

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 7

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE MONTANA LOTTERY COMMISSION
DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.63.1201 pertaining to prizes) AMENDMENT
)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On May 26, 2017, the State Lottery Commission proposes to amend the above-stated rule.

2. The State Lottery Commission 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, please contact the State Lottery Commission no later than 5:00 p.m. on May 5, 2017, to advise us of the nature of the accommodation that you need. Please contact Denise Blankenship, State Lottery, 2525 North Montana Avenue, P.O. Box 200544, Helena, Montana 59601; telephone (406) 444-5801; fax (406) 444-5830; TDD/Montana Relay Service (406) 444-9642; or by e-mail at dblankenship@mt.gov.

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

2.63.1201 PRIZES (1) Winning tickets will be redeemed:
(a) by any retailer for tickets ~~valued up to~~ less than \$600; or
(b) if the ticket value is ~~greater than~~ \$600 or more, by presenting the ticket, and a claim form, and valid, unexpired photo identification to the lottery, either by mail or in person. Playslip and sales receipt may not be used to claim a prize. Acceptable types of identification include an original or copy of:
(i) driver license;
(ii) government-issued identification card;
(iii) military identification card;
(iv) passport;
(v) permanent resident card;
(vi) Department of Veterans Affairs medical benefits card; and
(vii) tribal government-issued identification card.
(2) through (14) remain the same.
~~(15) A valid, unexpired photo identification is required to claim Montana lottery prizes. Acceptable types of identification include:~~
~~(a) driver license;~~
~~(b) government-issued identification card;~~
~~(c) military identification card;~~
~~(d) passport;~~

- ~~(e) permanent resident card;~~
- ~~(f) Department of Veterans Affairs medical benefits card; and~~
- ~~(g) tribal government-issued identification card.~~

AUTH: 23-7-202, MCA
IMP: 23-7-202, 23-7-211, MCA

STATEMENT OF REASONABLE NECESSITY: The amendment to (1) clarifies when a photo identification is required from the public. The current rule can be interpreted as all winners must provide a photo identification to collect any prize regardless of the amount. The proposed change clarifies that a photo identification is only required for prizes that are valued at \$600 or more. This change is in line with the best practices of the industry in the United States. No financial impact to business owners in Montana will result from these changes.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Bryan Costigan, Security Director for the Montana Lottery, at 2525 North Montana Avenue, Helena, Montana 59601; telephone number (406) 444-5804; fax (406) 444-5830; or by e-mail to BCostigan@mt.gov; and must be received no later than 5:00 p.m. on May 12, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bryan Costigan at the above address no later than 5:00 p.m. on May 12, 2017.

6. If the commission receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed actions; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 95 persons based on the 950 licensed lottery retailers in the state.

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

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

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

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

By: /s/ Wilbur Rehmann
Wilbur Rehmann, Chair
Montana Lottery Commission

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

Certified to the Secretary of State April 3, 2017.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 10.64.301 pertaining to school) PROPOSED AMENDMENT
bus requirements)

TO: All Concerned Persons

1. On May 9, 2017, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Superintendent’s conference room at 1227 11th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on May 2, 2017, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

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

10.64.301 SCHOOL BUS REQUIREMENTS (1) The Board of Public Education adopts and incorporates the Standards for School Buses in Montana - ~~2012~~ 2017. A copy of this document is available from the Office of Public Instruction, Pupil Transportation Division, P.O. Box 202501, Helena, Montana 59620-2501 and is available at the following web address:
<http://www.opi.mt.gov/pdf/PupilTransport/12ProposedBusStandards.pdf>
http://opi.mt.gov/pdf/PupilTransport/17BusStandards_Proposed.pdf.

(2) The Board of Public Education adopts standards for school buses in Montana in part from the National School Transportation Specifications and Procedures, as adopted in ~~2010~~ 2015 by the ~~Fifteenth~~ Sixteenth National Congress on School Transportation (NCST). The NCST occasionally issues an interpretation on its adopted specifications and procedures. Any interpretation adopted by the NCST shall be the official interpretation of the corresponding Montana standard unless that interpretation is specifically redefined or preempted by a corresponding Montana standard, law, or regulation. The National School Transportation Specifications and Procedures and additional information regarding the NCST are available at www.NCSTOnline.org.

AUTH: 20-2-121, MCA
IMP: 20-10-111, MCA

4. REASON: The Board of Public Education must prescribe minimum standards consistent with the recommendations adopted by the National Congress on School Transportation (NCST). The NCST has revised and adopted specifications and procedures for school buses. It is necessary for the BPE to amend ARM 10.64.301 to update the Standards for School Buses in Montana to be consistent with the 2015 National School Transportation Specifications and Procedures. The Montana Pupil Transportation Advisory Council and OPI staff conducted a comprehensive review of the 2012 Standards for School Buses in Montana. The revised version, Standards for School Buses in Montana - 2017, also needs to be incorporated into the rules.

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: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., May 12, 2017.

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

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of 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, do not apply.

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

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

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

Certified to the Secretary of State April 3, 2017.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING
17.30.660 pertaining to nutrient)	ON PROPOSED AMENDMENT
standard variances)	
)	(WATER QUALITY)

TO: All Concerned Persons

1. On May 31, 2017, at 9:00 a.m., 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 rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Myla Kelly no later than 5:00 p.m., May 24, 2017, to advise us of the nature of the accommodation that you need. Please contact Myla Kelly at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-3639; fax (406) 444-4386; or e-mail MKelly2@mt.gov.

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

17.30.660 NUTRIENT STANDARDS VARIANCES (1) A person may apply to the department for a nutrient standards variance at any time following the board's adoption of base numeric nutrient standards. In addition to this rule, variances are subject to the procedures and requirements contained in Department Circular DEQ-12B (~~July 2014~~ June 2017 edition).

(2) An application for a general variance must provide information demonstrating that the wastewater treatment facility meets the requirements of Department Circular DEQ-12B (~~July 2014~~ June 2017 edition). The decision to grant the general variance must be reflected in the permit that is made available for public comment.

(3) remains the same.

(4) The department may approve the adoption of an individual variance that specifies interim effluent limits different from those contained in general variance limits contained in Department Circular DEQ-12B (~~July 2014~~ June 2017 edition), if water quality modeling demonstrates that greater emphasis on the reduction of one nutrient may achieve similar water quality and biological improvements as would the equal reduction of both nitrogen and phosphorus. The variance must provide effluent limits that reflect the lowest effluent concentration that is feasible based on achieving the highest attainable condition for the receiving water. A person shall submit the proposed effluent limits and supporting data in an application for an individual nutrient variance under (3). A person who has an individual variance with

effluent limits that are based on this section shall, in each subsequent triennial review of those limits conducted pursuant to 75-5-313(7), MCA, collect and submit water quality data to demonstrate whether the biological status of the receiving water continues to justify those effluent limits.

(5) through (7) remain the same.

(8) The department adopts and incorporates by reference Department Circular DEQ-12B, entitled "Nutrient Standards Variances" (~~July 2014~~ June 2017 edition), which provides procedures and requirements for nutrient standards variances. Copies of Department Circular DEQ-12B are available at the Department of Environmental Quality, 1520 East 6th Avenue, P.O. Box 200901, Helena, MT 59620-0901.

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

IMP: 75-5-313, MCA

REASON: Department Circular DEQ-12B contains details on how to implement variances from base numeric nutrient standards, and the current version of the circular expires on July 1, 2017. Section 75-5-313(7), MCA, requires the department to revisit and update key aspects of Circular DEQ-12B every three years. The department is proposing to modify Department Circular DEQ-12B itself in several important aspects. Those modifications are explained below. The proposed rule amendments would incorporate by reference the updated version of Circular DEQ-12B (June 2017).

Changes applicable to both general and individual variances: The proposed circular would include detailed instructions on how variances for permittees in two discharger categories (≥ 1 MGD, < 1 MGD) are to be permitted. Specifically, a fixed coefficient of variation (CV; that is, the standard deviation/mean) of 0.6 would be used when deriving a permittee's average monthly permit limit. Currently, the department uses a variable CV computed from samples collected over the past few years from a permittee's discharge. Analysis revealed that the current approach may lead to future permit limits with an increasing likelihood of non-compliance, even though the permittee's discharge concentrations are in fact lower (i.e., better) because the CV of effluent nutrient samples is likely to increase as lower nutrient concentrations are achieved. The proposed change should alleviate the problem because it would institute a CV that is realistic for the point in time in the future when permittees achieve low nutrient concentrations in their effluent.

Changes applicable to general variances: The circular contains Table 12B-1, which presents the nutrient concentrations a permittee receiving a general variance is required to achieve as a monthly average, end-of-pipe. The total nitrogen and phosphorus concentrations in the July 2014 version of the circular came from 75-5-313(5)(b), MCA. This statute required the department to adopt the concentrations by May 2016 and revisit and update them every 3 years. This is the department's first review of the treatment requirements in Table 12B-1. In August 2015, the U.S. Environmental Protection Agency modified its regulations regarding variances. One of the most important changes to the federal rules was that a "highest attainable condition" (HAC) must now be identified when a variance is granted. Montana's nutrient variances are based on economic impact considerations, so in order to

comply with federal requirements, the requirements in Section 2.0 and Table 12B-1 of Circular DEQ-12B must reflect the HAC. The department and the nutrient work group evaluated a considerable amount of cost, economic, and other technical material in order to determine what the HAC might be for each discharger group. The concentrations shown in the proposed June 2017 version of the circular reflect those findings. The proposed concentrations are, for permittees that discharge ≥ 1 MGD, 300 $\mu\text{g/L}$ for total phosphorus and 6,000 $\mu\text{g/L}$ for total nitrogen. For permittees that discharge < 1 MGD, the proposed concentrations are 1,000 $\mu\text{g/L}$ for total phosphorus and 10,000 $\mu\text{g/L}$ for total nitrogen. No change is proposed for lagoons. The rationale for these numbers is contained in a technical support document entitled "First Triennial Review of Base Numeric Nutrient Standards and Variances." A copy of this document is available as described in paragraph 5 in this notice.

If the proposed (June 2017) edition of Circular DEQ-12B is adopted, there will be a change in the way permitting is undertaken in the ≥ 1 MGD and < 1 MGD discharge categories when a facility's discharge is better (i.e., at lower concentrations) than the concentrations in the updated Table 12B-1. Prior to the adoption of nutrient standards and variances in 2014, there were a number of permittees in these two discharger categories whose effluent quality was better than the concentrations now in Table 12B-1. Since most of them were able to achieve those concentrations before the nutrient standards were adopted, and presumably without incurring substantial and widespread economic harm, the department has been establishing their general variance permit limits at their existing discharge quality. With this triennial review, the treatment levels in Table 12B-1 now reflect the category HACs, established at Montana-specific acceptable economic thresholds. Therefore, going forward, for permittees whose effluent concentrations were, before July 1, 2017, lower than the concentrations in Table 12B-1, the general variance would be based on the actual total N and/or total P concentrations of their effluent. For permittees who, after July 1, 2017, attain or do better than the Table 12B-1 values, the Table 12B-1 values would be the permit limits. The HAC analysis utilized site specific engineering data and represents performance levels that reflect current technology. It is also presumed that as influent loading increases, effluent quality may be more variable and less certain at concentration levels less than HAC values.

For those permittees who are not in compliance with the concentrations in Table 12B-1, the modified circular also contains a list of nine steps, which are contained in proposed Table 12B-2, that are designed to bring the permittee into compliance with the concentrations. The proposed circular would require the department in the discharge permit to require completion of the steps that the department deems necessary for the permittee to achieve the concentrations and to establish a schedule for their completion.

Another significant change to the circular, in order to comply with the new federal rules, is the requirement for permittees to include a pollutant minimization program (PMP). This program is to be submitted by a permittee at the time the permittee achieves the HAC (that is, when the permittee actually achieves the concentrations in Table 12B-1). The time it will take different permittees to achieve the concentrations in Table 12B-1 is expected to vary. Through the permitting

process and the specific details of each facility, the time required would generally be as short as possible. But when a permittee does achieve the concentrations in Table 12B-1, the permittee would be required to submit to the department a PMP plan, which is a structured set of activities to improve processes and pollutant controls that will prevent and reduce pollutant loadings. A PMP might, for example, be working with an upstream nonpoint agriculture source to implement best management practices to reduce nutrient runoff from their fields.

Finally, the department is proposing to add to the circular language indicating that if the general variance for one category of dischargers is invalidated by a court or disapproved by EPA, the general variance for the other categories remains in effect. This is proposed in order to provide that general variances that have not been disapproved will not be affected by disapproval of the variance for another category.

Changes applicable to individual variances: By going through the process of applying for an individual variance, a permittee will have identified a treatment level that is the highest attainable condition, tailored to their specific economic and social situation. Whether the permittee will achieve the HAC in the near term (e.g., within the next permit cycle) or beyond will depend on various factors; these factors will be documented in the variance and the permit. As part of individual variance, the permittee will have to identify the time it will take to achieve the HAC; this requirement is reflected in the proposed modified circular. When the permittee does achieve the HAC, the permittee would be required to submit a PMP (as permittees under the general variance are required to do). This requirement is reflected in the proposed amended circular.

4. As stated above, the proposed modified DEQ Circular-12B contains modified numeric concentrations and a fixed numeric coefficient of variation for deriving a permittee's average monthly permit limit. While the department is generally requesting comments on every proposed modification to the circular, the department is specifically requesting comment on whether these numbers should be lower or higher.

5. A copy of proposed Department Circular DEQ-12B (June 2017) and the technical support document entitled "First Triennial Review of Base Numeric Nutrient Standards and Variances" may be viewed at the department's website using the following path: <http://deq.mt.gov/Water/WQINFO/nutrientworkgroup>. Copies may also be obtained by calling Myla Kelly at (406) 444-3639 or e-mailing her at MKelly2@mt.gov.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Denise Hartman, Administrative Rules 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 dhartman2@mt.gov, no later than 5:00 p.m., May 12, 2017. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies 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 supplies; 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 Denise Hartman, Administrative Rules Coordinator, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Denise Hartman at dhartman2@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

8. Kurt Moser, attorney for the department, has been designated to preside over and conduct the hearing.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will significantly and directly impact small businesses.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North

JOHN F. NORTH
Rule Reviewer

BY: /s/ Tom Livers

TOM LIVERS
Director

Certified to the Secretary of State, April 3, 2017.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.29.1433, 24.29.1534, and) PROPOSED AMENDMENT
24.29.1538 pertaining to workers')
compensation facility service rules)
and rates and conversion factors)

TO: All Concerned Persons

1. On May 5, 2017, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in conference rooms A and B of the Beck Building, 1805 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on April 28, 2017, to advise us of the nature of the accommodation that you need. Please contact Maralyn Lytle, Employment Relations Division, P.O. Box 8011, Helena, Montana 59604-8011; telephone (406) 444-6604; facsimile (406) 444-4140; Montana TTD (406) 444-5549; or e-mail mlytle@mt.gov.

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

24.29.1433 FACILITY SERVICE RULES AND RATES FOR SERVICES PROVIDED ON OR AFTER JULY 1, 2013 (1) The department adopts the fee schedules provided by this rule to determine the reimbursement for medical services provided by a facility when a person is discharged on or after July 1, 2013. An insurer is obligated to pay the fee provided by the fee schedules for a service, even if the billed charge is less, unless the facility and insurer have a managed care organization (MCO) or preferred provider organization (PPO) arrangement that provides for a different payment amount. The fee schedules are available online at the Employment Relations Division web site and are updated as soon as is reasonably feasible relative to the effective dates of the medical codes as described below. The fee schedules are comprised of the elements listed in 39-71-704, MCA, and the following:

(a) and (b) remain the same.

(c) The base rates and conversion formulas established by the department:

(i) and (ii) remain the same.

(iii) The "Montana Workers' Compensation Facility Fee Schedule Instruction Set Effective July 1, 2015," for services provided from July 1, 2015, through June 30, 2016; ~~and~~

(iv) The "Montana Workers' Compensation Facility Fee Schedule Instruction Set Effective July 1, 2016," for services provided from July 1, 2016, through June 30, 2017; and

(v) The "Montana Workers' Compensation Facility Fee Schedule Instruction Set Effective July 1, 2017."

(2) through (5) remain the same.

(6) DME, prosthetics, and orthotics, excluding implantables, will be paid according to the professional fee schedule pursuant to ARM 24.29.1534 or, if no reimbursement value, ARM 24.29.1523.

(7) through (10) remain the same.

(11) The following applies to inpatient services provided at an acute care hospital:

(a) The department may establish the base rate annually.

(i) through (iii) remain the same.

(iv) Effective July 1, 2016, through June 30, 2017, the base rate is \$8,120.

(v) Effective July 1, 2017, the base rate is \$8,201.

(b) Payments for inpatient acute care hospital services must be calculated using the base rate multiplied by the Montana MS-DRG weight. For example, if the MS-DRG weight is 0.5, the amount payable is ~~\$4,060~~ \$4,100.50, which is the base rate of ~~\$8,120~~ \$8,201 multiplied by 0.5.

(c) through (g) remain the same.

(12) The following applies to outpatient services provided at an acute care hospital or an ASC:

(a) The annual department-set base rate for outpatient service at acute care hospitals is:

(i) and (ii) remain the same.

(iii) \$111, from July 1, 2015, through June 30, 2016; ~~and~~

(iv) \$111, ~~on or after~~ from July 1, 2016, through June 30, 2017; and

(v) \$114, on or after July 1, 2017.

(b) The annual department-set base rate for ASCs, which is 75 percent of the hospital outpatient base rate, is:

(i) and (ii) remain the same.

(iii) \$83, from July 1, 2015, through June 30, 2016; ~~and~~

(iv) \$83, ~~on or after~~ from July 1, 2016, through June 30, 2017; and

(v) \$86, on or after July 1, 2017.

(c) through (g) remain the same.

AUTH: 39-71-203, MCA

IMP: 39-71-704, MCA

REASON: Because the department is required by 39-71-704(2), MCA, to annually establish a schedule of fees for medical services provided to injured workers, subject to various statutory requirements, there is reasonable necessity to amend ARM 24.29.1433. In addition, there is reasonable necessity to update the instruction set as part of the annual update.

24.29.1534 PROFESSIONAL FEE SCHEDULE FOR SERVICES PROVIDED ON OR AFTER JULY 1, 2013

(1) The department adopts the professional fee schedule provided by this rule to determine the reimbursement amounts for medical services provided by a professional provider at a nonfacility or facility furnished on or after July 1, 2013. An insurer must pay the fee schedule or the billed charge, whichever is less, for a service provided within the state of Montana. The fee schedules are available online at the Employment Relations Division web site and are updated as soon as is reasonably feasible relative to the effective dates of the medical codes as described below. The fee schedules are comprised of the elements listed in 39-71-704, MCA, and the following:

(a) the instruction set for the fee schedule as adopted in this subsection. All the definitions, guidelines, RVUs, procedure codes, modifiers, and other explanations provided in the ~~instructions~~ instruction set affecting the determination of individual fees apply. A copy of the instruction set may also be obtained at no charge from the Montana Department of Labor and Industry, P.O. Box 8011, Helena, Montana 59604-8011;

(i) and (ii) remain the same.

(iii) The "Montana Workers' Compensation Professional Fee Schedule Instruction Set Effective July 1, 2015" applies to services provided from July 1, 2015, through June 30, 2016; ~~and~~

(iv) The "Montana Workers' Compensation Professional Fee Schedule Instruction Set Effective July 1, 2016" applies to services provided ~~on or after~~ from July 1, 2016, through June 30, 2017; and

(v) The "Montana Workers' Compensation Professional Fee Schedule Instruction Set Effective July 1, 2017" applies to services provided on or after July 1, 2017.

(b) and (c) remain the same.

(d) the Montana unique code, MT001, described in (7); ~~and~~

(e) the Montana unique code, MT003, adopted and described in ARM 24.29.1433; and

(f) the Montana unique code, MT009, for referral to a CRC for on-site job evaluation with the injured worker to assist in returning him/her to work either to his/her time of injury job or a new job/position.

(2) through (10) remain the same.

AUTH: 39-71-203, MCA

IMP: 39-71-704, MCA

REASON: Because the department is required by 39-71-704(2), MCA, to annually establish a schedule of fees for medical services provided to injured workers, subject to various statutory requirements, there is reasonable necessity to amend ARM 24.29.1534. In addition, there is reasonable necessity to update the instruction set as part of the annual update in order to adopt a revised Professional Fee Schedule each year for the purpose of incorporating all annual changes to CPT codes, RBRVS, CCI edits, including medically unnecessary edits (MUE), conversion factors, modifiers, and Montana unique codes.

24.29.1538 CONVERSION FACTORS FOR SERVICES PROVIDED ON OR AFTER JANUARY 1, 2008 (1) remains the same.

(2) The conversion factors established by the department for goods and services, other than anesthesia services are:

(a) through (d) remain the same.

(e) \$61.49 from July 1, 2015, through June 30, 2016; and

(f) ~~\$62.91 on or after~~ from July 1, 2016, through June 30, 2017; and

(g) \$62.92 on or after July 1, 2017.

(3) The conversion factors established by the department for anesthesia services are:

(a) through (e) remain the same.

(f) \$65.63 from July 1, 2015, through June 30, 2016; and

(g) ~~\$63.86 on or after~~ from July 1, 2016, through June 30, 2017; and

(h) \$65.98 on or after July 1, 2017.

(4) and (5) remain the same.

AUTH: 39-71-203, MCA

IMP: 39-71-704, MCA

REASON: Because the department is required by 39-71-704(2), MCA, to annually establish a schedule of fees for medical services provided to injured workers, subject to various statutory requirements, there is reasonable necessity to amend ARM 24.29.1538.

4. Copies of the proposed 2017 publications identified as the proposed "Montana Workers' Compensation Facility Fee Schedule Instruction Set Effective July 1, 2017" and "Montana Workers' Compensation Professional Fee Schedule Instruction Set Effective July 1, 2017" are available and can be accessed at <http://erd.dli.mt.gov/work-comp-claims/medical-regulations>.

5. A printed version of the proposed 2017 publications is also available by contacting Maralyn Lytle at the address, e-mail, or telephone numbers listed in paragraph 2 of this notice.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Maralyn Lytle, Employment Relations Division, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6604; fax (406) 444-4140; Montana TTD (406) 444-5549; or e-mail mlytle@mt.gov, and must be received no later than 5:00 p.m., on May 12, 2017.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of

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

8. An electronic copy of this notice of public hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings Section. The department strives to make the electronic copy of this notice of public hearing conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

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

10. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice do not have a significant and direct impact upon small businesses.

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

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State April 3, 2017.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.101.413 renewal dates and) PROPOSED AMENDMENT,
requirements, 24.117.201 procedural) ADOPTION, AND REPEAL
rules, 24.117.202 public participation)
rules, 24.117.301 definitions,)
24.117.402 fees, 24.117.403)
prohibitions, 24.117.406 general)
licensing requirements, 24.117.409)
bout approval, 24.117.412 fee)
abatement, 24.117.503 promoter,)
24.117.601 contest regulations,)
24.117.702 boxing contestants,)
24.117.703 female contestants,)
24.117.705 managers, 24.117.709)
physical examination, 24.117.710)
ringside health care professional)
requirements, 24.117.802 number)
and duration of rounds, 24.117.803)
down, 24.117.805 fouls, 24.117.806)
appeal of decisions of officials,)
24.117.810 hand wraps, 24.117.811)
official boxing gloves, 24.117.812)
mouthpiece, 24.117.815 ring--)
equipment, 24.117.901 officials)
required, 24.117.903 judges,)
24.117.905 seconds/corners,)
24.117.909 referee, 24.117.2301)
unprofessional conduct, the adoption)
of New Rules I and II department)
representatives, and the repeal of)
ARM 24.117.404 contracts and)
penalties, 24.117.405 medical)
advisor, 24.117.602 tickets,)
24.117.706 elimination-type events,)
24.117.906 inspectors, and)
24.117.907 announcer)

TO: All Concerned Persons

1. On May 5, 2017, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Athletics Program no later than 5:00 p.m., on April 28, 2017, to advise us of the nature of the accommodation that you need. Please contact Derek Sherlock, Athletics Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2383; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdate@mt.gov (program's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2015 Montana Legislature enacted Chapter 437, Laws of 2015 (Senate Bill 401), an act that significantly revised professional boxing laws in Montana and addressed the revenue shortfall that has caused the program to cease functioning. The bill was signed by the Governor on May 5, 2015, and became effective on July 1, 2015. The department is proposing changes throughout the rules to align with and further implement the statutory provisions.

In response to 2015's Senate Bill 401 and following consultation with the boxing community, the department is proposing a substantial number of revisions to the Athletic Program's (program) administrative rules. Some of the proposed amendments are technical in nature, such as substituting current terminology for inaccurate or obsolete verbiage, replacing gender-specific terms with gender-neutral language, and deleting references to kickboxing, semi-professional boxing, and other sports no longer regulated by the program. The changes include substituting "department" or "program" for "board," as 2007's Senate Bill 54 eliminated the Board of Athletics. Other changes reflect a department decision to simplify, streamline, and better organize the provisions within the professional boxing rules.

Accordingly, the department determined it is reasonably necessary to generally amend and repeal certain existing rules, and adopt two new rules at this time. Where additional specific bases for a proposed action exist, the department will identify those reasons immediately following that rule.

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

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

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (4) remain the same.

(5) The following are renewal dates for the professions and occupations listed:

(a) and (b) remain the same.

	BOARD OR PROGRAM JURISDICTION	LICENSE CATEGORY	FREQUENCY	RENEWAL DATE

(c)	Athletics	Boxer, Club	Nonrenewable, must reapply. License expires June 30.	
		Boxer, Professional	Nonrenewable, must reapply. License expires June 30.	
		Boxer, Semi-Professional	Nonrenewable, must reapply. License expires June 30.	
		Cornerperson/Second	Nonrenewable, must reapply. License expires June 30.	
		Judge	Nonrenewable, must reapply. License expires June 30.	
		Kickboxer	Nonrenewable, must reapply. License expires June 30.	
		Knockdown Judge	Nonrenewable, must reapply. License expires June 30.	
		Manager/Trainer	Nonrenewable, must reapply. License expires June 30.	
		Minimum Kicking Requirements Official	Nonrenewable, must reapply. License expires June 30.	
		Promoter/Matchmaker	Nonrenewable, must reapply. License expires June 30.	
	Referee	Nonrenewable, must reapply. License expires June 30.		

		Wrestler, Professional	Nonrenewable, must reapply. License expires June 30.	
		Wrestler, Semi-Professional	Nonrenewable, must reapply. License expires June 30.	

(d) through (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141, MCA

REASON: The department is amending the rule on board and program renewal dates to remove the licensure types that the department no longer regulates.

24.117.201 PROCEDURAL RULES (1) ~~The board of athletics hereby adopts and incorporates the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title~~ apply to procedures of the Athletics Program.

AUTH: ~~2-4-201, 23-3-405~~, MCA

IMP: 2-4-201, MCA

24.117.202 PUBLIC PARTICIPATION RULES (1) ~~The board of athletics hereby~~ Department of Labor and Industry adopts and incorporates by this reference the public participation rules of the Department of Commerce as listed in chapter 2 of this title ARM Title 8.

AUTH: ~~2-3-103, 23-3-405~~, MCA

IMP: 2-3-103, MCA

24.117.301 DEFINITIONS (1) ~~"Amateur" means an individual who has never been a professional boxer or professional wrestler, as defined in this chapter, as well as an individual who has never received nor competed for any purse, either for participating in any boxing contest or exhibition or for the expenses of training.~~

~~(2) (1) "Bout or athletic Boxing event" means any semiprofessional or professional boxing, club boxing, kickboxing or wrestling match, exhibition, bout, contest, show, or tournament.~~

~~(3) (2) "City" means any city, town, village, or county location within the state of Montana.~~

~~(4) (3) "Contestant" means any participant in a semiprofessional or professional boxing, club boxing, kickboxing or wrestling bout or athletic event who receives remuneration directly or indirectly as consideration of their the performance.~~

~~(5) (8) "Club" or "promoter" "Promoter" means any person, club, corporation, association, or organization that conducts a professional boxing event in Montana.~~

~~(6) "Club boxing" is distinct from amateur boxing, professional boxing and elimination-type events and is conducted pursuant to the rules contained in this subchapter.~~

(4) "Department representative" means a person appointed to act on behalf of the department by attending and supervising professional boxing events, and who may be a volunteer.

~~(7) "Kickboxing", "full contact karate" means the use of hands, feet or other striking techniques which are utilized to disable or cause injury to an opponent in a contest, exhibition or performance.~~

~~(8) (5) "Manager" means a person in overall charge of a professional boxer and has the executive function of planning, organizing, coordinating, directing, contracting, and supervising supervision, and results of any scheduling or business activity of a professional boxer and is responsible for the results of such activity.~~

~~(9) "Mud wrestling" is interpreted by the board to include means wrestling in Jell-o, natural dirt and water, polyurethane, synthetic, or other unnatural or foreign substances. This rule is advisory only.~~

~~(10) (7) "Professional boxer" means a person seeking compensation or reward by participating in an athletic a professional boxing event. A person seeking a license as a "professional" must first truthfully execute a sworn affidavit, which establishes his qualifications.~~

~~(11) "Recognized amateur association", for the purposes of 23-3-404, MCA, means the United States Amateur Boxing, Inc.~~

~~(12) remains the same but is renumbered (9).~~

~~(13) (6) "Ringside health care Medical professional" means a licensed physician (M.D. or D.O.), a licensed physician assistant certified, or a licensed advanced practice registered nurse (nurse practitioner, nurse-midwife, nurse anesthetist, or clinical nurse specialist).~~

~~(14) "Semiprofessional" means a person seeking compensation or reward by participating in an athletic event who has not previously competed professionally.~~

AUTH: 23-3-405, MCA

IMP: 23-3-301, 23-3-402, 23-3-404, 23-3-405, MCA

24.117.402 FEES

(1) Promoters	\$500 <u>800</u>
(a) Bonding requirements are in addition to the fee	
(2) <u>Professional</u> boxers/kickboxers	45 <u>200</u>
(3) Wrestlers	45
(4) (3) Referees	45 <u>150</u>
(5) (4) Managers/trainers	45 <u>150</u>
(6) (5) Seconds	45 <u>150</u>
(7) (6) Judges	45 <u>150</u>
(8) Minimum kicking requirement	45
(9) Club boxing promoter	250
(7) Event fee	1500

(10) and (11) remain the same but are renumbered (8) and (9).

AUTH: 23-3-405, 37-1-134, MCA

IMP: 23-3-405, 23-3-501, 37-1-134, 37-1-141, MCA

REASON: The department determined it is reasonably necessary to amend this rule to align with provisions in Senate Bill 401 and set licensure fees to ensure the program's solvency and continued operation. The program has not been self-sufficient for several years and ceased providing services in May 2014. Fees were last increased in 2006.

The department is proposing to increase all fees and establish a new fee to be charged for licensing each professional boxing event. The department is eliminating fees related to wrestling, club boxing, and kickboxing, as these sports are no longer regulated. The department estimates that the proposed fee changes will affect approximately 64 persons and increase annual revenue by \$15,630.

24.117.403 PROHIBITIONS (1) The ~~board~~ department will not sanction and will seek to enjoin the following bouts and athletic events:

(a) and (b) remain the same.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, MCA

24.117.406 GENERAL LICENSING REQUIREMENTS (1) All referees, seconds, managers/trainers, contestants, promoters, and judges must be licensed by the ~~board~~ department.

(2) All licenses ~~end~~ expire on the date set by ARM 24.101.413 and are nonrenewable.

(3) ~~Applications~~ The department must receive applications and fees shall be received by the board prior to or on the date of the athletic event, except for promoter applications, which must be received 30 days prior to a scheduled event.

(a) Application must be made on forms provided by the ~~board~~ department and include a photograph of the applicant or contestant.

(b) All applicants shall be at least 18 years of age as verified by a copy of the applicant's valid driver's license or other evidence of the applicant's date of birth.

(4) Contests staged on federal or tribal land within the state of Montana, shall be governed by such rules and regulations as may be agreed upon between the governing bodies concerned and the ~~Board of Athletics~~ department.

(5) ~~No person shall charge or receive an admission fee for exhibiting within this state a telecast of any bout or athletic event as defined at ARM 24.117.301, held in this state, without a permit issued by the board. Permits are required for simultaneous telecasts, closed circuit telecasts or any transmission of any kind, including but not limited to, transmission via microwave, closed circuit, satellite or fiber optic link.~~

(6) ~~Except in club boxing, all contestants shall submit a certified laboratory report documenting that the contestant has, within 30 days prior to each bout or match in which the contestant is scheduled to appear, been administered an HIV test for the presence of AIDS antibodies and that the results of such test were negative.~~

AUTH: ~~37-1-141~~, 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, ~~23-3-502~~, ~~37-1-141~~, MCA

24.117.409 BOUT/CONTEST APPROVAL (1) ~~The board shall approve all~~ All boxing contests and bouts must be approved by the department. ~~Board decisions are final.~~

(2) ~~The board~~ department or department representative will approve only those bouts:

(a) in which the contestants are fairly matched;

(b) where there are no concerns regarding the safety and welfare of either boxer; and

~~(c) shall consider where the following information and shall approve only those bouts where the information is similar between the boxers and the board has no concerns regarding the safety and welfare of either boxer:~~

~~(a) through (d) remain the same but are renumbered (i) through (iv).~~

(3) ~~The board~~ department shall notify the promoter/~~matchmaker~~ when a boxing bout/contest is approved.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.412 FEE ABATEMENT (1) ~~The Board of Athletics adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry, found at ARM 24.101.301, applies to the Athletics Program.~~

AUTH: ~~37-1-101, 37-1-131, 37-1-134~~, MCA

IMP: 17-2-302, 17-2-303, ~~37-1-101, 37-1-134~~, MCA

24.117.503 PROMOTER (1) ~~Applicants for a promoters license~~ Promoter applicants shall submit a completed application apply on department forms, prescribed by the board accompanied by the appropriate fees, and shall furnish include the following information:

~~(a) names and addresses of three~~ character references from three individuals (excluding relatives, present employer, or employees) ~~who can attest attesting to the applicant's experience~~ character and integrity;

(b) experience verification forms attested to by three references (excluding relatives, present employer, or employees) with knowledge of the applicant's minimum two years' experience in promoting boxing or other relevant combative sports, such as mixed martial arts and wrestling;

~~(b) proof of financial stability by providing a \$5000 surety bond; and~~
~~(c) proof of applicant's familiarity with~~ knowledge of the laws and administrative rules of the board department, as evidenced by attestation on the application; and

(d) attestation on the application of the applicant's knowledge of the responsibilities involved in promoting boxing or other relevant combative sports.

(2) Promoters shall:

- ~~(a) obtain sanction for each athletic event at least 14 days prior to each specific event and before any ticket sales or publicity issuance;~~
- ~~(b) deliver to the board a surety bond in the amount of \$5000, prior to issuance of a promoter's license. The bond shall be forfeited to the board as a penalty bond upon a board finding that the promoter has violated any provision of applicable board statutes or rules;~~
- ~~(c) report on the total number of tickets sold, the total of gross receipts and such other information as prescribed on forms provided by the board, within 24 hours after the conclusion of any live or televised athletic event;~~
 - ~~(i) advance ticket sales must be included in the gross receipts; and~~
 - ~~(ii) complimentary, sponsor, or other gifted tickets must be included in the gross receipts;~~
- ~~(d) announce all substitutions as soon as substitutions are known;~~
- ~~(e) notify the board that an athletic event is to be telecast, televised, or broadcast in any manner, including but not limited to:~~
 - ~~(i) television;~~
 - ~~(ii) radio;~~
 - ~~(iii) any transmission via a cable television system;~~
 - ~~(iv) any transmission via closed circuit or satellite; or~~
 - ~~(v) any other method of limited distribution;~~
- ~~(f) provide the names and weights of all contestants scheduled for an athletic event to the board at least ten days before the event. For club boxing events, preflight notification of names and weights at the board office is not required;~~
- ~~(g) (a) ensure that adequate public safety is maintained;~~
- ~~(h) provide all materials necessary for the athletic event, including ring, steps, stools, water buckets, resin, bell, buzzer or whistle, timer, gloves, gauze, and tape for hand wraps;~~
 - ~~(i) provide adequate, separate dressing room facilities for male and female contestants;~~
 - ~~(j) comply with any and all state or local health rules regarding sanitary conditions of dressing rooms, showers, towels, or other equipment;~~
 - ~~(k) provide for the attendance of a ringside health care professional and compensate the ringside health care professional for such attendance at all athletic events;~~
 - ~~(l) compensate the officials for services rendered at each event in addition to reasonable room and board and mileage, if any;~~
 - ~~(m) respect the authority of the board and its representatives;~~
 - ~~(n) (b) ensure that the rules of the board department are strictly observed and carried out;~~
 - ~~(o) make arrangements to have an ambulance or medical personnel with appropriate resuscitation equipment be continuously present on site for each event;~~
 - ~~(p) provide security guards who either hold a license issued by the state of Montana or are law enforcement officers; and~~
 - ~~(q) (c) provide liability insurance to adequately protect the contestants, officials, and the attending public, and shall furnish proof of such insurance to the board department prior to sanction being granted. Minimum coverages must include:~~

- (i) \$10,000 medical insurance per contestant;
- (ii) \$10,000 life insurance per contestant; and
- (iii) additional liability insurance to adequately protect all officials and the public; and
- (d) pay all purses and other financial obligations immediately following an event.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, ~~23-3-601~~, MCA

24.117.601 CONTEST EVENT LICENSE AND REGULATIONS

~~(1) Smoking will not be permitted at athletic events licensed by the board, except outdoor athletic events. Signs reading "NO SMOKING" shall be displayed in conspicuous places throughout the building where the athletic event is held.~~

(1) Licensed promoters must obtain an event license for each professional boxing event held in Montana.

(2) To obtain an event license, applicants shall submit a completed application on department forms at least 15 days before the event, and pay the license fee per ARM 24.117.402. Applications must document the following:

- (a) event venue, location/address, date, time;
- (b) names and weights of all contestants scheduled for the event; and
- (c) proof of liability insurance to adequately protect contestants, officials, and the attending public. Minimum coverages are as follows:

- (i) \$10,000 medical insurance per contestant;
- (ii) \$10,000 life insurance per contestant; and
- (iii) additional liability insurance to adequately protect all officials and the public.

(3) Before an event commences, the promoter must demonstrate compliance with the following requirements to the satisfaction of the department or department representative at the event. The promoter shall:

(a) provide all materials necessary for the athletic event, including ring, steps, stools, water buckets, resin, bell, buzzer or whistle, timer, gloves, gauze, tape for hand wraps, and a scale as examined and approved by the medical professional or department representative;

(b) provide adequate, separate dressing room facilities for male, female, and opposing contestants;

(c) comply with any and all state or local health rules regarding sanitary conditions of dressing rooms, showers, towels, and other equipment;

(d) ensure attendance of a medical professional and compensate the professional for such attendance;

(e) ensure attendance of and compensate the judges, referees, and seconds for services rendered at the event in addition to reasonable room and board and mileage;

(f) ensure that a staffed, Montana-licensed ambulance remains continuously present on-site at the event;

(g) provide security guards who either hold a Montana license per Title 37, chapter 60, MCA, or are law enforcement officers, as deemed necessary by the promoter and venue owner; and

(h) notify the nearest hospital and the persons in charge of the emergency room.

~~(2) (4) Notice~~ The promoter must notify the department of any change in announced or advertised programs for any athletic event must be promptly filed with the board at least 24 hours prior to the athletic event. Notices announcing such change or substitution must be announced from the ring before the opening athletic event.

~~(3) (5) Only board members~~ department representatives, contestants, seconds, managers, promoters, and ringside health care medical professionals, and representatives of the board will be are permitted in dressing rooms upon presentation of proper credentials issued by the ~~board~~ department.

~~(4) (6) No applicant, licensee, inspector~~ department representative, or official shall consume or appear under the influence of alcohol or mood-altering drugs at a venue, unless prescribed to the individual by a physician.

AUTH: 23-3-405, 23-3-503, MCA

IMP: 23-3-405, 23-3-503, MCA

24.117.702 BOXING CONTESTANTS (1) All boxing contestants must file an application with the board, including a photograph of the applicant. Contestant applicants shall submit a completed application on department forms and pay the license fee per ARM 24.117.402. Applications must include the following information:

(a) a photograph of the applicant; and

(b) experience verification forms demonstrating a minimum of one year of amateur or professional boxing as attested to by three references (excluding relatives, present employer, or employees) with knowledge of the applicant's experience in boxing.

~~(2) (3) Prior to participating in an event, All contestants shall:~~

(a) present a valid picture ID and federal boxing ID prior to participating in an athletic event; and

(b) submit certified laboratory documentation of the contestant's negative HIV, hepatitis B, and hepatitis C tests.

(i) Tests are not required within one year of an athletic event, but cannot be older than 18 months.

~~(3) (4) Contestants shall compete consistently under the same name. Ring names may be used and must appear on the official license as issued by the board~~ department.

~~(4) (2) No contestant under the age of 18 or over the age of 35 shall be licensed to participate in Montana unless an exception is granted by the board~~ department.

(a) Contestants Contestant applicants over the age of 35 wishing to compete must provide to the board department a written statement by the contestant's personal physician (M.D. or D.O.) that:

(i) and (ii) remain the same.

~~(b) Club boxing contestants over the age of 40 wishing to compete must provide to the board a written statement by the contestant's personal physician (M.D.) that:~~

~~(i) the physician has performed a full physical examination of the contestant within a year of the event; and~~

~~(ii) the contestant is medically fit to participate in the event.~~

(5) No contestant under the age of 24 18 shall be permitted to may participate in more than six rounds until the contestant has participated in ten or more professional boxing bouts involving ~~boxing~~, unless special permission is granted by the ~~board~~ department.

(6) remains the same.

~~(7) Contestants competing in the main event must train in the city where the bout is to be held, or another suitable place approved by the board, at least 24 hours prior to the date of the bout.~~

~~(8)~~ (7) Any contestant who has participated in an athletic event, unless specifically granted an exception by the ~~board~~ department, shall be placed under temporary suspension for the health and safety of the contestant as follows:

(a) physical injury or severe punishment – discretionary upon advice of ~~ringside physician~~ medical professional

(b) and (c) remain the same.

(d) contestants receiving three medical suspensions in the contestant's boxing history shall be placed on indefinite suspension. The ~~board~~ department may lift the suspension upon certification by the contestant's personal physician (M.D. or D.O.) that:

(i) and (ii) remain the same.

(9) remains the same but is renumbered (8).

~~(10)~~ (9) Contestants participating in a sham or fake bout shall be disqualified and shall be prohibited from participating in any ~~bout or athletic~~ event in this state as follows:

(a) and (b) remain the same.

~~(11)~~ (10) All contestants shall must be ready to enter the ring immediately upon completion of the preceding ~~bout or athletic~~ event.

~~(12)~~ (11) Whenever a contestant, because of injury or illness, is unable to take part in an ~~athletic~~ event for which the contestant is under contract, the contestant or the contestant's manager shall immediately report the fact to the ~~board~~ department or ~~inspector~~ department representative. The contestant must submit to an examination by a department-approved physician ~~approved by the board, which examination must be made~~ prior to the date set for the athletic event. The expense of contestant must pay for the physician's examination ~~is to be paid by the contestant~~.

~~(13)~~ (12) During Contestants may not drink anything but water during a bout or athletic an event, it is prohibited for a contestant to drink anything but water. The use of drugs of any kind, before or during the bout, shall be is cause for disqualification and/or other disciplinary action by the ~~board~~ department. All

contestants may be required to submit to a drug test before and after a ~~bout or athletic an~~ event in which the contestant is involved.

(13) No contestant shall sell tickets for any athletic event in which the contestant is engaged on a commission basis, to serve as a remuneration for services as a contestant.

~~(14) The board may at its discretion allow limited professional and semiprofessional boxing rounds at a club boxing event. The professional and semiprofessional rounds must conform to all applicable statutes and rules.~~

AUTH: 23-3-405, MCA

IMP: 23-3-301, 23-3-404, 23-3-405, 23-3-501, 23-3-603, MCA

24.117.703 FEMALE CONTESTANTS ~~(1) Bouts for female contestants shall be scheduled for no more than ten rounds with each round lasting two minutes and one minute between rounds.~~

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

~~(4) (3) Female boxers shall wear properly fitted breast protectors and groin protectors and a mouthpiece mouthpieces.~~

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

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

REASON: The department is relocating (1) to ARM 24.117.802, the rule on number and duration of rounds.

24.117.705 MANAGERS/TRAINERS ~~(1) Applicants for a managers license Manager/trainer applicants shall submit a completed application apply on department forms, prescribed by the board accompanied by the appropriate fees, and furnish include the following information:~~

~~(a) names and addresses of three references from three individuals (excluding relatives, present employer, or employees) who can attest attesting to the applicant's experience and integrity; and~~

~~(b) proof of applicant's familiarity with knowledge of the laws and administrative rules of the board department, as evidenced by attestation on the application.~~

~~(2) remains the same.~~

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

24.117.709 PREFIGHT PHYSICAL EXAMINATION ~~(1) Contestants, including substitutions and exhibition contestants, shall submit to a prefight physical examination by a medical professional as defined in ARM 24.117.301 ~~be examined by a ringside health care professional approved by the board, between the time of weigh-in and prior to entering the ring.~~~~

(a) The examination may be conducted by the medical professional attending the event.

(b) Only the contestant and his the contestant's manager/trainer are allowed in the examination room during the physical.

(c) Eye dilation is not required in the prefight physical examination.

(2) Contestants shall:

~~(a) provide the board with written documentation of a current physical examination; and~~

~~(b) meet the following minimum physical requirements as determined by in the prefight examination performed by either a medical doctor (M.D.) or doctor of osteopathy (D.O.) for professional boxing and wrestling events. Semiprofessional boxing and club boxing event examinations may be performed by either an M.D., D.O., physician assistant-certified (PA-C), or an advanced practice registered nurse (nurse practitioner, nurse-midwife, nurse anesthetist or clinical nurse specialist):~~

~~(i) through (xiv) remain the same but are renumbered (a) through (n).~~

~~(3) The board department may request the following of any contestant:~~

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

~~(4) The weigh-in shall Weigh-in must be at least eight hours before the bout.~~

(a) The manager/trainer or an authorized agent must accompany the contestant to weigh-in.

~~(b) Contestants appearing at weigh-in and weighing 3 three percent over the contracted weight at weigh-in, without allowing for dehydration, shall be disqualified from the bout.~~

~~(a) (c) Contestants exhibiting signs of dehydration as a result of taking diuretics or drugs shall be disqualified.~~

~~(5) No contestant shall take part in an athletic event until pronounced fit to do so by the ringside health-care medical professional. Physical fitness of contestants to participate shall be certified by the ringside health-care The medical professional must report contestants' physical fitness to the board department within 24 hours after the contest event.~~

~~(6) The manager or an authorized agent shall accompany the contestant to the weigh-in.~~

~~(7) (6) If a contestant is late to weigh-in, the opponent may be weighed in under the direction of the board department or department representative. Late contestants and their managers may be subject to disciplinary action by the board department.~~

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

24.117.710 RINGSIDE HEALTH CARE MEDICAL PROFESSIONAL REQUIREMENTS (1) The ~~health-care~~ medical professional shall must be present at ringside and be available to assist the referee until the conclusion of the final bout.

(2) The ~~ringside health-care~~ medical professional shall perform post-bout examinations of all contestants. ~~The health-care professional's~~ and report all recommendations, medical disqualifications, reports of contestant injuries, and any

other examination results shall be reported to the board department within 24 hours after the athletic event.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.802 NUMBER AND DURATION OF ROUNDS (1) ~~No~~ Professional boxing ~~match~~ matches are as follows:

(a) Male contestants:

(i) shall be no more than 12 rounds in length;

(ii) each round and such rounds shall be of not more than lasting three minutes' duration; and

(iii) with one minute intermission rest period between rounds;

(b) Female contestants:

(i) no more than ten rounds in length;

(ii) each round lasting two minutes; and

(iii) one minute rest period between rounds.

(2) Professional boxing rounds must conform to all applicable statutes and rules.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.803 DOWN (1) A contestant shall be deemed "down" when:

(a) any part of his the contestant's body other than his the feet is on the ring floor;

(b) he the contestant is hanging helplessly over the ropes; and

(c) and (2) remain the same.

(3) A contestant may go down through accident or weakness, but must arise instantly. If he the contestant is sent down by a blow, he the contestant shall remain down until the count of "eight" before arising and continuing the round, and he may remain down until the count of "nine" without being disqualified.

(4) remains the same.

(5) A contestant who is in distress, but still on his the contestant's feet and the referee intercedes to save him the contestant, or if, while in his the corner, his the contestant's manager and seconds notify the referee the contestant is unable to continue, the decision shall be "stopped in so many rounds."

(6) Should a contestant who is "down" arise before the count of ten is reached, and again go down intentionally without being struck, the referee shall resume the count where he the referee left off.

(7) When a contestant is "down," his the opponent shall retire to the farthest neutral corner designated by the referee and remain there until the count is completed. Should he the opponent fail to do so, the referee may cease counting until he the opponent has so retired.

(8) When a contestant has been knocked down three times in one round, the referee will declare him the contestant the loser by a technical knockout.

(a) This subsection may be waived in "bouts" if agreed to by both contestants, in writing, and the writing is filed with the ~~board~~ department prior to the beginning of the athletic event.

(9) remains the same.

(10) If a ~~boxer~~ contestant is knocked down after two minutes and 50 seconds of the round, the bell will not sound until ~~he~~ the contestant gets up. If ~~he~~ the contestant does not get up before the count of ten, ~~he~~ the contestant will lose by KO. The bell cannot save a ~~boxer~~ contestant in any round.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.805 FOULS (1) through (2) remain the same.

(3) A contestant who commits a foul, intentional or unintentional, may be fined the total amount of ~~his~~ the purse, not to exceed \$1000 per violation, and suspended by the ~~board~~ department and/or fined only in such amount as the ~~board~~ department may deem warranted by the offense. It will only be by unanimous opinion of the referee, judges, and the ~~board-inspector~~ department representative that the offender not be held responsible for the foul and the promoter authorized to pay the purse.

(4) and (5) remain the same.

(6) In no case shall the offender be paid any part of ~~his~~ the purse until the final decision of the ~~board~~ department.

(7) If the fouled contestant is ahead on points or the points are equal, ~~he~~ the contestant shall be declared the winner. However, if the fouled contestant is not ahead on points, the contest shall be declared a draw. If in the referee's judgment the foul is serious or intentionally inflicted, the referee may award the bout to the contestant so fouled.

(8) If any accidental foul occurs before the completion of four rounds and the injured contestant cannot continue, the fight will be declared a technical draw. If the accidental foul occurs after the completion of four rounds and the fouled contestant cannot continue, a technical decision shall be rendered by the judges and the contestant ahead on points shall be declared the winner. If a contestant is accidentally fouled and can continue, the referee must stop the action and inform the ~~board~~ department representative and both contestants that the foul is the result of an accidental foul. If in the later rounds the injury has worsened as a result of legal blows, and the injured contestant cannot continue, a decision shall be rendered by going to the scorecards.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.806 APPEAL OF DECISIONS OF OFFICIALS (1) In cases involving appeal to the ~~board~~ department of an officials' decision, the decision of the officials shall not be changed unless:

(a) the ~~board~~ department determines that there was collusion affecting the officials' decision; or

(b) the ~~board~~ department determines that actual bias or prejudice on the part of one or more officials affected the officials' decision; or

(c) and (d) remain the same.

(e) the compilation of the score cards of the judges discloses an error which shows that the decision was given to the wrong ~~boxer~~ contestant.

(2) On review of an officials' decision, the ~~board~~ department shall not substitute its judgment for that of the officials as to the weight of the evidence on questions of fact.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.810 HAND WRAPS (1) ~~Handwraps shall~~ Each hand wrap must be:

(a) restricted to no more than 20 yards made of soft gauze that is:

(i) not more than two inches wide; and

(ii) not more than 20 yards in length; and

(b) held in place secured by not more than eight feet of adhesive tape that is:

(i) not more than one and one-half inches wide for each hand; and

(ii) not more than eight feet in length.

~~(2) The use of adhesive tape over the knuckles is strictly prohibited. The tape shall not cover any part of the knuckles when the hand is clenched to make a fist. The use of water or any other liquid or material on the tape is strictly prohibited. Adhesive tape may cross the back of the hand twice but must not:~~

~~(a) extend within one inch of the knuckles;~~

~~(b) be placed over the knuckles; or~~

~~(c) be combined with water or other liquid.~~

~~(3) A single four inch by four inch white surgical pad (or equivalent material approved by the department representative), folded in half, may be used on the knuckles of each hand for added protection and safety.~~

~~(2) (4) All handwraps hand wraps shall must be applied and adjusted in the dressing room in the presence of a board department representative who must sign across the back of each hand before gloves are secured on a contestant.~~

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

REASON: The department determined it is reasonably necessary to amend this rule regarding contestant hand wraps for clarity and to achieve consistency with boxing standards in the surrounding states.

24.117.811 OFFICIAL BOXING GLOVES (1) Gloves must be either:

(a) clean and in good condition with no lumps or imperfections; or

(b) new, if determined by the referee or department representative as necessary for the safety of the contestants.

(2) Glove requirements per in the weight classes class are as follows:

(a) of welterweight Welterweight and below must be no less than eight ounces, and must have the thumbs attached.

~~(b) Gloves in weight classes of middleweights~~ Middleweight and above must be of no less than ten ounces in weight, and must have thumbs attached.

~~(c) The only exception to this rule is in In~~ championship bouts where the board department may authorize eight ounce gloves, thumbs attached, for any weight class.

~~(2) (3)~~ No breaking, roughing, or twisting of gloves shall be permitted. Gloves shall be examined by the ~~inspector~~ department representative. If padding is found to be misplaced or lumpy, or if gloves are found to be imperfect, other gloves shall be substituted therefore.

~~(3) (4)~~ Gloves and headgear shall must be cleaned with a disinfectant between each bout.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.812 MOUTHPIECE (1) through (3)(a) remain the same.

(b) upon the second occurrence, wait until the initial flurry subsides, proceed as in (2), warn the contestant that he or she will be disqualified if the contestant subsequently spits out or allows the mouthpiece to fall out of the contestant's mouth. The referee shall direct each judge to deduct a point from the contestant's score and shall notify the ~~board~~ department representative; and

(c) remains the same.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

24.117.815 RING--EQUIPMENT (1) The ring shall:

~~(a) be no less than 15~~ 16 or more than 20 feet square when measured inside the line of the ropes;

~~(b) The apron of the ring shall extend~~ have an apron that extends beyond the ropes not less than two feet;

~~(c) The ring shall~~ be equipped with four ropes with two spacer ties on each side of the ring to secure the ropes;

~~(d) have the entire floor and apron padded with insulate, felt, matting, or a similar material with a thickness of at least one inch;~~

~~(e) have a canvas or similar material covering the padding, stretched tightly and laced or fastened to the outer edge of the floor;~~

~~(f) have floor boards of sufficient strength to hold the weight and ensure the safety of all who enter the ring; and~~

~~(g) have a minimum of two sets of suitable steps for use by the contestants and officials to be placed diagonally at opposite corners of the ring platform.~~

(2) through (5) remain the same.

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

REASON: The department determined it is reasonably necessary to add new provisions regarding boxing rings to align with boxing standards in the surrounding states. Following the recommendations of Montana's boxing community, the department is amending this rule to specifically delineate ring standards and achieve consistency with our neighboring states.

24.117.901 OFFICIALS REQUIRED (1) The officials shall consist of a referee, three judges, timekeeper, announcer, and a physician. The judges and referee shall be named by the ~~board~~ department and paid by the promoter conducting the athletic event.

(2) The ~~board~~ department shall have the right to appoint at least two officials of their choice for all title bouts licensed by the ~~board~~ department.

(3) Officials may not:

(a) hold a financial interest in the management of any contestant; or

(b) referee any bout involving contestants with whom the official has previously served as manager, trainer, etc.

(4) The department representative assigned to supervise an event shall directly control and supervise all officials involved in the event.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

24.117.903 JUDGES (1) Applicants for a judges license shall apply on forms prescribed by the ~~board~~ department. The application must be complete, accompanied by the appropriate fees, and shall furnish include the following information:

(a) proof of either:

(i) three years prior experience in judging boxing events; or

(ii) two years prior experience in judging boxing events and additional experience as determined by the ~~board~~ department to demonstrate competency;

(b) ~~names and addresses of three references~~ moral character references from three people (excluding relatives, present employer, or employees) who can attest to the applicant's ~~judging experience and~~ integrity; and

(c) proof of familiarity with the laws and administrative rules of the ~~board~~ program, as evidenced by attestation on the application.

(2) remains the same.

(3) Scoring shall be done by three judges, approved by the ~~board~~ department. The referee shall not score any bout or contest.

(4) through (8) remain the same.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

24.117.905 SECONDS/CORNERS (1) Applicants for a seconds/~~corners~~ license shall be at least 18 years of age and shall furnish apply on forms prescribed by the department. The application must be complete, accompanied by the appropriate fees, and include the following information:

~~(a) to the board~~ experience verification forms demonstrating a minimum of one year of experience evidence of assisting at athletic boxing events involving boxing, including; and

~~(a) (b) names and addresses of three references~~ reference forms from people who can attest to ring experience; and

~~(b) names of contestants in whose corner the applicant previously assisted at ringside.~~

(2) Only three individuals shall be seconds/~~corners~~ at an event and only one shall be designated as chief second.

(3) Only one second/~~corner~~ shall be inside the ring between rounds.

(4) Licensed managers ~~shall be permitted to~~ may act as seconds and ~~shall~~ must comply with all rules of conduct pertaining to seconds.

~~(5) A wet sponge may be used to refresh the contestant. Excess water on the ring floor shall be wiped up by the seconds/corners before the start of the next round.~~

~~(6) (5)~~ Seconds/corners shall not either:

(a) enter the ring until the timer indicates the termination of a round; or

(b) spray or forcefully throw water on a contestant.

~~(7) (6)~~ Seconds/corners shall:

(a) wipe up excess water on the ring floor before the start of the next round;

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

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

REASON: The department is amending this rule to remove the term "corner," as the statutes do not provide for this type of license.

24.117.909 REFEREE (1) Applicants for a referees license shall apply on forms prescribed by the ~~board~~ department. The application must be complete, accompanied by the appropriate fees, and furnish include the following information:

(a) evidence of either:

(i) three years prior experience in refereeing boxing events; or

(ii) two years prior experience in refereeing boxing events and additional experience as determined by the ~~board~~ department to demonstrate competency;

~~(b) names and addresses of three references~~ experience verification forms from three references (excluding relatives, present employer, or employees) who can attest attesting to the applicant's refereeing experience and integrity; and

(c) proof of applicant's familiarity with the laws and administrative rules of the ~~board~~ department, as evidenced by attestation on the application.

(2) through (6)(b) remain the same.

(c) clarify that the health care professional shall not enter the ring unless directed to do so by the referee or the ~~board~~ department designee;

(d) through (9)(a) remain the same.

(b) enforce all applicable ~~board~~ program laws and rules;

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

(A) In championship matches, the ~~board~~ department may waive subsection (9)(c)(v) if agreed to in writing by both contestants, and the agreement is filed with the ~~board~~ department prior to the beginning of the athletic event;

(d) through (i) remain the same.

(10) At the conclusion of a bout, the referee shall:

(a) collect scorecards from the judges and present them to the ~~inspector~~ department representative;

(b) and (c) remain the same.

(11) The ~~board~~ department shall appoint the referees and the ~~board~~ department decisions are final.

(12) remains the same.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

24.117.2301 UNPROFESSIONAL CONDUCT In addition to the provisions of ~~37-1-316~~ 23-3-603, MCA, the ~~board~~ department defines "unprofessional conduct" as follows:

(1) violating, or attempting to violate, directly or indirectly, or assisting or abetting the violation of, or conspiring to violate any provision of Title 23, chapter 3, MCA, or rule promulgated thereunder, or any order of the ~~board~~ department;

(2) violating any state, federal, provincial or tribal statute, or administrative rule governing or affecting the professional conduct of any the licensee;

(3) impersonating any licensee or representing oneself as a licensee ~~for which one has no~~ without holding a current license;

(4) and (5) remain the same.

~~(6) failing to use a legible written contract or statement containing the following terms:~~

~~(a) the date of the match,~~

~~(b) compensation,~~

~~(c) the promoter's name, address, license number and expiration date,~~

~~(d) the weight at which the contestant will weigh in,~~

~~(e) the name, address and telephone number of the board;~~

(7) and (8) remain the same but are renumbered (6) and (7).

~~(9)~~ (8) failing to cooperate with a ~~board~~ department inspection or investigation in any material respect;

(9) failing to respect the authority of the department and its representatives;
and

(10) failing to report an incident of unsafe practice or unethical conduct of another licensee to the ~~licensing authority~~ department.

AUTH: 23-3-405, ~~37-1-319~~, MCA

IMP: 23-3-405, 23-3-603, ~~37-1-308~~, MCA

REASON: It is reasonably necessary to amend this rule by striking (6) regarding contractual provisions between promoters and contestants. The department is not a party to these contracts and therefore lacks the authority to enforce the provisions of

such a contract. Additionally, the department is adding (9) to allow the department to discipline a licensee who fails to respect the department's authority.

5. The proposed new rules are as follows:

NEW RULE I DEPARTMENT REPRESENTATIVE QUALIFICATIONS

- (1) Applicants for department representative shall submit a completed application on department forms that demonstrate the applicant:
- (a) is at least 18 years of age as verified by:
 - (i) a copy of the applicant's driver's license; or
 - (ii) other official evidence of the applicant's date of birth;
 - (b) is of good moral character as evidenced by character references from three individuals (excluding relatives, present employer, or employees) attesting to the applicant's character and integrity;
 - (c) has a minimum of two years of boxing experience as demonstrated by:
 - (i) experience verification forms attested to by three references (excluding relatives, present employer, or employees); and
 - (d) is in good standing with all United States boxing commissions.
- (2) Acceptable experience includes that gained as a boxing referee, inspector, tally judge, knock down judge, manager, promoter, or other experience combinations as approved by the department.
- (3) Qualifying experience determinations by the department are final.

AUTH: 23-3-405, MCA

IMP: 23-3-402, MCA

REASON: The department determined it is reasonably necessary to adopt NEW RULES I and II to implement Senate Bill 401 and establish the minimum qualifications and duties for department representatives.

NEW RULE II DEPARTMENT REPRESENTATIVE DUTIES (1) The

- department shall issue an official badge to each appointed department representative, to demonstrate the ability to act on behalf of the department.
- (2) Department representatives shall:
- (a) act as official representatives of the department;
 - (b) ensure that all rules and regulations are strictly observed;
 - (c) supervise the officials at assigned events;
 - (d) report to the department within 24 hours any violations of law or rule that occur during an event;
 - (e) complete department checklists to verify that all event requirements are met before approving a bout to begin;
 - (f) distribute to the judges the official athletic commission score cards, prior to the start of each bout. The judges will score each round of a bout on the scorecard, sign it, and return the card to the referee who shall deliver the completed cards to the department representative; and

(g) report the results, including all suspensions, to the department within 48 hours of the completion of the bouts, to enable result certification and submission to official boxing registries.

(3) Department representatives may:

(a) be volunteers and as such, will not be compensated by the department for either duties or time;

(b) accept documentation required for applications and events;

(c) vet contestants;

(d) supervise weigh-ins and ringside physicals;

(e) supervise hand wrapping; or

(f) inspect boxing gloves and hand wrapping.

(4) Department representatives shall not hold an interest in the management of any contestant, nor act as a promoter, referee, timekeeper, judge, or second at any licensed event.

(5) All representatives serve at the discretion and request of the department.

AUTH: 23-3-405, MCA

IMP: 23-3-402, MCA

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

24.117.404 CONTRACTS AND PENALTIES

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-603, MCA

REASON: The department is repealing this rule to align with statutory changes per Senate Bill 401.

24.117.405 MEDICAL ADVISOR

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

REASON: The department is repealing this rule to align with statutory changes, which do not provide the statutory authority to appoint a medical advisor.

24.117.602 TICKETS

AUTH: 23-3-405, MCA

IMP: 23-3-405, MCA

REASON: The department is repealing this rule to align with statutory changes per Senate Bill 401.

24.117.706 ELIMINATION-TYPE EVENTS

AUTH: 23-3-405, MCA
IMP: 23-3-404, 23-3-405, MCA

REASON: The department is repealing this rule addressing semi-professional boxing which the department no longer regulates.

24.117.906 INSPECTORS

AUTH: 23-3-405, MCA
IMP: 23-3-402, MCA

REASON: The department is repealing this rule because Senate Bill 401 replaced inspectors with department representatives, per NEW RULES I and II.

24.117.907 ANNOUNCER

AUTH: 23-3-405, MCA
IMP: 23-3-405, MCA

REASON: The department is repealing this rule upon a determination that the department does not license nor regulate announcers.

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Athletics Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdate@mt.gov, and must be received no later than 5:00 p.m., May 12, 2017.

8. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/ath>. 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 department and program maintain a list of interested persons who wish to receive notices of rulemaking actions proposed by this program. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all program administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written

request may be sent or delivered to the Athletics Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdeath@mt.gov; or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Senator Mary Caferro, was contacted on September 29, 2015, by telephone and electronic mail.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.101.413, 24.117.201, 24.117.202, 24.117.301, 24.117.402, 24.117.403, 24.117.406, 24.117.409, 24.117.412, 24.117.503, 24.117.601, 24.117.702, 24.117.703, 24.117.705, 24.117.709, 24.117.710, 24.117.802, 24.117.803, 24.117.805, 24.117.806, 24.117.810, 24.117.811, 24.117.812, 24.117.815, 24.117.901, 24.117.903, 24.117.905, 24.117.909, and 24.117.2301 will not significantly and directly impact small businesses.

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

With regard to the requirements of 2-4-111, MCA, the department has determined that the repeal of ARM 24.117.404, 24.117.405, 24.117.602, 24.117.706, 24.117.906, and 24.117.907 will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to the Athletics Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2383; facsimile (406) 841-2305; or to dlibsdeath@mt.gov.

12. Derek Sherlock has been designated to preside over and conduct this hearing.

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 3, 2017.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.171.408 outfitter records,) PROPOSED AMENDMENT
24.171.412 safety and first aid)
provisions, 24.171.413 watercraft)
identification, 24.171.502 outfitter)
qualifications, 24.171.504)
successorship, 24.171.505 fishing)
outfitter operations plan, 24.171.520)
operations plans and amendments,)
and 24.171.2101 renewals)

TO: All Concerned Persons

1. On May 9, 2017, at 10:00 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 of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Outfitters (board) no later than 5:00 p.m., on May 2, 2017, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsout@mt.gov (board's e-mail).

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

24.171.408 OUTFITTER RECORDS (1) remains the same.

(2) Outfitter records shall be maintained on forms prescribed by the department and shall contain information as required by the board. The information required, in addition to information for operations plans under ARM 24.171.520 and employment records relative to outfitter assistants under ARM 24.171.410, shall include:

(a) through (c) remain the same.

~~(d) big game animals taken by clients, specifying the species and sex of each big game animal and stating for each big game animal whether it was taken on public or private land within the outfitter's operations plan;~~

~~(e) (d) districts hunted and water bodies, including section of a river or stream, fished by clients;~~

(f) and (g) remain the same but are renumbered (e) and (f).

(3) Outfitters shall maintain private land use records and make the records available at all times at the outfitter's main base camp or business office. Private land use records shall include contact information for the owner or agent of each private property where the outfitter is authorized to operate, including, but not limited to, the owner's or agent's phone number and address.

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

~~(4) (5) In general, the board shall maintain~~ outfitter records, including, but not limited to the operations plans, ~~shall be maintained~~ as confidential information and shall not ~~be released~~ release the records to any person or organization without written permission of the outfitter, except:

(a) to enforcement or investigative personnel authorized or appointed by the board;

(b) upon subpoena or order of a court, or;

(c) upon written request of a state or federal agency for law enforcement purposes; or

(d) upon written request of a state or federal agency for river recreation, or resource management purposes and subject to board approval.

(6) A specific outfitter's number of NCHU is confidential information, but whether an outfitter has NCHU of a particular category is public information.

(7) Also, while total Total acreage of private lands where any outfitter is authorized to operate is a matter of public record, but where a particular outfitter is authorized to operate is a confidential matter between the landowner and the outfitter.

(8) The Department of Fish, Wildlife and Parks or the Private Land/Public Wildlife Council may use board data to create a map depicting all private land where any outfitter is authorized to operate.

(9) All inquiries for outfitter records shall be reviewed and considered in relation to this rule and the competing interests between the public's right to know and the rights of privacy involved in the particular records requested.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-301, MCA

REASON: The board determined it is reasonably necessary to amend (2) and remove an unnecessary reporting requirement that the board's statutes no longer require. Based on a review of the department's records, the board does not use this information for any purpose, and no other agency has requested the information from the board. The board is adding new (3) to clarify an outfitter's duty to maintain records by aligning with amendments recently made to ARM 24.171.520 regarding operations plans, as well as changes proposed elsewhere in this notice. The board is amending (5) to conform to amendments the board previously made to (1) and clarify the circumstances under which it may share records with other state or federal agencies. The board is formatting and renumbering the remainder of the rule for clarity and ease of use for the reader.

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

24.171.412 SAFETY AND FIRST AID PROVISIONS (1) remains the same.

(2) Basic first aid certification must be obtained through a provider and course approved by the ~~board~~. department based upon the following minimum criteria:

(a) The provider must require written and practical tests and participants are to receive completion certificates.

(b) The provider program must include, at a minimum, universal precautions for self-protection and training specific to the following types of injuries:

(i) shock;

(ii) bleeding;

(iii) poisoning;

(iv) burns;

(v) temperature extremes;

(vi) musculoskeletal injuries;

(vii) bites and stings;

(viii) medical emergencies; and

(ix) injuries associated with confined spaces.

(c) Instruction in the principles and first aid intervention of injuries must cover the following sites:

(i) head and neck;

(ii) eye;

(iii) nose;

(iv) mouth and teeth;

(v) chest;

(vi) abdomen;

(vii) arm;

(viii) leg;

(ix) hand;

(x) finger; and

(xi) foot.

(3) For purposes of initial licensure, ~~the board will only accept~~ basic first aid certification that involves the direct, hands-on application of first aid materials and techniques is acceptable. Online courses are acceptable for a period of three years after the hands-on course, but licensees must take a hands-on course every four years.

(4) A list of approved providers and courses shall be maintained on the board web site.

(5) An applicant may also meet basic first aid certification if the applicant provides proof of a certification, license, or other credential that is equivalent to or greater than basic first aid certification, approved on a case-by-case basis by the board. The board may also maintain on its web site a list of certifications, licenses, and other credentials that will be routinely accepted as equivalent to or greater than basic first aid.

(3) through (5) remain the same but are renumbered (6) through (8).

AUTH: 37-47-201, MCA

IMP: 37-47-201, MCA

REASON: In the past, the board has committed considerable time and resources in determining acceptable first aid courses on a case-by-case basis. The board is amending this rule to clearly delineate the minimum standards for first aid training and transition to department staff the approval of these courses. Specifying these standards will ensure rigor and consistency in the determination of acceptable basic first aid certification and free the board from an administrative task more appropriately handled by the department.

24.171.413 WATERCRAFT IDENTIFICATION (1) remains the same.

(2) The tags shall display the outfitter or guide license number for identification purposes. ~~Licensees must add license numbers to the tags and maintain the tags in a readable fashion.~~

(3) An unlicensed outfitter assistant shall display board-issued watercraft identification tags on each watercraft to be occupied by the outfitter assistant, ~~showing the license number of the employing outfitter.~~

(4) through (6) remain the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-134, 37-47-201, 37-47-301, 37-47-302, 37-47-303, ~~37-47-304,~~
37-47-325, 37-47-405, MCA

REASON: While making changes to the computerized reporting system, the board decided to gain efficiencies and streamline processes by automating the printing of watercraft identification decals. The board is amending this rule because the system will generate registration numbers for outfitter assistants and watercraft identification decals with individualized identifiers rendering some past practices unnecessary.

Implementation citations are being amended to delete reference to a statute no longer relevant to the rule, and accurately reflect all statutes implemented through the rule.

24.171.502 OUTFITTER QUALIFICATIONS (1) An applicant for an outfitter license shall have the qualifications to provide all services and use all equipment necessary to provide the functions of an outfitter that the license will authorize the applicant to provide. In addition, the applicant shall have:

(a) for a fishing outfitter applicant ~~applying on or after January 1, 2016:~~

(i) remains the same.

(ii) a minimum of three years and 120 days of verified experience as a licensed outfitter, a licensed guide, or equivalent experience in another state guiding clients and using methods for pursuing fish, ~~subject to approval by the board,~~ reduced by no more than 50 experience days for any waiver or combination of waivers. All experience in this subsection is subject to board approval; or

(b) for all other applicants:

(i) remains the same.

(ii) 100 days of verified experience as a licensed outfitter, a licensed guide, or equivalent experience in another state guiding clients in pursuing the types of game and using the methods for which licensure is sought by the applicant, ~~subject to~~

~~approval by the board as a licensed outfitter, a licensed guide, or equivalent experience as determined by the board.~~ All experience in this subsection is subject to board approval.

(2) through (4) remain the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-302, 37-47-304, 37-47-307, 37-47-308,
MCA

REASON: The board determined it is reasonably necessary to amend this rule to delete the unnecessary past application date, and improve the overall organization and readability. Additionally, in a previous rulemaking, the board amended (1)(a)(ii) to clarify that out-of-state outfitter, guide, or equivalent experience is acceptable for outfitter applicants. The board made this change to facilitate licensure while ensuring licensed outfitters are qualified, since the practice of outfitting remains essentially the same from state to state. At that time, the board inadvertently failed to extend that change to (1)(b)(ii), and is correcting this language now.

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

24.171.504 SUCCESSORSHIP (1) and (2) remain the same.

(3) The family of an outfitter designates a proposed successor by submitting ~~the fee required for a successor under ARM 24.171.401;~~ an application completed by the proposed successor on a form provided by the department; a sworn statement by the proposed successor explaining how the proposed successor has been involved with the outfitting industry, in general, and how the successor has been involved with the outfitting business for which the successorship is sought, in particular; and a sworn statement by someone on behalf of the family of the deceased or incapacitated outfitter, affirming the person's authority and how the authority was obtained to designate a successor on behalf of the family, and that the person so acting is at least 18 years of age. A successorship application must specify whether the successor will operate the business or will only seek to sell it.

~~(4) An application for the purpose of selling the business shall require the name; phone number; e-mail address, if available; social security or foreign ID number; date of birth; and sex of the proposed successor; as well as the mailing address where the successor will accept formal service of board documents.~~ When a successorship is approved for the purpose of selling the business, the outfitter license is placed on inactive status and may be renewed only on inactive status and only until the successorship terminates or until the business sells, whichever occurs earlier. No clients may be contracted with or served under authority of an inactive license. All requests for successorship for the sole purpose of selling the business shall be routinely approved by staff upon the board's receipt of all the required information.

(5) through (7) remain the same.

(8) A successor shall report to the board each year ~~at its December board meeting or at the next regularly scheduled meeting~~ following the renewal period ~~if no meeting is held in December.~~ To report, the successor shall either personally

appear for the meeting or shall submit a written report to the board no less than 15 days before the meeting. The report shall inform the board of the progress made toward licensure of an outfitter for the business, or of the progress made toward sale of the business.

(9) remains the same.

(10) A successorship terminates the earlier of the date that is ~~two~~ five years from the date that the successorship was approved under this rule, or the date that the successorship is revoked or voluntarily surrendered, or the date that the successor becomes a licensed outfitter.

(11) remains the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-310, MCA

REASON: The board is amending (3) to strike an erroneous rule reference. In (4), the board is striking the specific information formerly required for successorships for the purpose of selling an outfitter business. In updating the board's computerized reporting and record system, staff determined that this information is already collected and maintained pursuant to other board rules.

The board is amending (8) to require successor reporting at the next meeting following the renewal period. Board staff concluded that this amendment will take advantage of the updated computerized reporting system by automating and streamlining this reporting process, which will be most effective with a single reporting period that immediately follows the annual renewal.

The board is amending (10) to allow successors more time to complete the process of licensure, transfer of the business, or liquidation of the business assets. The board concluded this amendment is reasonably necessary to align with recent changes the board made to ARM 24.171.502(1)(a), regarding experience requirements for fishing outfitter applicants.

24.171.505 FISHING OUTFITTER OPERATIONS PLAN (1) A fishing outfitter may include in a proposed or an existing operations plan, a general reference to "all surface waters governed by the Montana Stream Access Law, 23-2-302, MCA, and accessible by public access points not requiring a permit restricting commercial use issued by a state or federal agency(ies).". Alternatively, the outfitter may include in a proposed or existing operations plan specific surface waters governed by the Montana Stream Access Law and accessible by public access points not requiring a permit issued by a state or federal agency, by including detailed descriptions of those specific waters as provided in 37-47-304(2)(c)(ii), MCA.

(2) remains the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-304, MCA

REASON: Outfitters are required to file an operations plan with the board annually and list any and all permits and licenses where authorized to operate within the

operation plan. The board is amending this rule to clarify the distinction between state or federal permits that do or do not restrict commercial use while retaining the efficiency of listing by general reference to all surface waters governed by the Montana Stream Access Law and accessible by public access points. The amendment will clarify for outfitters that they may operate on surface waters governed by the Montana Stream Access Law but are required to list restricted commercial use permits within their operation plan.

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

24.171.520 OPERATIONS PLANS AND AMENDMENTS (1) An operations plan is prepared by the outfitter and submitted to the board and consists of the following:

(a) and (b) remain the same.

(c) for hunting outfitters a summarization of the locations and boundaries of the outfitter's operation, which is where the outfitter is authorized to operate, provided in the following terms:

(i) the name of each public land agency ~~or owner of private property;~~

(ii) ~~contact information for the owner or the agent of each private property where the outfitter is authorized to operate, including, but not limited to, the owner's or agent's phone number and address~~ all information necessary to fulfill statutory requirements for reporting of private land acreage;

(iii) through (5) remain the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-304, MCA

REASON: The board is amending this rule in conjunction with a proposed amendment to ARM 24.171.408. The current rule prevents the department from developing a form that will allow outfitters to submit land use summaries with multiple parcels on a single form. By removing the outfitter's responsibility to submit contact information for the owner or agent of a property, and instead, requiring the outfitter to maintain those records at the outfitter's base camp or place of business under ARM 24.171.408, the amendment will facilitate the implementation of the new form. Additionally, this amendment will help ensure the board maintains the information necessary for reporting private land acreage, and that landowner contact information will remain available for law enforcement purposes. Moreover, once an outfitter submits the legal description or geocode of a property, the department can automatically generate the name of the owner of private property. The board is removing the outfitter's duty to submit that information with the outfitter's operations plan to eliminate redundancy and simplify recordkeeping.

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

24.171.2101 RENEWALS (1) remains the same.

(2) License renewal applications for outfitters shall be made on forms provided by the department and shall be accompanied by:

(a) through (d) remain the same.

(e) ~~any amendments to an operations plan~~ an attestation that all lands information required as part of the outfitter's operations plan on file with the board is current and accurate as required by ARM 24.171.520.

(3) remains the same.

(4) Outfitters who provide services during the late hunt seasons may submit amended client logs ~~and statistical use level sheets~~ reflecting services from December 1st through December 31st separately as long as they are received by the board no later than January 31st of the following year.

(5) remains the same.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-104, 37-1-141, 37-47-201, 37-47-302, 37-47-304, 37-47-306, 37-47-307, MCA

REASON: The board is amending this rule for consistency with amendments the board recently made to ARM 24.171.520. The board is striking language from (4) as the board no longer requires this information.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsout@mt.gov, and must be received no later than 5:00 p.m., May 12, 2017.

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

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

dlibsout@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.171.408, 24.171.412, 24.171.413, 24.171.502, 24.171.504, 24.171.505, 24.171.520, and 24.171.2101 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; facsimile (406) 841-2305; or to dlibsout@mt.gov.

9. Steve Gallus, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF OUTFITTERS
JOHN WAY, 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 April 3, 2017.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 4.4.306 and 4.4.318 pertaining)
to the Hail Insurance Program)

TO: All Concerned Persons

1. On February 17, 2017, the Department of Agriculture published MAR Notice No. 4-17-238 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 207 of the 2017 Montana Administrative Register, Issue Number 4.

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

3. No comments or testimony were received.

Cort Jensen
Cort Jensen
Rule Reviewer

Libbi Lovshin
Libbi Lovshin
Administrator
Agriculture

Certified to the Secretary of State April 3, 2017.

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 12.5.701 and 12.5.702, the) TRANSFER AND AMENDMENT,
transfer and amendment of ARM) ADOPTION, AND REPEAL
12.11.341, the adoption of New Rule)
I, and the repeal of ARM 12.11.342)
pertaining to aquatic invasive species)

TO: All Concerned Persons

1. On February 17, 2017, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-472 pertaining to the public hearing on the proposed amendment, transfer and amendment, adoption, and repeal of the above-stated rules at page 209 of the 2017 Montana Administrative Register, Issue Number 4.

2. The department has amended the following rules as proposed: ARM 12.5.701 and ARM 12.5.702.

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

12.5.706 IDENTIFIED AREAS THREATENED WITH AQUATIC INVASIVE SPECIES AND APPLICABLE QUARANTINE MEASURES (1) Because of the known existence of aquatic invasive mussels in the areas defined in ARM 12.5.707, the department has identified all other areas of the State of Montana as an invasive species management area because of the threat of ~~threatened for~~ infestation of aquatic invasive mussels.

(2) The department has determined the following quarantine measures are necessary to prevent the spread of aquatic invasive mussels:

(a) vessels and equipment approaching a department inspection station must stop for inspection as directed;

(b) remains as proposed.

(c) vessels and equipment traveling across the Continental Divide into the Columbia River Basin that have been used on waters outside of the Columbia River Basin must be inspected at ~~during operating hours report to~~ a department inspection station prior to launching within the Columbia River Basin ~~after use on waters outside of the Columbia River Basin~~. The department will post approved inspection stations and operating hours at fwp.mt.gov;

(d) remains as proposed.

(e) transport of surface water is prohibited unless authorized by the department ~~and drain plugs must be removed during transport~~;

(f) live aquatic bait and fish must be transported in clean non-surface water where allowed in current public fishing regulations; ~~and~~

(g) ~~if the vessel does not have a drain plug~~, reasonable measures must be taken to dry or drain all compartments or spaces that hold water, including emptying bilges, applying absorbents, and ventilation; and-

~~(3)~~(h) areas subject to inspection include but are not limited to:

~~(a)~~(i) the exterior of the vessel;

~~(b)~~(ii) livewells;

~~(c)~~(iii) bait buckets;

~~(d)~~(iv) ballast tanks;

~~(e)~~(v) bilge areas; and

~~(f)~~(vi) trailer transporting vessel.

(4) remains as proposed but is renumbered (3).

~~(5)~~ (4) Decontamination methods on vessels subject to ~~(4)~~ (3) may include hot water washing, hot water flushing, and drying time, including interior portions of complex engine systems and pumps. A decontamination order may be issued that requires a drying period as directed by the department. The drying time will depend on weather conditions. During the drying period, the department may lock the vessel to the trailer to prevent launching. The department will be responsible for arranging the time and location to unlock the vessel when the drying time is complete. It is prohibited for anyone other than authorized department staff to remove the lock during the drying time. If a vessel requires a drying period as part of the decontamination process, then the vessel must pass a second inspection prior to launching in Montana waters in order to be considered decontaminated.

(5) Upon inspection and/or decontamination, proof of compliance on any requirements will be provided and must be shown upon request.

(6) and (7) remain as proposed.

AUTH: 80-7-1007, 80-7-1008, 80-7-1011, 80-7-1012, 87-1-201, MCA

IMP: 80-7-1007, 80-7-1008, 80-7-1010, 80-7-1011, 80-7-1015, MCA

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

NEW RULE I [12.5.707] IDENTIFIED BODIES OF WATER CONFIRMED OR SUSPECTED FOR AQUATIC INVASIVE MUSSELS (1) The department has identified the following bodies of water as invasive species management areas because they are infested with confirmed or suspected aquatic invasive mussels:

(a) and (b) remain as proposed.

(2) The department has determined the following quarantine measures are necessary to prevent further spread of the species from these bodies of water:

(a) all vessels and equipment launched or having otherwise entered the water bodies listed in (1) must be inspected and, if directed by the department, decontaminated at a department decontamination station as required in ARM 12.5.706 prior to leaving the water body. The following are exempt:

(i) vessels approved by the department for local travel only (vessels approaching a department inspection station must still stop as directed pursuant to ARM 12.5.706);

(ii) emergency response vehicles and equipment engaged in emergency response activities.

(b) when an approved or decontaminated vessel leaves the water bodies listed in (1), all aquatic bait and fish must be transported without water.

(3) remains as proposed.

(4) Upon inspection and/or decontamination, proof of compliance on any requirements will be provided and must be shown upon request.

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

AUTH: 80-7-1007, 80-7-1008, 80-7-1010, 87-1-201, MCA

IMP: 80-7-1008, 80-7-1010, 80-7-1011, MCA

5. The department has repealed the following rule as proposed: ARM 12.11.342.

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

COMMENT #1: The department received comments concerning leaving Canyon Ferry or Tiber Reservoir and finding a decontamination station. The concerns included finding the right station, operating hours of the stations, and lines at the stations.

RESPONSE #1: The department has a plan for all major travel routes away from Canyon Ferry and Tiber Reservoir to be covered by decontamination stations. Operating hours of inspection and decontamination stations will be posted on fwp.mt.gov and signs will be posted at these reservoirs. The department realizes on busy weekends that there may be delay, and there are plans to have more than one decontamination station at each of these reservoirs to help alleviate congestion. Vessels that have been approved for local travel through the local boater program will not have to be decontaminated.

COMMENT #2: The department received several comments with concerns about live aquatic bait and fish being transported in clean non-surface water. Concerns included enforcement, how the department would be able to tell the difference between non-surface water and surface water, definition of what clean non-surface water means, if commercial bait seiners must also comply with this rule, and if leeches are considered bait.

RESPONSE #2: The department considers clean non-surface water as self-defining. Clean non-surface water means water that is not taken from a body of water. Examples of clean non-surface water would be well water, tap water, or water bought in stores. Leeches are considered bait, and bait seiners must comply with these rules. While there is no way of proving non-surface water from surface water, the department requires compliance with this rule.

COMMENT #3: The department received a comment concerning the removal of drain plugs because pontoon boats have permanent plugs and removal could cause damage to the boat.

RESPONSE #3: The department has removed the language requiring drain plugs to be removed during transport. Transport of surface water is prohibited, so boats that have removable drain plugs must still pull these plugs and drain their vessels before transporting.

COMMENT #4: The department received multiple comments concerning the "local travel only" rule language on Tiber and Canyon Ferry Reservoir. Comments were received concerning more specific details of what this meant, if these recreationists still needed to stop at inspection stations, who would be considered "local," and if local recreationists would be able to go to other bodies of water.

RESPONSE #4: Vessels approved for local travel only have been approved through the local boater program. The local boater program requires boaters to complete education training and sign an agreement, upon which they will be issued a local boater decal for each vessel registered in the program. The local boater program is designed for recreators who frequently use either Canyon Ferry or Tiber Reservoirs, allowing them to use local boater designated ramps and allowing for quick passage through decontamination stations. Local boaters that are planning to recreate on other waters must be decontaminated prior to launch. All watercraft is required to stop at inspection stations, regardless of local travel status. All vessels and equipment that are decontaminated will receive proof of decontamination in case it needs to be shown to enforcement.

COMMENT #5: The department received a comment suggesting that moored vessels be prohibited or restricted.

RESPONSE #5: The department does not have the authority to regulate moored vessels.

COMMENT #6: The department received several comments seeking clarification of "decontamination if necessary" on Tiber and Canyon Ferry Reservoirs.

RESPONSE #6: All vessels leaving Tiber or Canyon Ferry Reservoir must be inspected and decontaminated, unless the vessel has been approved for local travel only through the local boater program and is not traveling to a different water body.

COMMENT #7: The department received a few comments supporting closure of Tiber and Canyon Ferry Reservoirs completely, or until all access points could be monitored and all vessels could be inspected and decontaminated to ensure that other Montana waters do not get infested.

RESPONSE #7: Under ARM 12.5.707, all vessels and equipment leaving Tiber or Canyon Ferry Reservoir must be inspected and, unless approved for local travel only

through the local boater program, decontaminated. The department believes this will prevent over-land transport away from these two bodies of water while still allowing recreation.

COMMENT #8: The department received several comments seeking a language change of "department inspection station" to "FWP-sanctioned station" so that other entities could operate inspection stations.

RESPONSE #8: The department has determined that "department inspection station" refers to all stations either owned by the department or sanctioned by the department.

COMMENT #9: Several comments were received expressing that equipment used in any water sport or activity could potentially be a carrier for mussels and should be included in rule.

RESPONSE #9: The rule language states "vessels and equipment" and the department believes that this covers all equipment related to any water activity.

COMMENT #10: The department received a few comments opposing locking boats to trailers.

RESPONSE #10: This language was adopted in May 2016, and was not proposed to be changed in this rulemaking.

COMMENT #11: A few comments were received with concerns of animals being carriers of invasive species.

RESPONSE #11: It is possible for birds and wildlife to transport invasive species; however, watercraft have shown to be the biggest threat of transport.

COMMENT #12: The department received several comments about education, outreach, and signage around the state pertaining to aquatic invasive mussels.

RESPONSE #12: The department agrees that education and outreach is extremely important in the fight against aquatic invasive species. Signs will be constructed along main highways of Montana borders and at many waterbody access points. FWP has held open houses in Helena, Townsend, Butte, and Bozeman to try and further educate and outreach to the public. Information on AIS and on Clean, Drain, Dry protocols can be found at fwp.mt.gov.

COMMENT #13: The department received multiple comments in general support of these proposed rule changes and efforts done by the department to protect Montana's waters.

RESPONSE #13: The department thanks you for your participation in this rulemaking.

COMMENT #14: The department received several comments about financing the mussel response. Comments varied from making boat owners pay an increased permit fee, to making all water users pay a fee instead of only boat owners, to questioning where funding will come from in general.

RESPONSE #14: The department is not changing any fee regulations with this rulemaking. The AIS program is funded by the legislature.

COMMENT #15: The department received comments stating that all vessels should be inspected, not just ones entering the state or coming from certain areas.

RESPONSE #15: While it is not required that vessels within the state seek out inspection stations every time they launch, all vessels that pass inspection stations within the state are required to stop.

COMMENT #16: The department received several comments concerning boats not being completely drained of water. Comments included concerns with ballast tanks, board motors, hulls, and wells.

RESPONSE #16: The department recognizes the challenge associated with draining some vessels. Where necessary, the department will use 140 degree F water to kill any residual mussels.

COMMENT #17: The department received a few comments opposing the proposed rules due to wasted funds, taxes paid, or too many regulations.

RESPONSE #17: Potential impacts of invasive species could be very detrimental to the State of Montana, economically and otherwise. The department believes the cost of prevention could avert some costs of potential impacts if the invasive species become more widespread. Therefore, it is better to pay for prevention now than risk paying for impacts later.

COMMENT #18: The department received a few comments suggesting longer hours for inspection stations to be open and more locations.

RESPONSE #18: There is a plan for some inspection stations to have longer hours than in the past. All hours will be posted on fwp.mt.gov. The department is hiring more AIS staff to open more inspection stations.

COMMENT #19: The department received multiple comments concerning the penalization, fines, and enforcement behind recreationists who skip inspection stations or do not comply with these rules.

RESPONSE #19: The fines and penalties for violating these rules can be found under 80-7-1014, MCA. Enforcement has the authority to stop vehicles that fail to stop at inspection stations under 80-7-1019, MCA.

COMMENT #20: The department received comments expressing concerns of vessels entering the state. Concerns included vessels traveling into the state at night when inspection stations are closed and that all out of state watercraft in general should be banned from launching in Montana.

RESPONSE #20: ARM 12.5.706 states that all out of state vessels and equipment will be required to be inspected before entering any waterbody in Montana. Vessels entering the state do not need to be inspected immediately upon entering the state, but the vessel owner needs to seek out an open inspection station before launching in Montana waters. Inspection station hours will be posted on fwp.mt.gov.

COMMENT #21: The department received a few comments regarding the amount of time for a drying period.

RESPONSE #21: This language was adopted in May 2016, and was not proposed to be changed in this rulemaking.

COMMENT #22: The department received several comments regarding fishing derbies and tournaments.

RESPONSE #22: All vessels must comply with these rules, including all vessels participating in derbies or tournaments.

COMMENT #23: The department received comments regarding how vessels will be validated after inspection and/or decontamination.

RESPONSE #23: The department has amended the rule language to include that upon inspection and/or decontamination, proof of compliance will be given to the vessel owners. This proof must be shown to law enforcement upon request.

COMMENT #24: The department received a comment regarding transporting surface water for the purpose of collecting water samples for labs.

RESPONSE #24: The department has amended the rule language to allow samples to be transported where authorized by the department.

COMMENT #25: The department received a few comments on how vessels entering the Columbia River Basin will be inspected if crossing at night and if they will be required to be inspected during winter months.

RESPONSE #25: Vessels do not have to be inspected upon immediately entering the basin, but it is up to the vessel owner to seek out an open inspection station before launching in the Columbia River Basin if the vessel has been launched in waters outside the basin. Inspection station hours will be posted on fwp.mt.gov. The department has amended this section to clarify the intent. Inspection stations will be operational during the boating season.

COMMENT #26: The department received a comment questioning what decontamination methods will be used.

RESPONSE #26: The decontamination methods are listed in ARM 12.5.706(4).

COMMENT #27: The department received several comments stating suggestions for improvements to the overall AIS program outside the scope of this rulemaking.

RESPONSE #27: The department values and appreciates these suggestions and will evaluate these comments for the future advancements in the AIS program.

COMMENT #28: A few comments were received that were concerned about emergency response vehicles being exempt from the rules.

RESPONSE #28: Emergency response vehicles are only exempt "when engaging in emergency response activities"; they will be required to follow these rules during all other times.

COMMENT #29: A comment was received concerning these rules being subject to environmental review as required by the Montana Environmental Policy Act.

RESPONSE #29: These rules are primarily social and economic in nature and are based on actions boaters must take in order to legally recreate. The MEPA model rules state that MEPA is not required for actions which are primarily social or economic in nature. The department does environmental review where appropriate, including for leased inspection and decontamination station sites.

COMMENT #30: The department received a few comments questioning why the Missouri River and Milk River were not included in New Rule I [ARM 12.5.707].

RESPONSE #30: Currently the threat of invasive mussels from Canyon Ferry and Tiber Reservoirs warrants listing them as invasive species management areas; other water bodies will be listed as necessary.

COMMENT #31: The department received a comment requesting that the department develop an easier way for the public to comment, including a yes or no checkbox on proposed rules.

RESPONSE #31: The department allowed for written comment to be submitted via the FWP website, e-mail, postal mail, and held a public hearing. The department allows for free expression of public views, data, and arguments to make a reasoned and informed decision. The department feels that a yes or no checkbox would limit free expression.

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

/s/ Martha Williams
Martha Williams
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State April 3, 2017.

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

In the matter of the adoption of New)	NOTICE OF DECISION ON
Rules I through VIII pertaining to)	PROPOSED RULE ACTIONS
Surveillance and Utilization Review)	
Section (SURS) program-integrity)	
activities to prevent, identify, and)	
recover erroneous Medicaid)	
payments as outlined under federal or)	
state law)	

TO: All Concerned Persons

1. On January 6, 2017, the Department of Public Health and Human Services published MAR Notice No. 37-782 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 71 of the 2017 Montana Administrative Register, Issue Number 1.

2. A public hearing on the notice of proposed adoption of the above-stated rules was held on March 9, 2017.

3. The 65th Legislature passed Senate Bill (SB) 82, an act providing standards and requirements for Medicaid overpayment audits. SB 82 will be effective July 1, 2017. The department is withdrawing these proposed rules that also address standards and requirements for Medicaid overpayment audits.

/s/ Geralyn Driscoll
Geraldyn Driscoll, Attorney
Rule Reviewer

/s/ Sheila Hogan
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State April 3, 2017.

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.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2016. This table includes those rules adopted during the period September 30, 2016, through December 31, 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 December 31, 2016, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in either the 2016 or 2017 Montana Administrative Register.

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