;

(c) hairstyling, including weaves, braiding, and extensions;

(d) wet setting, blow drying, curling, and flat ironing; and the arranging of dry hair;

(e) facial shaving with straight razor; and

(f) skin care.

(3) through (6) remain the same but are renumbered (4) through (7).

AUTH: 37-1-131, 37-31-203, 37-31-304, MCA

IMP: 37-1-131, 37-31-203, 37-31-304, MCA

REASON: The 2015 legislature enacted Chapter 15, Laws of 2015 (House Bill 81), which created a barber nonchemical license. The board previously adopted rules to implement House Bill 81, but has not yet set the scope of training requirements for the barber nonchemical license. The board is now adding (3) to address the omission.

24.121.605 APPLICATION FOR POSTSECONDARY SCHOOL LICENSURE (1) remains the same.

(2) Applicants shall designate the type of school and which courses are to be offered as follows:

(a) and (b) remain the same.

(c) school of cosmetology, consisting of a cosmetology course and one or more of the following:

(i) remains the same.

(ii) barbering nonchemical course;

(iii) through (11) remain the same.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-131, 37-31-101, 37-31-302, 37-31-311, 37-31-312, MCA

REASON: The board is amending (2)(c)(ii) for consistent use of "course" throughout the rule. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.121.801 INSPECTION - SCHOOL LAYOUT (1) through (4) remain the same.

(5) Schools shall address all inspection report violations and provide a detailed written response, including all corrective action taken, to the board office within ~~30~~ ten days of the inspection date.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-1-131, 37-31-311, 37-31-312, MCA

REASON: The board determined it is reasonably necessary to amend this rule to require that schools correct violations within ten days of an inspection date. Because such violations pose an ongoing hazard to public health, the board is decreasing the time period from 30 to ten days to better protect public health, safety, and welfare. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.121.807 SCHOOL CURRICULA (1) remains the same.

(2) The required curriculum for barbering students is as follows:

(a) 1500 hours of training, of which at least 150 hours is, in theory, distributed as follows:

(i) through (v) remain the same.

(vi) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, 100 hours.

(b) remains the same.

(3) The required curriculum for barbering nonchemical students is as follows:

(a) 1000 hours of training, of which at least 100 hours is, in theory, distributed as follows:

(i) through (iv) remain the same.

(v) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, 100 hours.

(b) remains the same.

(4) The required curriculum for cosmetology students is as follows:

(a) 2000 hours of training, of which at least 200 hours is in theory, distributed as follows:

(i) through (v) remain the same.

(vi) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current state board laws and rules, 150 hours; and

(vii) and (b) remain the same.

(5) The required curriculum for electrology students is as follows:

(a) 600 hours of training, of which at least 120 hours is, in theory, distributed as follows:

(i) through (v) remain the same.

(vi) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules, 65 hours.

(b) remains the same.

(6) The required curriculum for esthetics students is as follows:

(a) 650 hours of training, of which at least 65 hours is in theory, distributed as follows:

(i) through (iii) remain the same.

(iv) salon management, general facility sanitation and cleanliness, business methods, appointment book, customer service, professional ethics, and current state board laws and rules, 70 hours.

(b) remains the same.

(7) The required curriculum for manicuring students includes 400 hours of training, of which at least 40 hours is in theory, distributed as follows:

(a) 300 hours of training, distributed as follows:

(i) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current state board laws and rules, 60 hours;

(ii) bacteriology, sanitation, sterilization, safety, anatomy, physiology, diseases and disorders of skin and nails, basic chemistry, nail product chemistry, and electricity, 55 hours;

(iii) through (8) remain the same.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-1-131, 37-31-101, 37-31-304, 37-31-305, 37-31-311, MCA

**REASON:** The board is adding "general facility sanitation and cleanliness" to the required curriculum based on requests for clarification from school owners. School owners have reported that some students lack training in this area and question whether it is a required part of the curricula. The board is amending this rule to clarify that such instruction is an integral part of the preparation for Montana

licensure. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.121.1105 TEACHER-TRAINING CURRICULUM AND TEACHING METHODOLOGY COURSEWORK (1) through (2)(c) remain the same.

(d) prior to renewal of the instructor license, documentation of completed coursework must be submitted to the board for board approval on a form provided by the department to include:

(i) coursework taken;

(ii) date taken;

(iii) coursework offered by;

(iv) topics covered;

(v) hours or credits received for each topic;

(vi) hours certified by;

(vii) signed completion certificate or transcript for coursework; and

(viii) total hours completed.

(3) remains the same.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-1-131, 37-31-305, 37-31-311, MCA

REASON: In the past, the board has received the documentation of completed teacher-training coursework in an array of different formats, often without needed information, making it difficult and inefficient for the board to review. To improve the process, the board determined it is reasonably necessary to amend this rule to outline the required format of the documentation. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.121.1301 SALONS/BOOTH RENTAL (1) remains the same.

(2) The board shall initially and annually, or when a complaint is received, inspect and approve all salons, shops, and booths.

(a) remains the same.

(b) Within ~~30~~ ten days of an annual or complaint-driven inspection, the salon or shop owner, booth renter, or manager shall respond to all inspection report violations by submitting a detailed written response, including any corrective action taken, to the board office.

(3) through (7) remain the same.

(8) A new salon or shop may be granted a temporary operating permit pending an initial inspection. No prior notice of the inspection is required. A temporary operating permit shall terminate and a license shall not be granted without board review, unless the salon or shop provides the board with a response within ~~30~~ ten days of the date of the inspection that indicates all the inspection violations have been corrected to the inspector's satisfaction. If the scope of the correction requires additional time, the additional time must be approved by the inspector, but in no case shall the time be extended beyond 30 days of the date of the inspection. If a temporary permit terminates, the salon or shop must cease operation until the application is granted by the board and a license issued. A subsequent temporary

operating permit is not available, unless the application times out pursuant to ARM 24.121.403 and a new application is filed.

(9) ~~Salon~~ Holders of salon or shop owners licenses shall be responsible for safety and sanitation in the salon or shop except sanitation and safety violations caused by the booth renter taking place in the working area.

(10) remains the same.

(11) It is the responsibility of the ~~licensee~~ salon or shop to ensure that all personnel comply with the board's statutes and rules.

(12) A practice license is a condition to holding a booth rental license. All alleged violations arising against the booth renter shall be processed against the practice license, and a separate action against the corresponding booth rental license is unnecessary. Any final orders resulting from formal disciplinary action or an administrative suspension of an individual's practice license shall also be reflected against the individual's booth rental license.

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA

IMP: 37-1-131, 37-31-204, 37-31-302, 37-31-309, 37-31-312, MCA

REASON: The board determined it is reasonably necessary to amend (2) to clarify that schools may be inspected for three reasons and align with newly implemented department complaint procedures. Moreover, the board has concluded that most inspection violations can be corrected within ten days of an inspection date. Because such violations pose an ongoing hazard to public health, the board is decreasing the time period from 30 to ten days to better protect public health, safety, and welfare, while recognizing some initial inspection violations may require longer than ten days to correct.

The board is amending this rule to clarify accountability for alleged licensee misconduct. Department compliance staff processes complaints against licensees and must frequently determine which licensee should answer the allegations and which of the licensee's licenses should be placed at issue. The proposed changes align with recent updates to the department's standardized complaint procedure. In addition, a case-by-case basis determination of accountability for alleged misconduct is an inefficient approach that needs to be addressed.

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

24.121.1509 IMPLEMENTS, INSTRUMENTS, SUPPLIES, AND EQUIPMENT (1) through (4) remain the same.

(5) Only microdermabrasion machines specifically manufactured for use in esthetics services are permitted. Modified or medical machines may not be used.

(a) and (b) remain the same.

(c) The use of abrasive tips are allowed if used and sterilized in accordance with specific manufacturer directions.

(d) remains the same.

~~(e) Microdermabrasion machines that have tips that are multiuse, according to specific manufacturer directions, must be sterilized by use of an autoclave.~~

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

(6) through (9) remain the same.

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA

IMP: 37-1-131, 37-31-203, 37-31-204, 37-31-312, MCA

REASON: The board determined it is reasonably necessary to amend this rule to update the provisions for sterilizing microdermabrasion tips. New technology has produced tips which are not required to be autoclaved, and in fact may be damaged by autoclaving.

4. The rule proposed to be repealed is as follows:

24.121.404 ANONYMOUS COMPLAINTS

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-308, MCA

REASON: The board concluded that some anonymous complaints may bear consideration. It is reasonably necessary to repeal this rule because it prohibits all anonymous complaints, including those submitted by persons with legitimate reasons to remain anonymous.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdcos@mt.gov](mailto:dlibsdcos@mt.gov), and must be received no later than 5:00 p.m., January 20, 2017.

6. An electronic copy of this notice of public hearing is available at [www.cosmetology.mt.gov](http://www.cosmetology.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate

whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdcos@mt.gov](mailto:dlibsdcos@mt.gov); or made by completing a request form at any rules hearing held by the agency.

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 board has determined that the amendment of ARM 24.121.301, 24.121.406, 24.121.601, 24.121.603, 24.121.604, 24.121.605, 24.121.801, 24.121.807, 24.121.1105, 24.121.1301, and 24.121.1509 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.121.404 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to [dlibsdcos@mt.gov](mailto:dlibsdcos@mt.gov) (board's e-mail).

10. Dylan Gallagher, Board Counsel, has been designated to preside over and conduct this hearing.

BOARD OF BARBERS  
AND COSMETOLOGISTS  
WENDELL PETERSEN, PRESIDENT

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

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

Certified to the Secretary of State December 12, 2016

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

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 24.159.301 and 24.159.2104 ) AMENDMENT  
pertaining to continuing education )  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On January 23, 2017, the Board of Nursing (board) proposes to amend the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., on January 13, 2017, to advise us of the nature of the accommodation that you need. Please contact Cynthia Gustafson, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or nurse@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: At the July 20, 2016, meeting, the Board of Nursing (board) formed a subcommittee to review board rules per a request from the Montana Nurses Association. Following the request to update the rules to match national standards for continuing nursing education as set by the American Nurses Credentialing Commission, the subcommittee met September 14, 2016, and recommended several changes to the board. The board determined it is reasonably necessary to amend two administrative rules to align with current standards in nursing continuing education.

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

24.159.301 DEFINITIONS (1) "Accrediting organization" means a professional organization that establishes standards and criteria for continuing education programs ~~in nursing, advanced practice nursing, medicine, and other health care specialties.~~

(2) and (3) remain the same.

(4) "Certifying body" means a board-recognized national certifying organization that ~~has been approved by the board to use~~ uses psychometrically sound and legally defensible examinations for certification in APRN roles and population focus.

(5) through (19) remain the same.

(20) "National accreditation" means the ongoing review, evaluation, and approval of nursing education programs by ~~the National League for Nursing Accrediting Commission (NLNAC) or the Commission on Collegiate Nursing Education (CCNE)~~ a national nursing accrediting agency that is recognized by the U.S. Department of Education. Nursing education programs without national accreditation are nonaccredited programs.

(21) through (46) remain the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-101, 37-8-102, 37-8-202, 37-8-422, MCA

REASON: Based on a recent review of these definitions, the board is amending three definitions to increase opportunities for licensees to select from a wider variety of appropriate continuing education offerings. The board further determined it is reasonably necessary to amend (20) to keep current with the changing field of accrediting bodies which are approved by the U.S. Department of Education. Instead of listing individual accrediting agencies, the board is amending this rule to accept those agencies that are recognized by the U.S. Department of Education.

24.159.2104 NONACCREDITED ACTIVITIES (1) The following activities may not be used by a licensee to satisfy the continuing education requirements set forth in this chapter:

- ~~(a) classes in basic life support, first aid, or cardiopulmonary resuscitation;~~
- ~~(b) repetition of a continuing education class with identical content and course objectives within a single renewal period;~~
- ~~(c) agency-specific orientation or in-service program designed for work at a specific institution or for a specific employer that teaches and tests for skill competency or addresses institution-based or employer-based standards of nursing practice;~~
- ~~(d) personal development activity that educates individuals on topics pertaining to financial management, personal hygiene or beautification, personal conduct, or other topics that do not pertain to the practice of nursing or healthcare;~~
- (e) through (i) remain the same but are renumbered (a) through (e).

AUTH: 37-1-131, 37-1-319, 37-8-202, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend this rule to broaden continuing education options available to licensees. The American Nurses Credentialing Commission (ANCC) recently found that courses in basic life support, first aid, or cardiopulmonary resuscitation can be critical components of nursing practice that require review and study each year. Repetition of continuing education courses in clinical settings helps to ensure clinical competency. The ANCC also found that agency-specific educational programs for nurses in work settings are essential learning opportunities for competency. Finally, the board is amending this rule to allow personal development activities previously unaccredited because many examples were provided to the board showing the importance of these types of

continuing education offerings in the wide spectrum of settings and positions nurses hold in today's healthcare environment.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendment in writing to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to nurse@mt.gov, to be received no later than 5:00 p.m., January 20, 2017.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Cynthia Gustafson at the above address no later than 5:00 p.m., January 20, 2017.

7. If the board receives requests for a public hearing on the proposed amendment from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 1,946 persons based on 19,457 active licensed nurses.

8. An electronic copy of this notice is available at [www.nurse.mt.gov](http://www.nurse.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

9. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to nurse@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.159.301 and 24.159.2104 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; facsimile (406) 841-2305; or e-mail nurse@mt.gov.

BOARD OF NURSING  
N. GREG KOHN, PRESIDENT

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

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

Certified to the Secretary of State December 12, 2016

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT AND  
2.59.701 and 2.59.705 pertaining to ) REPEAL  
application procedure and standardized )  
forms and procedures and the repeal of )  
ARM 2.59.706 pertaining to transition of )  
escrow business licensees to the NMLS )

TO: All Concerned Persons

1. On October 28, 2016, the Department of Administration published MAR Notice No. 2-59-551 pertaining to the amendment and repeal of the above-stated rules at page 1879 of the 2016 Montana Administrative Register, Issue Number 20.

2. No comments were received.

3. The department has amended ARM 2.59.701 and 2.59.705 exactly as proposed.

4. The department has repealed ARM 2.59.706 exactly as proposed.

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

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

Certified to the Secretary of State December 12, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF AMENDMENT AND
2.59.1201 pertaining to standardized	)	REPEAL
forms and procedures and the repeal of	)	
ARM 2.59.1202 pertaining to the	)	
transition of sales finance company	)	
licensees to the NMLS	)	

TO: All Concerned Persons

1. On October 28, 2016, the Department of Administration published MAR Notice No. 2-59-552 pertaining to the amendment and repeal of the above-stated rules at page 1883 of the 2016 Montana Administrative Register, Issue Number 20.
2. No comments were received.
3. The department has amended ARM 2.59.1201 exactly as proposed.
4. The department has repealed ARM 2.59.1202 exactly as proposed.

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

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

Certified to the Secretary of State December 12, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
2.59.1506, 2.59.1515, and 2.59.1522 )  
pertaining to definitions, standardized )  
forms and procedures, and annual )  
reporting form for deferred deposit )  
lending )

TO: All Concerned Persons

1. On October 28, 2016, the Department of Administration published MAR Notice No. 2-59-553 pertaining to the amendment of the above-stated rules at page 1886 of the 2016 Montana Administrative Register, Issue Number 20.

2. No comments were received.

3. The department has amended ARM 2.59.1506, 2.59.1515, and 2.59.1522 exactly as proposed.

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

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

Certified to the Secretary of State December 12, 2016.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

In the matter of the repeal of ARM ) NOTICE OF REPEAL  
6.6.1906, 6.6.1907, 6.6.1908, )  
6.6.1910, 6.6.1911, 6.6.1913, and )  
6.6.1914 pertaining to )  
Comprehensive Health Care )  
Association and Plan )

TO: All Concerned Persons

1. On November 10, 2016, the Commissioner of Securities and Insurance, Montana State Auditor (CSI), published MAR Notice No. 6-229 pertaining to the proposed repeal of the above-stated rules at page 2026 of the 2016 Montana Administrative Register, Issue Number 21.

2. The department has repealed the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Michael A. Kakuk  
Michael A. Kakuk  
Rule Reviewer

/s/ Christina L. Goe  
Christina L. Goe  
General Counsel

Certified to the Secretary of State December 12, 2016.

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

In the matter of the adoption of ) NOTICE OF ADOPTION OF  
temporary emergency rules closing ) TEMPORARY EMERGENCY RULES  
the Tiber Reservoir and Canyon Ferry )  
Reservoir )

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) On November 30, 2016, Governor Bullock issued Executive Order No. 18-2016 proclaiming an invasive species emergency.

(b) The executive order states invasive aquatic species comprise a grave threat to the waters and economic resources within the State of Montana, and such introduced species are best controlled when experts take management measures quickly after their introduction is discovered.

(c) In the executive order, Governor Bullock developed an incident management organization to manage the State of Montana's response to this invasive species emergency.

(d) The incident management organization has requested an immediate temporary emergency closure for Tiber Reservoir and Canyon Ferry Reservoir in order to limit the launch or removal of any boat, dock, or other structure that could potentially transport invasive aquatic mussels.

(e) Therefore, as this situation constitutes an imminent peril to public welfare, 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. 24 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 January 6, 2017, 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 December 1, 2016 when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rules provide as follows:

RULE I TIBER RESERVOIR TEMPORARY EMERGENCY CLOSURE

(1) The Tiber Reservoir is closed:

- (a) in its entirety;
  - (b) to the launch or removal of any boat, dock or other structure that could potentially transport invasive aquatic mussels.
- (2) No boat, dock, or other structure should be removed from the immediate area without contacting the Mussel Incident Hotline at (406) 444-2440 or [musselresponse@mt.gov](mailto:musselresponse@mt.gov).
- (3) This rule is effective until ice over, but not for a period longer than 120 days. Signs restricting use of the Tiber Reservoir will be removed when the rule is no longer effective. Status of the closure will be updated on the department's web site at [fwp.mt.gov](http://fwp.mt.gov).

AUTH: 80-7-1007, MCA  
IMP: 80-7-1007, 80-7-1013, MCA

RULE II CANYON FERRY RESERVOIR TEMPORARY EMERGENCY CLOSURE (1) The Canyon Ferry Reservoir is closed:

- (a) in its entirety;
  - (b) to the launch or removal of any boat, dock or other structure that could potentially transport invasive aquatic mussels.
- (2) No boat, dock, or other structure should be removed from the immediate area without contacting the Mussel Incident Hotline at (406) 444-2440 or [musselresponse@mt.gov](mailto:musselresponse@mt.gov).
- (3) This rule is effective until ice over, but not for a period longer than 120 days. Signs restricting use of the Canyon Ferry Reservoir will be removed when the rule is no longer effective. Status of the closure will be updated on the department's web site at [fwp.mt.gov](http://fwp.mt.gov).

AUTH: 80-7-1007, MCA  
IMP: 80-7-1007, 80-7-1013, 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 Bruce Rich, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701 or e-mail [fwpfish@mt.gov](mailto:fwpfish@mt.gov). Any comments must be received no later than January 20, 2017.

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/ Paul Sihler

Paul Sihler

Acting Director

Department of Fish, Wildlife and Parks

/s/ Rebecca Dockter

Rebecca Dockter

Rule Reviewer

Certified to the Secretary of State December 1, 2016.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules )  
I through V; transfer and amendment of )  
ARM 18.9.101, 18.9.102, 18.9.103, )  
18.9.104, 18.9.105, 18.9.108, 18.9.109, )  
18.9.111, 18.9.116, 18.9.117, 18.9.118, )  
18.9.201, 18.9.202, 18.9.203, 18.9.204, )  
18.9.205, 18.9.302, 18.9.303, 18.9.306, )  
18.9.311, 18.9.312, 18.9.321, 18.9.326, )  
18.9.401, 18.9.403, 18.9.501, 18.9.703, )  
18.9.705, 18.10.103, 18.10.104, )  
18.10.105, 18.10.108, 18.10.110, )  
18.10.111, 18.10.112, 18.10.121, )  
18.10.124, 18.10.125, 18.10.313, )  
18.10.314, 18.10.324, 18.10.406, )  
18.10.407, 18.11.102, 18.11.103, )  
18.11.104; 18.11.105, 18.11.106; transfer )  
of ARM 18.9.603, 18.9.605, 18.9.606, )  
18.9.607, 18.9.608, 18.9.701, 18.10.106, )  
18.10.503, 18.10.504, 18.10.505, )  
18.10.506, 18.10.507; and repeal of ARM )  
18.9.112, 18.9.325, 18.9.402, 18.9.601, )  
18.9.602, 18.9.704, 18.10.107, 18.10.201, )  
18.10.202, 18.10.301, 18.10.302, )  
18.10.321, 18.10.322, 18.10.323, 18.10.404, )  
and 18.11.101 pertaining to Motor Fuels )  
Tax )

CORRECTED NOTICE OF  
ADOPTION, TRANSFER AND  
AMENDMENT, TRANSFER, AND  
REPEAL

TO: All Concerned Persons

1. On August 5, 2016, the Department of Transportation published MAR Notice No. 18-161 pertaining to the proposed adoption, transfer and amendment, transfer, and repeal of the above-stated rules at page 1317 of the 2016 Montana Administrative Register, Issue Number 15. On October 14, 2016, the department published the notice of adoption, transfer and amendment, transfer, and repeal at page 1849 of the 2016 Montana Administrative Register, Issue Number 19.

2. A rule number was referenced incorrectly on ARM 18.15.301, 18.15.302, 18.15.303, 18.15.410, and 18.15.503 on the proposal notice. A statutory citation of an implementing section was incorrectly shown on ARM 18.15.304. The rules, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

18.15.301 INTRASTATE FUEL DELIVERIES (1) Credit from gasoline, special fuel, or aviation fuel tax may be claimed on the statement provided for in ~~ARM 18.9.103~~ 18.15.203 for deliveries in this state to another distributor.

AUTH: 15-70-104, MCA  
IMP: 15-70-403, MCA

18.15.302 EXPORT DELIVERIES (1) remains as adopted.

(2) If a distributor ships gasoline, special fuel, or aviation fuel to a point outside the state following receipt from another distributor in this state, the distributor receiving the fuel in this state shall be deemed the exporter. The distributor making the delivery within this state may claim credit as outlined in ~~ARM 18.9.201~~ 18.15.301.

(3) remains as adopted.

AUTH: 15-70-104, 75-11-319, MCA  
IMP: 15-70-403, 15-70-425, MCA

18.15.303 IMPORT DELIVERIES (1) If a distributor ships gasoline, special fuel, or aviation fuel into Montana and delivers the fuel directly to another distributor before the fuel passes through the pipeline storage in this state, the delivering distributor must report the transaction as a receipt and may claim a credit the same as delivering distributors in ~~ARM 18.9.201~~ 18.15.301.

(2) remains as adopted.

AUTH: 15-70-104, MCA  
IMP: 15-70-403, MCA

18.15.304 BLENDING STOCKS (1) remains as adopted.

AUTH: 15-70-104, MCA  
IMP: ~~15-70-201, 15-70-204, 15-70-301, 15-70-321, 15-70-401, 15-70-403, MCA~~

18.15.410 GASOLINE, SPECIAL FUEL, OR AVIATION FUEL LOST FROM STORAGE (1) and (1)(a) remain as adopted.

(b) to comply strictly with the procedures provided in ~~ARM 18.9.311~~ 18.15.409; or

(c) and (2) remain as adopted.

AUTH: 15-70-104, 75-11-319, MCA  
IMP: 15-70-425, 15-70-426, 15-70-432, 15-70-434, MCA

18.15.503 DYED SPECIAL FUEL ALLOWANCE (1) and (1)(a) remain as adopted.

(b) The vehicles are leased by the governmental entities (state of Montana, city, county, school district, federal or tribal government) and the lease terms meet the criteria for a "long term lease," ~~as defined in ARM 18.10.302.~~

AUTH: 15-70-104, 15-70-441, MCA  
IMP: 15-70-401, 15-70-441, MCA

3. The replacement pages for this corrected notice will be submitted to the Secretary of State on December 31, 2016.

/s/ Carol Grell Morris  
Carol Grell Morris  
Rule Reviewer

/s/ Pat Wise  
Pat Wise  
Deputy Director  
Department of Transportation

Certified to the Secretary of State December 12, 2016.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.29.1591 related to utilization )  
and treatment guidelines for workers' )  
compensation injuries )

TO: All Concerned Persons

1. On September 2, 2016, the Department of Labor and Industry (department) published MAR Notice No. 24-29-316 regarding the public hearing on the proposed amendment of the above-stated rule, at page 1520 of the 2016 Montana Administrative Register, Issue Number 17.

2. On September 23, 2016, a public hearing was held in Helena on the proposed amendment. Several persons commented on the proposed amendments during the public comment period.

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

Comment 1: A commenter asked which chapters of the Utilization and Treatment Guidelines were being updated.

Response 1: The "shoulder injury" chapter is being updated, and two new chapters are being added, "cumulative trauma" and "thoracic outlet syndrome." Cumulative trauma and thoracic outlet syndrome were previously contained in the "upper extremity" chapter. The upper extremity chapter is being deleted.

Comment 2: Two commenters stated that the department should not change the "upper extremity" chapter to "thoracic outlet," because the upper extremity guidelines cover more than just thoracic outlet syndrome. The commenters expressed concern that practitioners would be confused by the changes.

Response 2: The department notes that the original "upper extremity" chapter included thoracic outlet syndrome and cumulative trauma syndrome, and was based on a combination of guidelines adopted by the State of Colorado and the American College of Occupational and Emergency Medicine (ACOEM). Since that time, the department has been making annual updates to the Guidelines based solely on those changes adopted by the State of Colorado. The department has elected to follow the recent updates adopted in Colorado, and is following Colorado's decision to separate the chapters and revise the organization with respect to matters formerly covered by the upper extremity section.

The department will continue to provide training to medical providers in the use of the Utilization and Treatment Guidelines. The department is confident that providers will become familiar with the changes, and provide appropriate treatment.

4. The department has amended ARM 24.29.1591 as proposed.

/s/ Mark Cadwallader  
Mark Cadwallader  
Alternate Rule Reviewer

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

Certified to the Secretary of State December 12, 2016.

BEFORE THE BOARD OF OCCUPATIONAL THERAPY PRACTICE  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.165.302 definitions, )  
24.165.401 fees, and 24.165.2101 )  
continuing education )

TO: All Concerned Persons

1. On September 2, 2016, the Board of Occupational Therapy Practice (board) published MAR Notice No. 24-165-22 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1523 of the 2016 Montana Administrative Register, Issue No. 17.

2. On September 26, 2016, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the September 30, 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: Several commenters opposed the amendment to ARM 24.165.2101(6), stating that by allowing the maintenance of the National Board Certification of Occupational Therapy (NBCOT) certification to fulfill the board's continuing education (CE) requirements, the board is giving regulatory authority to a private entity.

RESPONSE 1: The board concluded that the recognition of NBCOT certification for licensees will provide efficiencies and decreased cost to the board in the annual CE audit. The board rule still allows other options for licensees to meet CE requirements.

COMMENT 2: Commenters noted the NBCOT allows "competency assessment units" towards certification renewal rather than actual learning activities and asserted that type of activity is not recognized in existing regulations. The commenters opined that licensees not certified by the NBCOT do not have the same opportunity.

RESPONSE 2: The board determined that licensees not certified by the NBCOT have ample opportunity through other resources described in board rule to meet the board's CE requirements. The board noted it has the sole discretion to approve CE as based in board rule.

COMMENT 3: Several commenters expressed concern that the NBCOT certification renewal cycle is every three years while the board's is every two.

RESPONSE 3: The board notes that the license renewal cycle is annual and does not believe that this timing difference will be an issue.

COMMENT 4: Some commenters stated that the proposed amendments do not address the CE documentation requirements for licensees renewing with NBCOT certification.

RESPONSE 4: The board notes that CE requirements of NBCOT exceed the board's CE hourly requirements in ARM 24.165.2101(1), and verification of NBCOT certification would meet the requirement.

COMMENT 5: The commenters asked if the board will have access to a licensee's NBCOT certification status for certification renewal once the amendments to ARM 24.165.2101 are effective.

RESPONSE 5: The board acknowledges that staff does have secure access to the NBCOT web site to verify licensees' certification and other information.

COMMENT 6: Several commenters did not oppose adding NBCOT to the approved CE providers, but suggested the board further amend ARM 24.165.2101(7) to address a limit on competency assessment activities hours and apply competency assessment activity hours to the other board-approved providers of CE.

RESPONSE 6: The board notes that the suggested amendment exceeds the scope of this rulemaking, as the board did not propose any changes to renumbered (7).

4. The board has amended ARM 24.165.302, 24.165.401, and 24.165.2101 exactly as proposed.

BOARD OF OCCUPATIONAL THERAPY  
PRACTICE  
NATE NAPRSTEK, PRESIDING OFFICER

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

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

Certified to the Secretary of State December 12, 2016

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
AND THE BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.101.413 renewal dates and	)	ADOPTION, AND REPEAL
requirements, 24.183.301 standards	)	
of responsible charge, 24.183.404 fee	)	
schedule, 24.183.406 branch office,	)	
24.183.407 teaching of advanced	)	
engineering subjects, 24.183.408	)	
certificate of authorization,	)	
24.183.501 board-approved curricula,	)	
24.183.502, 24.183.503, and	)	
24.183.504 applications, 24.183.505	)	
exhibits of land surveying, 24.183.509	)	
examination procedures, 24.183.510	)	
grant and issue licenses, 24.183.511	)	
license seal, 24.183.701 and	)	
24.183.801 comity, 24.183.702 and	)	
24.183.802 classification of	)	
experience, 24.183.1104 and	)	
24.183.1107 uniform standards,	)	
24.183.2102 inactive status,	)	
24.183.2402 complaints, the adoption	)	
of NEW RULES I teaching of land	)	
surveying subjects and II definitions,	)	
and the repeal of ARM 24.183.302	)	
direct supervision, 24.183.512	)	
application for emeritus status,	)	
24.183.2101 renewals, and	)	
24.183.2103 late renewals	)	

TO: All Concerned Persons

1. On July 8, 2016, the Department of Labor and Industry (department) and the Board of Professional Engineers and Professional Land Surveyors (board) published MAR Notice No. 24-183-42 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules at page 1117 of the 2016 Montana Administrative Register, Issue No. 13.

2. On July 29, 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 August 5, 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: One commenter suggested that the board amend ARM 24.183.408 to clarify that it is only the business entity that must be registered and in good standing with the Montana Secretary of State, and that the requirement does not extend to an individual professional engineer or professional land surveyor. The commenter believed that the language in ARM 24.183.408 is not clear on this point.

RESPONSE 1: The board agrees with the comment and is amending (2) accordingly.

COMMENT 2: One commenter noted that in the proposed amendment to ARM 24.183.1104, the term "grid distances" in (1)(d)(xi) is plural, while the term "ground distance" is singular. The commenter suggests that both terms be plural.

RESPONSE 2: The board agrees and is amending the rule accordingly.

COMMENT 3: A commenter pointed out that in the proposed amendment to ARM 24.183.1107, the term "grid distances" in (2)(e)(x) is plural, while the term "ground distance" is singular. The commenter suggests that both be plural.

RESPONSE 3: The board agrees and is amending the rule accordingly.

COMMENT 4: Five commenters stated that (3)(b)(i) of NEW RULE II (board-approved curricula for land surveying applicants) does not specify three credits of survey drafting as part of the six credits of drafting. The commenters noted that the three credits of survey drafting is a required part of the land surveying curriculum approved by the board in 2014.

RESPONSE 4: The board acknowledges the concerns, but notes that the notice provided to the public is not sufficient to allow the board to add the suggested language in the final notice of adoption. Because the language being relocated from ARM 24.183.501(2) did not include three credits of survey drafting as part of the drafting requirement, the public was not given adequate notice and opportunity to comment on the change. However, the board will consider initiating new rulemaking to address the comments and omission.

COMMENT 5: One commenter asked the board to amend the last paragraph of the reasonable necessity statement for NEW RULE II to remove "and could be taught by an engineer," and offered amended language. The commenter stated that (5) was not intended to specify who may teach these non-progressive land survey courses, but only to clarify that they may be taught by someone other than a licensed land surveyor.

RESPONSE 5: The board acknowledges the concerns, but is unable to amend the reasonable necessity statement in the final notice. To make a substantive change to the statement would require reissuing the proposal notice.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.183.301, 24.183.404, 24.183.406, 24.183.407, 24.183.501, 24.183.502, 24.183.503, 24.183.504, 24.183.505, 24.183.509, 24.183.510, 24.183.511, 24.183.701, 24.183.702, 24.183.801, 24.183.802, 24.183.2102, and 24.183.2402 exactly as proposed.

6. The board has adopted NEW RULES I (24.183.411) and II (24.183.303) exactly as proposed.

7. The board has repealed ARM 24.183.302, 24.183.512, 24.183.2101, and 24.183.2103 exactly as proposed.

8. The board has amended ARM 24.183.408, 24.183.1104, and 24.183.1107 with the following changes, stricken matter interlined, new matter underlined:

24.183.408 CERTIFICATE OF AUTHORIZATION (1) remains as proposed.

(2) The renewal form must identify by name and license number the professional engineer or professional land surveyor in responsible charge and affirm the ~~certificate holder~~ business entity named on the certificate of authorization is in good standing with the Secretary of State.

(3) remains as proposed.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) through (1)(d)(x) remain as proposed.

(xi) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically. If grid distances are shown, then ground distances must be shown parenthetically;

(xii) through (1)(h) remain as proposed.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

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

(x) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically. If grid distances are shown, then ground distances must be shown parenthetically;

(xi) through (5) remain as proposed.

BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
BYRON STAHLY, PROFESSIONAL  
ENGINEER, PRESIDING OFFICER

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 12, 2016

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 32.3.207 permits, 32.3.218, )  
special requirements for sheep, and )  
32.3.2001 brands and earmarks )

TO: All Concerned Persons

1. On November 10, 2016, the Department of Livestock published MAR Notice No. 32-16-276 regarding the proposed amendment of the above-stated rules at page 2047 of the 2016 Montana Administrative Register, Issue Number 21.

2. The department has amended the above-stated rules as proposed.

3. The department received one comment. A summary of the comment received and the department's response is as follows:

COMMENT #1: The Montana Veterinary Medical Association (MVMA) expressed "support for the changes called for in proposed administrative rule notice 32-16-276 involving requirements for sheep, brands and earmarks."

RESPONSE #1: The department recognizes the participation of the commenter and appreciates all comments made during the rulemaking process.

BY: /s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Officer  
Board of Livestock  
Department of Livestock

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

Certified to the Secretary of State December 12, 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 37.86.2928 pertaining to )  
inpatient hospital reimbursement )

TO: All Concerned Persons

1. On October 14, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-772 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1799 of the 2016 Montana Administrative Register, Issue Number 19.

2. The department has amended the above-stated rule as proposed.

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

COMMENT #1: One comment was received concerning the permanent change to a "current" 12-month period rests with the fact the department will not have a complete year upon which to distribute supplemental funds.

RESPONSE #1: The department agrees this may be a possibility for the first year only. Subsequent years paid claims data will capture missing dates from the prior year. The department intends to monitor and compare the hospitals' distribution prior to and after the implementation of this rule to determine if this rule change has a material effect on the distribution of the supplemental funds.

COMMENT #2: One comment was received recommending that the department modify the proposed rule as follows: retain the current policy to use paid claims data as the source to calculate the supplemental payment for the traditional Medicaid population and use the current 12-month paid claims data only to calculate the supplemental payment for the expansion population. Make this a one-time exception to the process; in future years, use data from paid claims for a 12-month period after closure of the timely billing limit.

RESPONSE #2: The department would like to thank the commenter for the suggestions. The department intends to continue with the proposed amendment and will monitor hospital distribution through performance-based measures.

COMMENT #3: One comment was received requesting the department establish a dispute resolution process to address appeals of the accuracy of the supplemental payment amounts.

RESPONSE #3: The department currently has an appeal process in accordance with ARM 37.5.310, Administrative Review and Fair Hearing Process for Medical Assistance Providers.

4. These rule amendments are effective January 1, 2017.

/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 December 12, 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 37.85.104 and 37.85.105 )  
pertaining to updating Medicaid fee )  
schedules with Medicare rates and )  
updating effective dates to July 1, )  
2016 and January 1, 2017 )

TO: All Concerned Persons

1. On October 28, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-773 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1924 of the 2016 Montana Administrative Register, Issue Number 20.

2. The department has amended the above-stated rules as proposed.

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

Comment #1: Commenters requested the department reimburse optometrists the same as ophthalmologists for identical codes and service and reasoned that federal Medicare regulation defined physicians to include optometrist, and expressed concern that Montana Medicaid does not define physician to include optometry. They wanted to know why there was a disparity and what the rationale behind it was.

Response #1: Prior to 2008, optometrists were reimbursed using the same conversion factor as physicians. In 2007, the Montana 60th Legislature passed Senate Bill (SB) 354, which defined and clarified the Medicaid reimbursement conversion factor for physicians. SB 354, which was codified in 53-6-124 and 53-6-125, MCA defined "Physician" as having the same meaning provided in 37-3-102, MCA, which states: (11) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

Therefore, beginning in 2008, the department established separate conversion factors to comply with this statutory requirement.

Comment #2: A commenter requested clarification, or explanation, with regard to the table included on page 1928, of the proposed MAR notice, regarding fiscal impact, asked why are optometric and optician provider types included on the same line, wanted to know how much of the physician estimate was for ophthalmologists,

was concerned the numbers seemed high, and wanted to know the total match dollars amount per provider type and per state fiscal year.

Response #2: The department has historically combined the fiscal impact of optometrist and optician services together. In regards to the ophthalmologist's portion of physician services the department does not break this information out when projecting the program's fiscal impact. Because the Medicare rates were not published at the time MAR Notice Number 37-773 was published, the fiscal impact was estimated based on the 12-month Consumer Price Index for all urban consumers (CPI-U) ending in June 2016 adjusted by the change in the economy-wide productivity equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multi-factor productivity (MFP). The federal match rates used to calculate the fiscal impacts were estimated at 65.56 percent for SFY 2017, 65.95 percent for SFY 2018, and 66.20 percent for SFY 2019.

Comment #3: A commenter made an observation regarding the telephone calls for eligibility stating it is often three, four, or five phone calls to get in. The department limits how many eligibility calls we can make, five calls to eligibility and we are bumped off and the staff has to call back in.

Response #3: Due to increased call volume, limitations are currently in place to service as many providers as possible. Once the limitation is reached, the caller is offered to be placed back into the queue of incoming calls or a caller can make a phone call at a later time. Hold times are steadily decreasing as more Xerox staff have been added. Average wait time was 30 minutes at highest, 20 minutes for most of the year, and is currently around five minutes; more agents are being trained and the department anticipates the time decreasing again before year's end. Providers can avoid the longer hold times by avoiding peak call times, 9:30 to 11:30 a.m. and 1:30 to 2:30 p.m. Alternatively, the department recommends that Medicaid eligibility can be best established through the Montana Access to Health Web Portal or by utilizing the faxback tool offered by the department to all providers. Detailed information on verifying member eligibility can be found in the General Information for Providers Manual found under Resources by Provider Type at <http://medicaidprovider.mt.gov/>.

Comment #4: A commenter made note of claims being rejected because member eligibility changing within Medicaid, HELP, and Healthy Montana Kids (HMK), and then needing to start the whole billing process over again.

Response #4: It is important to check member eligibility via the Web Portal prior to the member's appointment. The department acknowledges there are occasions where eligibility of Medicaid, HMK, or HELP members has changed after the member has been seen by a provider. When a billing of a service is denied for incorrect eligibility, the department should be contacted and correct eligibility will be investigated and the service will be reimbursed.

A large number of comments received were not applicable to the rules being adopted, amended, or repealed in this notice; therefore, they are not being responded to in this notice.

4. The following rule amendments are effective January 1, 2017: ARM 37.85.104(1)(c), 37.85.105(2)(a), 37.85.105(2)(b), 37.85.105(3)(c), 37.85.105(3)(l), 37.85.105(3)(r), 37.85.105(3)(s), 37.85.105(3)(u), 37.85.105(3)(v), 37.85.105(4)(a), and 37.85.105(6)(a).

5. The department intends to apply these rules retroactively to July 1, 2016: ARM 37.85.105(3)(w) and 37.85.105(3)(x). A retroactive application of the proposed rules does not result in a negative impact to any affected party.

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

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

Certified to the Secretary of State December 12, 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 37.81.304 pertaining to )  
maximum Big Sky Rx premium )  
change )

TO: All Concerned Persons

1. On October 14, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-774 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1802 of the 2016 Montana Administrative Register, Issue Number 19.

2. The department has amended the above-stated rule as proposed.

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

COMMENT #1: A commenter supports the proposed rule but questions where the department will secure the additional funding needed to cover the cost of increasing this benefit and questions if funding comes from cost savings in other areas or from other sources.

RESPONSE #1: The department appreciates the support for increasing the premium benefit. The funding for Big Sky Rx comes from the Montana Tobacco Sales Tax Initiative (I-149) and the increase in the monthly premium is within the appropriation of the program. There is no impact on other programs due to the increase in premium.

4. These rule amendments are effective January 1, 2017.

/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 December 12, 2016.

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

In the matter of the adoption of New )  
Rule I and amendment of ARM ) NOTICE OF ADOPTION AND  
37.85.212 pertaining to adding a new ) AMENDMENT  
provider called mobile )  
imaging/portable x-ray provider type )  
and reimbursement for state fiscal )  
year 2017 )

TO: All Concerned Persons

1. On October 28, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-777 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1932 of the 2016 Montana Administrative Register, Issue Number 20.

2. The department has amended ARM 37.85.212 as proposed.

3. The department has adopted the above-stated rule as proposed: New Rule I (37.85.219).

4. No comments or testimony were received.

5. These rule amendments and the rule adoption are effective January 1, 2017.

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

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

Certified to the Secretary of State December 12, 2016.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 44.2.204 pertaining to access to )  
documents and fees for copies )

TO: All Concerned Persons

1. On November 10, 2016, the Secretary of State published MAR Notice No. 44-2-221 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2055 of the 2016 Montana Administrative Register, Issue Number 21.

2. The Secretary of State has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 12th day of December, 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 June 30, 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 June 30, 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.

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

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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 November 2016 appear. Vacancies scheduled to appear from January 1, 2017 through March 31, 2017, 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 December 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 NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Physical Therapy Examiners (Labor and Industry)</b>			
Ms. Jennifer Lynn Lorengo Deer Lodge Qualifications (if required): Physical Therapist	Governor	reappointed	11/18/2016 7/1/2019
<b>Family Support Services Advisory Council (Public Health and Human Services)</b>			
Ms. Amber Bell Helena Qualifications (if required): Agency Representative	Governor	Racicot	11/18/2016 4/1/2018
Ms. Rebecca Bogden-Richards Great Falls Qualifications (if required): Public Awareness and Education Organization Representative	Governor	Gaustad	11/18/2016 4/1/2018
Ms. Hollin Marie Buck Missoula Qualifications (if required): Provider of Part C Services	Governor	Danforth	11/18/2016 4/1/2018
Ms. Melanie Ruth Bush Great Falls Qualifications (if required): Provider of Part C Services	Governor	not listed	11/18/2016 4/1/2018
Ms. Patricia Butler Helena Qualifications (if required): Agency Representative	Governor	reappointed	11/18/2016 4/1/2018

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont.			
Ms. Dianna Frick Helena	Governor	Franklin	11/18/2016 4/1/2018
Qualifications (if required):	Agency Representative		
Ms. Chelsie Guilford Billings	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required):	Provider of Part C Services		
Ms. Lucy Hart-Paulson Missoula	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required):	Speech Language Therapists' Association Representative		
Ms. Ryane Holzwarth Laurel	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required):	Agency Representative		
Ms. Kari Ann Hoover Shelby	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required):	Provider of Part C Services		
Ms. Kari Ann Hoscheid Anaconda	Governor	Beffert	11/18/2016 4/1/2018
Qualifications (if required):	Special Education		
Ms. Jody Jones Ronan	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required):	Head Start Representative		

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Family Support Services Advisory Council (Public Health and Human Services) cont.</b>			
Ms. Cathy Jury Arlee	Governor	Copp	11/18/2016 4/1/2018
Qualifications (if required): Representative for the Montana School for the Deaf and Blind			
Ms. Meaghan Kolar Helena	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required): Agency Representative			
Dr. Christine Lux Bozeman	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required): Personnel Preparation Representative			
Ms. Danielle McCarthy Helena	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required): Agency Representative OPI Part B			
Mr. David Munson Helena	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required): Provider of Part C Services			
Ms. Catherine Murphy Helena	Governor	reappointed	11/18/2016 4/1/2018
Qualifications (if required): Agency Representative			
Ms. Tari Nyland Helena	Governor	Herman	11/18/2016 4/1/2018
Qualifications (if required): Agency Representative			

## BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont.			
Ms. Sarah Odette Goldsmith Great Falls Qualifications (if required): Parent Representative Region 2	Governor	Richards	11/18/2016 4/1/2018
Rep. Jean Price Great Falls Qualifications (if required): State Legislator	Governor	reappointed	11/18/2016 4/1/2018
Mr. Jesse Slaughter Great Falls Qualifications (if required): Parent Representative At-Large	Governor	reappointed	11/18/2016 4/1/2018
Ms. Latosha Vavak Columbus Qualifications (if required): Parent Representative Region 3	Governor	reappointed	11/18/2016 4/1/2018
<b>Governor's Council on Healthcare Innovation</b> (Public Health and Human Services)			
Mr. Eric Arzubi Billings Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Ms. Marilyn Bartlett Helena Qualifications (if required): Government official	Governor	Hogan	11/1/2016 4/1/2018

## BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Governor's Council on Healthcare Innovation</b> (Public Health and Human Services) cont.			
Dr. Monica Berner Helena	Governor	reappointed	11/1/2016 4/1/2018
Qualifications (if required): Public and private payers			
Ms. Sydney Blair Great Falls	Governor	Not Listed	11/1/2016 4/1/2018
Qualifications (if required): Healthcare providers			
Ms. Annie Browne Great Falls	Governor	Nelson	11/1/2016 4/1/2018
Qualifications (if required): Healthcare providers			
Ms. LeeAnn Bruised Head Missoula	Governor	reappointed	11/1/2016 4/1/2018
Qualifications (if required): American Indian health representative			
Ms. Maria Clemons Libby	Governor	reappointed	11/1/2016 4/1/2018
Qualifications (if required): Healthcare providers			
Ms. Mary Dalton Helena	Governor	Opper	11/1/2016 4/1/2018
Qualifications (if required): Government official			
Ms. Dorothy Dupree Billings	Governor	Marsalli	11/1/2016 4/1/2018
Qualifications (if required): American Indian health representative			

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Governor's Council on Healthcare Innovation</b> (Public Health and Human Services) cont.			
Mr. John Felton Billings Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Dr. Bill Gallea Helena Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Dr. Janice Gomersall Missoula Qualifications (if required): Healthcare providers	Governor	Goodnow	11/1/2016 4/1/2018
Mr. L. Jace Killsback Lame Deer Qualifications (if required): American Indian health representative	Governor	Sorrell	11/1/2016 4/1/2018
Ms. Lenette Kosovich Billings Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Mr. Matt Kuntz Helena Qualifications (if required): Consumer	Governor	Williams	11/1/2016 4/1/2018
Mr. Todd Lovshin Helena Qualifications (if required): Public and private payers	Governor	reappointed	11/1/2016 4/1/2018

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Governor's Council on Healthcare Innovation</b> (Public Health and Human Services) cont.			
Mr. John McNeece Anaconda Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Ms. Cindy Stergar Butte Qualifications (if required): Healthcare providers	Governor	Not Listed	11/1/2016 4/1/2018
Mr. Larry Robert Turney Helena Qualifications (if required): Public and private payers	Governor	Fee	11/1/2016 4/1/2018
Mr. Michael Vlases Bozeman Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Mr. Jonathan Weisul Missoula Qualifications (if required): Public and private payers	Governor	reappointed	11/1/2016 4/1/2018
Mr. Aaron Wernham Bozeman Qualifications (if required): Healthcare providers	Governor	reappointed	11/1/2016 4/1/2018
Ms. Susan Witte Helena Qualifications (if required): Government officials	Governor	Reiter	11/1/2016 4/1/2018

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Land Information Advisory Council (State Library)</b>			
Mr. Rudy Cicon Chester Qualifications (if required): Land Surveyor	Governor	reappointed	11/18/2016 6/30/2017
Mrs. Elaina Graham Great Falls Qualifications (if required): Federal USDA Representative	Governor	reappointed	11/18/2016 6/30/2017
Ms. Molly Hirschi Bozeman Qualifications (if required): GIS Professional	Governor	Largent	11/18/2016 6/30/2017
Mr. Ryan Leland Helena Qualifications (if required): Private Sector or Public Utilities	Governor	reappointed	11/18/2016 6/30/2017
Ms. Catherine Maynard Bozeman Qualifications (if required): USDA Representative	Governor	reappointed	11/18/2016 6/30/2017
Mr. Art Pembroke Helena Qualifications (if required): Local Government	Governor	reappointed	11/18/2016 6/30/2017
Director John Tubbs Helena Qualifications (if required): Agency Representative or designee	Governor	Stone-Manning	11/18/2016 6/30/2017

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Land Information Advisory Council</b> (State Library) cont.			
Ms. Leslie Zolman Helena	Governor	reappointed	11/18/2016 6/30/2017
Qualifications (if required): GIS Professional			
<b>Tourism Advisory Council</b> (Commerce)			
Ms. Rhonda Fitzgerald Whitefish	Governor	reappointed	11/18/2016 7/1/2019
Qualifications (if required): Glacier Country Region Representative			
Ms. Rachel Elizabeth Gregg Missoula	Governor	Ozark	11/18/2016 7/1/2019
Qualifications (if required): Glacier Country Region Representative			
Ms. Katie Marie Grice Big Sky	Governor	reappointed	11/18/2016 7/1/2019
Qualifications (if required): Yellowstone Country Region Representative			
Mr. Bill McGladdery Butte	Governor	reappointed	11/18/2016 7/1/2019
Qualifications (if required): Southwest Montana Region Representative			
Ms. Patricia McGlynn Kalispell	Governor	Anderlik	11/18/2016 7/1/2019
Qualifications (if required): Glacier Country Region Representative			

**BOARD AND COUNCIL APPOINTEES FROM NOVEMBER 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Tourism Advisory Council (Commerce) cont.</b>			
Ms. Lindsey Roth Kalispell	Governor	Not Listed	11/18/2016 7/1/2019
Qualifications (if required): Glacier Country Region Representative			
<b>Water and Wastewater Operators' Advisory Council (Environmental Quality)</b>			
Mr. John Alston Bozeman	Governor	reappointed	11/18/2016 10/1/2022
Qualifications (if required): Representative of municipality that is required to employ a certified operator			

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Aeronautics</b> (Transportation) Rep. Walter L. McNutt, Sidney Qualifications (if required): member of the Montana Chamber of Commerce	Governor	1/1/2017
Mr. Fred Leistiko, Kalispell Qualifications (if required): representative of the Montana Airport Management Association	Governor	1/1/2017
Ms. Tricia McKenna, Bozeman Qualifications (if required): member of the Montana Pilots' Association	Governor	1/1/2017
Mr. Roger Lincoln, Gildford Qualifications (if required): member of the Association of the Montana Aerial Applicators	Governor	1/1/2017
Mr. Bill Hunt Jr., Shelby Qualifications (if required): representative of the Montana League of Cities and Towns and an Attorney	Governor	1/1/2017
Mr. Robert Buckles, Bozeman Qualifications (if required): representative of interstate commercial airline operators	Governor	1/1/2017
Mr. Daniel Hargrove, Billings Qualifications (if required): engaged in aviation education in this state	Governor	1/1/2017
<b>Board of Crime Control</b> (Justice) Mr. James R. Cashell, Bozeman Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Steve McArthur, Butte Qualifications (if required): Community Corrections Representative	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Crime Control</b> (Justice) cont. Sheriff Leo C. Dutton, Helena Qualifications (if required): Local Law Enforcement Representative	Governor	1/1/2017
Chief William Dial, Whitefish Qualifications (if required): Local Law Enforcement Representative	Governor	1/1/2017
Mr. Nickolas C. Murnion, Glasgow Qualifications (if required): Law Enforcement Representative	Governor	1/1/2017
Commissioner Laura Obert, Townsend Qualifications (if required): Local Government Representative	Governor	1/1/2017
Mr. Tim Brurud, Havre Qualifications (if required): Youth Justice Council Representative	Justice	1/1/2017
Ms. Pamela Carbonari, Kalispell Qualifications (if required): Youth Justice Council Chair	Governor	1/1/2017
Mr. Curtis Harper, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
Mrs. Michelle Miller, Butte Qualifications (if required): Community Based Organization Representative	Governor	1/1/2017
Ms. Kelly McIntosh, Dillon Qualifications (if required): Public Representative	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Crime Control</b> (Justice) cont. Ms. Danna Jackson, Helena Qualifications (if required): Professional and Community Organizations	Governor	1/1/2017
Mr. Hubert Abrams, Wibaux Qualifications (if required): Public Representative	Justice	1/1/2017
<b>Board of Dentistry</b> (Labor and Industry) Rep. James Madison, Jefferson City Qualifications (if required): public representative over 55 years of age	Governor	3/29/2017
Mr. Cliff Christenot, Libby Qualifications (if required): denturist	Governor	3/29/2017
Dr. David Johnson, Great Falls Qualifications (if required): dentist	Governor	3/29/2017
Dr. George Johnston, Dillon Qualifications (if required): Licensed Dentist	Governor	1/1/2017
Ms. Lorraine Merrick, Helena Qualifications (if required): dental hygienist	Governor	3/29/2017
Ms. Jennifer Porter, Bozeman Qualifications (if required): Dental Hygienist	Governor	3/29/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Environmental Review</b> (Environmental Quality) Mr. Chris D. Tweeten, Helena Qualifications (if required): attorney	Governor	1/1/2017
Director Joan Miles, Helena Qualifications (if required): Local Government	Governor	1/1/2017
Ms. Robin Shropshire, Helena Qualifications (if required): Hydrologist	Governor	1/1/2017
Ms. Marietta Canty, Clancy Qualifications (if required): Environmental Sciences	Governor	1/1/2017
<b>Board of Hail Insurance</b> (Agriculture) Rep. Monica J. Lindeen, Huntley Qualifications (if required): State Auditor	Governor	1/1/2017
<b>Board of Hearing Aid Dispensers</b> (Labor and Industry) Mr. Edward Eaton, Helena Qualifications (if required): Public Member	Governor	1/1/2017
<b>Board of Horse Racing</b> (Commerce) Sen. Dale Mahlum, Missoula Qualifications (if required): member of the horse racing industry	Governor	1/1/2017
Mr. Shawn Real Bird, Garryowen Qualifications (if required): District 2 Representative	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Horse Racing</b> (Commerce) cont. Mr. Steve Austin, Helena Qualifications (if required): District 5 Representative	Governor	1/1/2017
Mr. Ralph Young, Columbus Qualifications (if required): member of the horse racing industry	Governor	1/1/2017
<b>Board of Housing</b> (Commerce) Mr. Doug Kaercher, Havre Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. J. P. Crowley, Helena Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Ingrid Firemoon, Wolf Point Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Patrick E. Melby, Helena Qualifications (if required): Attorney	Governor	1/1/2017
<b>Board of Investments</b> (Commerce) Rep. Mark E. Noennig, Billings Qualifications (if required): business person	Governor	1/1/2017
Ms. Marilyn J. Ryan, Missoula Qualifications (if required): Teachers Retirement System Board member	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Investments</b> (Commerce) cont.            Mr. Jack Prothero, Great Falls            Qualifications (if required): small business representative</p>	Governor	1/1/2017
<p>Ms. Sheena Wilson, Helena            Qualifications (if required): Public Employees' Retirement System Board Representative</p>	Governor	1/1/2017
<p>Commissioner Kathy Bessette, Havre            Qualifications (if required): agriculture representative</p>	Governor	1/1/2017
<p><b>Unemployment Insurance Appeals Board</b> (Labor and Industry)            Sen. Joseph Tropila, Great Falls            Qualifications (if required): Alternate</p>	Governor	1/1/2017
<p>Mr. Brian Boland, Great Falls            Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. John Hart, Missoula            Qualifications (if required): Attorney</p>	Governor	1/1/2017
<p>Ms. Leslie Thomas, Boulder            Qualifications (if required): Alternate</p>	Governor	1/1/2017
<p>Ms. Sara Novak, Anaconda            Qualifications (if required): Alternate Member</p>	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Livestock</b> (Livestock)		
Ms. Linda Nielsen, Nashua Qualifications (if required): cattle producer	Governor	3/1/2017
Mr. Ed Waldner, Chester Qualifications (if required): swine producer	Governor	3/1/2017
Mr. Jeffery Lewis, Corvallis Qualifications (if required): dairy producer	Governor	3/1/2017
Mrs. Nina Baucus, Wolf Creek Qualifications (if required): Cattle Producer	Governor	3/1/2017
<b>Board of Milk Control</b> (Livestock)		
Mr. Jim Parker, Missoula Qualifications (if required): Public Representative and a Democrat	Governor	1/1/2017
Mrs. Dahlman Lemire, Forsyth Qualifications (if required): Public Representative and a Democrat	Governor	1/1/2017
Ms. Ariel Overstreet-Adkins, Helena Qualifications (if required): Public Representative and Independent	Governor	1/1/2017
Mr. Erik Somerfeld, Power Qualifications (if required): Public Representative	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Oil and Gas Conservation</b> (Natural Resources and Conservation) Sen. Linda Nelson, Medicine Lake Qualifications (if required): landowner with minerals	Governor	1/1/2017
Director Mary Sexton, Helena Qualifications (if required): public representative	Governor	1/1/2017
Mr. Wayne Smith, Valier Qualifications (if required): oil and gas industry representative	Governor	1/1/2017
Mr. John Evans, Butte Qualifications (if required): oil and gas industry representative	Governor	1/1/2017
Mrs. Peggy Nerud, Circle Qualifications (if required): Public Representative	Governor	1/1/2017
<b>Board of Pardons and Parole</b> (Corrections) Mr. Jack Puckett, Missoula Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Pete Lawrenson, Missoula Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Coleen Magera, Plains Qualifications (if required): Attorney	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Personnel Appeals</b> (Labor and Industry) Mr. James Reardon, East Helena Qualifications (if required): Labor Union Representative	Governor	1/1/2017
Mr. Quinton Nyman, Helena Qualifications (if required): Labor Union Representative	Governor	1/1/2017
Ms. Rina Fontana-Moore, Great Falls Qualifications (if required): Management Representative	Governor	1/1/2017
Mr. Jim Soumas, Joliet Qualifications (if required): Full-time employee or elected official of a labor union	Governor	1/1/2017
<b>Board of Public Assistance</b> (Public Health and Human Services) Commissioner Marianne Roose, Eureka Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Amy D. Christensen, Helena Qualifications (if required): an Attorney	Governor	1/1/2017
Ms. Laura John, Missoula Qualifications (if required): Public Representative	Governor	1/1/2017
<b>Board of Public Education</b> (Higher Education) Ms. Erin Williams, Missoula Qualifications (if required): resident of District 1 and identifies herself as a Democrat	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Regents</b> (Higher Education)		
Ms. Angela McLean, Anaconda Qualifications (if required): resident of District 1 and identifies herself as a Democrat	Governor	2/1/2017
Mr. William Johnstone, Great Falls Qualifications (if required): District 1 and a Democrat	Governor	2/1/2017
<b>Board of Respiratory Care Practitioners</b> (Labor and Industry)		
Mr. Tony Jay Miller, Joplin Qualifications (if required): Respiratory Care Practitioner	Governor	1/1/2017
Mr. Leonard Bates, Great Falls Qualifications (if required): Respiratory Care Practitioner	Governor	1/1/2017
Ms. Maria Clemons, Libby Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Rusty Davies, Billings Qualifications (if required): Respiratory Care Practitioner with a Pulmonary Function Specialty	Governor	1/1/2017
<b>Board of Review</b> (Revenue)		
Director Angela Wong, Helena Qualifications (if required): Director of Montana Lottery	Governor	1/1/2017
<b>Board of Behavioral Health</b> (Labor and Industry)		
Mr. John Lynn, Missoula Qualifications (if required): licensed counselor	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Behavioral Health</b> (Labor and Industry) cont.            Mr. Henry Pretty On Top, Crow Agency            Qualifications (if required): licensed Social Worker</p>	Governor	1/1/2017
<p>Ms. Kimberly Gardner, Helena            Qualifications (if required): licensed Social Worker</p>	Governor	1/1/2017
<p>Ms. Vonnie Brown, Great Falls            Qualifications (if required): licensed Social Worker</p>	Governor	1/1/2017
<p><b>Butte Natural Resource Damage Restoration Council</b> (Justice)            Rep. Edith McClafferty, Butte            Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Ms. Helen O'Connor, Butte            Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. Dave Williams, Butte            Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p><b>Capitol Complex Advisory Council</b> (Administration)            Rep. Diane Sands, Missoula            Qualifications (if required): Montana General Public</p>	Administration	1/1/2017
<p>Ms. Sheena Wilson, Helena            Qualifications (if required): Public Representative</p>	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Coal Board</b> (Commerce)            Sen. Thomas E. "Tom" Towe, Billings            Qualifications (if required): District 2 and an attorney</p>	Governor	1/1/2017
<p>Mayor John Williams, Colstrip            Qualifications (if required): District 2 impact area</p>	Governor	1/1/2017
<p>Mr. Dan F. Miles, Butte            Qualifications (if required): District 1</p>	Governor	1/1/2017
<p>Mr. C.J. Stewart, Crow Agency            Qualifications (if required): District 1 Impact Area</p>	Governor	1/1/2017
<p><b>Commission for Human Rights</b> (Labor and Industry)            Mr. Chuck Tooley, Billings            Qualifications (if required): public member</p>	Governor	1/1/2017
<p><b>Confederated Salish and Kootenai Tribes' Fish and Wildlife Board</b> (Fish, Wildlife and Parks)            Mr. Michael Jamison, Whitefish            Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Ms. Pelah Hoyt, Missoula            Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. Rodd Richardson, St. Ignatius            Qualifications (if required): Public Representative</p>	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Drought and Water Supply Advisory Committee</b> (Natural Resources and Conservation)                      Ms. Angela McLean, Anaconda                      Qualifications (if required): Governor's Office Representative</p>	Governor	1/1/2017
<p><b>Education Commission of the States</b> (Governor)                      Mr. Mike Thiel, Kalispell                      Qualifications (if required): Educator Engaged in K-12 Education</p>	Governor	1/1/2017
<p>Ms. Carmen Taylor, Polson                      Qualifications (if required): Educator Engaged in Higher Education</p>	Governor	1/1/2017
<p>Ms. Elly Driggers, Helena                      Qualifications (if required): Educator Engaged in K-12 Education</p>	Governor	1/1/2017
<p><b>Fish and Wildlife Commission</b> (Fish, Wildlife and Parks)                      Rep. Bob Ream, Helena                      Qualifications (if required): District 1 Representative</p>	Governor	1/1/2017
<p>Mr. Richard Stuker, Chinook                      Qualifications (if required): District 3 Representative</p>	Governor	1/1/2017
<p>Mr. Matthew Tourlotte, Billings                      Qualifications (if required): District 5 Representative</p>	Governor	1/1/2017
<p>Mr. Gary Wolfe, Missoula                      Qualifications (if required): District 1</p>	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Hard-Rock Mining Impact Board</b> (Commerce)		
Ms. Mary Ellen Cremer, Big Timber Qualifications (if required): Financial Industry or Institution, District 1 and an Impact Area	Governor	1/2/2017
Mr. Joe Michaletz, Helena Qualifications (if required): Industry Representative, District 2 and an Impact Area	Governor	1/2/2017
Mr. Andrew Werk Jr., Harlem Qualifications (if required): Public Representative and District 2	Governor	1/2/2017
<b>Human Rights Commission</b> (Labor and Industry)		
Mr. Dennis M. Taylor, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Rhonda Howlett, Arlee Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Shelley Hayes, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
<b>Information Technology Board</b> (Administration)		
Rep. Mike Kadas, Missoula Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. James E. Reno, Billings Qualifications (if required): Local Government Representative	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Information Technology Board</b> (Administration) cont. Mr. Scott Darkenwald, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Rep. Mike Milburn, Cascade Qualifications (if required): Architectural Historian	Governor	1/1/2017
Director Richard Opper, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Amanda Kelly, Stanford Qualifications (if required): Local Government Representative	Governor	1/1/2017
Mr. Dan Burke, Missoula Qualifications (if required): Private Sector	Governor	1/1/2017
Commissioner Pam Bucy, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Director John Tubbs, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Jennie Stapp, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Jonathan Anderson, Whitefish Qualifications (if required): Local Government	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Information Technology Board</b> (Administration) cont. Mr Jason Wiener, Missoula Qualifications (if required): representative of the private sector	Governor	1/1/2017
Commissioner Chris Mehl, Bozeman Qualifications (if required): Local government	Governor	1/1/2017
<b>Interstate Oil Compact Commission</b> (Natural Resources and Conservation) Mr. Jim Halvorson, Billings Qualifications (if required): Associate Official Representative	Governor	1/1/2017
<b>Judicial Nomination Commission</b> (Judicial Branch) Sen. Lane Larson, Billings Qualifications (if required): lay member	Governor	1/1/2017
Ms. Elizabeth Halverson, Billings Qualifications (if required): not listed	Supreme Court	1/1/2017
<b>Land Information Advisory Council</b> (State Library) Rep. Mike Kadas, Missoula Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Tracy Stone-Manning, Missoula Qualifications (if required): Agency Representative	Governor	1/1/2017
Director Jeff Hagener, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Land Information Advisory Council</b> (State Library) cont.                      Director Mike Tooley, Helena                      Qualifications (if required): Agency Representative</p>	Governor	1/1/2017
<p><b>Livestock Loss Board</b> (Livestock)                      Mr. James Cross, Kalispell                      Qualifications (if required): Wildlife Conservation</p>	Governor	1/1/2017
<p>Mrs. Whitney Klasna, Lambert                      Qualifications (if required): Public Representative with experience in Livestock</p>	Governor	1/1/2017
<p>Mr. Seth Wilson, Missoula                      Qualifications (if required): Wildlife Conservation</p>	Governor	1/1/2017
<p><b>Montana Arts Council</b> (Montana Arts Council)                      Ms. Cynthia Andrus, Bozeman                      Qualifications (if required): public representative</p>	Governor	2/1/2017
<p>Rabbi Allen Secher, Whitefish                      Qualifications (if required): public representative</p>	Governor	2/1/2017
<p>Mr. J.P. Gabriel, Bozeman                      Qualifications (if required): public representative</p>	Governor	2/1/2017
<p>Ms. Judy Ulrich, Dillon                      Qualifications (if required): public representative</p>	Governor	2/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Arts Council</b> (Montana Arts Council) cont. Ms. Tracy Linder, Molt Qualifications (if required): Public Representative	Governor	2/1/2017
Ms. Jane Waggoner Deschner, Billings Qualifications (if required): public representative	Governor	2/1/2017
<b>Montana Council on Developmental Disabilities</b> (Commerce) Ms. Diana Tavary, Helena Qualifications (if required): Advocacy Organization	Governor	1/1/2017
Ms. Erin Butts, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Kimm Evermann, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Jeff Sturm, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Rep. Robyn Driscoll, Billings Qualifications (if required): Legislator	Governor	1/1/2017
Mr. Shawn Parker, Box Elder Qualifications (if required): Primary Consumer	Governor	1/1/2017
Rep. Clarena M. Brockie, Harlem Qualifications (if required): Legislator	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Council on Developmental Disabilities</b> (Commerce) cont. Mr. Don Berryman, Anaconda Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Rep. Edith McClafferty, Butte Qualifications (if required): State Legislator	Governor	1/1/2017
Ms. Debra Ekblom, Boulder Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mr. Isaiah Devereaux, Glasgow Qualifications (if required): Primary Consumer	Governor	1/1/2017
Ms. Marla Swanby, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Jim Marks, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Marty Blair, Missoula Qualifications (if required): University Program Representative	Governor	1/1/2017
Mr. Bob DeJardins, Dillon Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mr. Jacob Harrison, Helena Qualifications (if required): Primary Consumer	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Council on Developmental Disabilities</b> (Commerce) cont. Ms. Denise Higgins, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Matt Kuntz, Helena Qualifications (if required): representing an advocacy organization	Governor	1/1/2017
Ms. Charlene Carley Lefthand-Irvine, Polson Qualifications (if required): Primary Consumer	Governor	1/1/2017
Ms. Virgeana Brown, Belgrade Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mr. Blake Reese, Columbia Falls Qualifications (if required): Primary Consumer	Governor	1/1/2017
Ms. Nanette Whiteman-Holmes, Helena Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mrs. Shiree Lyons, Great Falls Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Ms. Rebecca DeCamera, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Trenton Butler, Big Sandy Qualifications (if required): primary Consumer	Governor	1/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Facility Finance Authority</b> (Commerce) Mr. James W. (Bill) Kearns, Townsend Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Jon Marchi, Polson Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Larry Putnam, Helena Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Richard C. King, Missoula Qualifications (if required): Public Representative	Governor	1/1/2017
<b>Montana Small Business Development Center Advisory Council</b> (Commerce) Ms. Kathie Bailey, Lewistown Qualifications (if required): Small Business Owner	Director	1/1/2017
Mr. Jim Atchison, Colstrip Qualifications (if required): Economic Developer	Director	1/1/2017
Mr. John Cech, Billings Qualifications (if required): Educator	Director	1/1/2017
Ms. Linda Kindrick, Clancy Qualifications (if required): Economic Developer	Director	1/1/2017
Mr. Kevin Keeler, Helena Qualifications (if required): Small Business Owner	Director	1/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Small Business Development Center Advisory Council</b> (Commerce) cont. Mr. Dave Glaser, Missoula Qualifications (if required): Economic Developer	Director	1/1/2017
Ms. Carol Cunningham, Polson Qualifications (if required): Economic Developer	Director	1/1/2017
Rep. Patricia Rae Peppers, Lame Deer Qualifications (if required): Small Business Owner	Director	1/1/2017
Mr. Paddy Fleming, Bozeman Qualifications (if required): Economic Developer	Director	1/1/2017
<b>Off-Highway Vehicle Advisory Committee (OHVAC)</b> (Fish, Wildlife and Parks) Ms. Christina Miller, Billings Qualifications (if required): Agency Advisor	Director	3/1/2017
Mr. Russ Ehnes, Great Falls Qualifications (if required): none specified	Director	3/1/2017
Mr. Mark Klemencic, Great Falls Qualifications (if required): none specified	Director	3/1/2017
Ms. Jody Loomis, Helena Qualifications (if required): none specified	Director	3/1/2017
Ms. Jennifer Schofield, East Helena Qualifications (if required): none specified	Director	3/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Off-Highway Vehicle Advisory Committee (OHVAC)</b> (Fish, Wildlife and Parks) cont. Ms. Charlotte Snyder, Helena Qualifications (if required): none specified	Director	3/1/2017
Ms. Erin Proctor, Helena Qualifications (if required): none specified	Director	3/1/2017
<b>Pacific Northwest Economic Region</b> (Commerce) Ms. Diane Smith, Whitefish Qualifications (if required): Governor's Designee	Governor	1/1/2017
<b>Phillips County Transportation Improvement Authority</b> (Local Government) Mr. Duane Murray, Malta Qualifications (if required): Public Representative	Governor	1/1/2017
<b>Potato Commodity Advisory Committee</b> (Agriculture) Mr. Dan Lake, Ronan Qualifications (if required): Potato Producer	Director	3/1/2017
Mr. Dave Cottom, Dillon Qualifications (if required): Potato Producer	Director	3/1/2017
<b>Public Safety Officer Standards and Training Council (POST Council)</b> (Justice) Mr. Mike Batista, Helena Qualifications (if required): Department of Corrections Representative	Governor	1/1/2017
Sheriff Tony Harbaugh, Miles City Qualifications (if required): Sheriff	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Public Safety Officer Standards and Training Council (POST Council)</b> (Justice) cont. Mr. John Strandell, Helena Qualifications (if required): State Government Law Enforcement Representative	Governor	1/1/2017
Mr. William J. "Bill" LaBrie, Whitefish Qualifications (if required): Board of Crime Control Representative	Governor	1/1/2017
Ms. Kim Burdick, Fort Benton Qualifications (if required): Public Representative	Governor	1/1/2017
Mrs. Laurel Bulson, Helena Qualifications (if required): Detention Center Representative	Governor	1/1/2017
Mr. Jim Thomas, Canyon Creek Qualifications (if required): Public Representative	Governor	1/1/2017
<b>Rail Service Competition Council</b> (Transportation) Mr. Todd O'Hair, Helena Qualifications (if required): Knowledge of Coal Industry Transportation	Governor	1/1/2017
Mr. Michael V. O'Hara, Fort Benton Qualifications (if required): Knowledge of Farm Commodity Transportation	Governor	1/1/2017
Mr. Jerry Jimison, Glendive Qualifications (if required): Knowledge of Class I Railroads	Governor	1/1/2017
Commissioner Tony Berget, Libby Qualifications (if required): Knowledge of Mineral Industry Transportation	Governor	1/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Rangeland Resources Committee</b> (Natural Resources and Conservation)            Mr. John Hollenback, Gold Creek            Qualifications (if required): Cattle Producer/Rancher West of the Divide</p>	Governor	1/1/2017
<p>Mr. Les Gilman, Alder            Qualifications (if required): Cattle Producer/Rancher Western Montana</p>	Governor	1/1/2017
<p>Mr. Steve Hedstrom, Raynesford            Qualifications (if required): Cattle Producer/Rancher Central Montana</p>	Governor	1/1/2017
<p>Ms. Diane Ahlgren, Winnett            Qualifications (if required): Cattle Producer/Rancher Eastern Montana</p>	Governor	1/1/2017
<p>Mr. Noel Keogh, Nye            Qualifications (if required): Cattle Producer/Rancher Southern Montana</p>	Governor	1/1/2017
<p>Ms. Connie Iversen, Culbertson            Qualifications (if required): Cattle Producer/Rancher Northern Montana</p>	Governor	1/1/2017
<p><b>Snowmobile Advisory Committee (SAC)</b> (Fish, Wildlife and Parks)            Ms. Christina Miller, Billings            Qualifications (if required): Agency Advisor</p>	Director	3/1/2017
<p>Mr. Wes Fehrer, Bozeman            Qualifications (if required): none specified</p>	Director	3/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Snowmobile Advisory Committee (SAC)</b> (Fish, Wildlife and Parks) cont. Ms. Racene Friede, Missoula Qualifications (if required): none specified	Director	3/1/2017
Mr. Scott Herzog, Great Falls Qualifications (if required): none specified	Director	3/1/2017
Mr. Jason Howell, West Yellowstone Qualifications (if required): none specified	Director	3/1/2017
Mr. Don Phillips, Missoula Qualifications (if required): none specified	Director	3/1/2017
Mr. Nate Gassman, Libby Qualifications (if required): none specified	Director	3/1/2017
Mr. Seth McArthur, Helena Qualifications (if required): Agency Advisor	Director	3/1/2017
<b>State Emergency Response Commission</b> (Military Affairs) Ms. Siri Smillie, Helena Qualifications (if required): Governor's Office Representative	Governor	1/1/2017
<b>State Employee Charitable Giving Campaign Advisory Council</b> (Administration) Ms. Jessica Barnes, Helena Qualifications (if required): Employee representative	Governor	3/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Employee Charitable Giving Campaign Advisory Council</b> (Administration) cont. Mr. Matthew Dale, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Ms. Marcia Armstrong, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Mr. Gary Owen, Great Falls Qualifications (if required): Federation Representative	Director	3/1/2017
Ms. Pamela Carlson, Helena Qualifications (if required): Federation Representative	Director	3/1/2017
Ms. Kristen Wrzensinski, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Ms. Gloria Soja, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Mr. Bill Crane, Helena Qualifications (if required): Federation Representative	Director	3/1/2017
Ms. Shelley Clinch, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Ms Diane Larson, Helena Qualifications (if required): Employee Representative	Director	3/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Employee Charitable Giving Campaign Advisory Council</b> (Administration) cont. Mr. Mike Manion, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Mr. Frank Clinch, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
Ms. Hope Stockwell, Helena Qualifications (if required): Employee Representative	Director	3/1/2017
<b>State Lottery Commission</b> (Administration) Mr. Frank DiFonzo, Sidney Qualifications (if required): Law Enforcement	Governor	1/1/2017
Mr. Wilbur Rehmann, Helena Qualifications (if required): Public Representative	Governor	1/1/2017
<b>State Parks and Recreation Board</b> (Fish, Wildlife and Parks) Ms. Diane Conradi, Whitefish Qualifications (if required): District 1	Governor	1/1/2017
Mr. Jeff Welch, Livingston Qualifications (if required): District 2	Governor	1/1/2017
Mr. Douglas Smith, Plentywood Qualifications (if required): District 4	Governor	1/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Tax Appeals Board</b> (Administration) Ms. Samantha Sanchez, Helena Qualifications (if required): public representative	Governor	1/1/2017
<b>State Trails Advisory Committee (STAC)</b> (Fish, Wildlife and Parks) Mr. William Parker, Malta Qualifications (if required): none specified	Director	1/1/2017
Mr. Michael J. Dailey, Glasgow Qualifications (if required): none specified	Director	1/1/2017
Mr. Garry Edson, Bozeman Qualifications (if required): none specified	Director	1/1/2017
Mr. Thomas Kilmer, Helena Qualifications (if required): none specified	Director	1/1/2017
Mr. Frank LaLiberty, Cascade Qualifications (if required): none specified	Director	1/1/2017
Ms. Katie Morrison, Big Sky Qualifications (if required): none specified	Director	1/1/2017
Mr. Dick Owenby, Dillon Qualifications (if required): none specified	Director	1/1/2017
Mr. Mark Reinsel, Missoula Qualifications (if required): none specified	Director	1/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Trails Advisory Committee (STAC)</b> (Fish, Wildlife and Parks) cont. Mr. Larry Skiles, Dillon Qualifications (if required): none specified	Director	1/1/2017
Mr. Dan Thompson, Victor Qualifications (if required): none specified	Director	1/1/2017
Ms. Betsy Miller, Helena Qualifications (if required): none specified	Director	1/1/2017
Ms. Christina Miller, Billings Qualifications (if required): none specified	Director	1/1/2017
Mr. Tom Reilly, Helena Qualifications (if required): none specified	Director	1/1/2017
Ms. Beth R. Shumate, Helena Qualifications (if required): none specified	Director	1/1/2017
Mr. Alan Woodmansey, Helena Qualifications (if required): none specified	Director	1/1/2017
Ms. Angie Zanin, Helena Qualifications (if required): none specified	Director	1/1/2017
<b>State Workforce Innovation Board</b> (Labor and Industry) Director Richard Opper, Helena Qualifications (if required): Director of Department of Public Health and Human Services	Governor	1/1/2017

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Workforce Innovation Board</b> (Labor and Industry) cont. Ms. Meg O'Leary, Big Sky Qualifications (if required): Director of Department of Commerce	Governor	1/1/2017
Mr. John Rogers, Helena Qualifications (if required): Governor's Office Representative	Governor	1/1/2017
Commissioner Pam Bucy, Helena Qualifications (if required): Labor and Industry Commissioner	Governor	1/1/2017
<b>Transportation Commission</b> (Transportation) Ms. Barb Skelton, Billings Qualifications (if required): District 5 Representative	Governor	1/1/2017
Sen. John Cobb, Augusta Qualifications (if required): District 3 Representative	Governor	1/1/2017
Mr. Rick Griffith, Butte Qualifications (if required): District 2 Representative	Governor	1/1/2017
<b>Traumatic Brain Injury Advisory Council</b> (Public Health and Human Services) Ms. Kathy Smith, Great Falls Qualifications (if required): Advocate for Brain-Injured Persons	Governor	1/1/2017
Ms. Melveena Malatare, Browning Qualifications (if required): Advocate for Brain-Injured Persons	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Traumatic Brain Injury Advisory Council</b> (Public Health and Human Services) cont.                      Dr. Ruth Ross, Missoula                      Qualifications (if required): Advocates for brain-injured persons</p>	Governor	1/1/2017
<p><b>Water Pollution Control Advisory Council</b> (Environmental Quality)                      Dr. Debra Bucklin Sanchez, Helena                      Qualifications (if required): Licensed Professional Engineer with Experience in Sanitary Engineering</p>	Governor	1/1/2017
<p>Mr. Mitchell Leu, Columbia Falls                      Qualifications (if required): Organic Waste Disposal Industry Representative</p>	Governor	1/1/2017
<p>Mr. Dudley L. Tyler, Livingston                      Qualifications (if required): Realtor Representative</p>	Governor	1/1/2017
<p>Mr. Earl Salley, Great Falls                      Qualifications (if required): Inorganic Waste Disposal Industry Representative</p>	Governor	1/1/2017
<p>Mr. Michael Wendland, Rudyard                      Qualifications (if required): Production Agriculture</p>	Governor	1/1/2017
<p>Mr. Trevor Selch, Helena                      Qualifications (if required): Fisheries Biologist</p>	Governor	1/1/2017
<p>Mr. Keith Smith, Hamilton                      Qualifications (if required): Public Works Director</p>	Governor	1/1/2017
<p>Mr. Norris "Mack" Cole, Forsyth                      Qualifications (if required): Irrigated Agriculture</p>	Governor	1/1/2017

**VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 2017 THROUGH MARCH 31, 2017**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Water Pollution Control Advisory Council</b> (Environmental Quality) cont. Ms. Barbara Hall, Missoula Qualifications (if required): Conservation Organization	Governor	1/1/2017
Ms. Stevie Newman, Vaughn Qualifications (if required): Supervisor for a Soil and Water Conservation District	Governor	1/1/2017
<b>Western Interstate Energy Board</b> (Governor) Mr. Andy Poole, Helena Qualifications (if required): Alternate Board Member	Governor	1/1/2017
Mr. Jeff Blend, Helena Qualifications (if required): Board Member	Governor	1/1/2017
Mr. Craig Jones, Helena Qualifications (if required): Alternate Montana Representative	Governor	1/1/2017