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 The Proposal Notices Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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) 438-6122.

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BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I pertaining to a Registration	)	PROPOSED ADOPTION AND
Exemption for Investment Advisors to	)	AMENDMENT
Private Funds and the amendment of)	
ARM 6.10.501 pertaining to)	
Examinations)	

TO: All Concerned Persons

1. On July 17, 2024, at 9:00 a.m., the Commissioner of Securities and Insurance, Office of the Montana State Auditor (commissioner or CSI) will hold a public hearing in the basement conference room of CSI, at 840 Helena Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. CSI 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 CSI no later than 5:00 p.m. on July 2, 2024, to advise us of the nature of the accommodation that you need. Please contact Laura Shirliff, Creative and Digital Services Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail csi@mt.gov.

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

NEW RULE I PRIVATE FUND INVESTMENT ADVISOR REGISTRATION
EXEMPTION (1) For purposes of this rule, the following definitions apply:

(a) "Beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise enjoys the benefits of ownership even though the title to the private fund is in another name.

(b) "Private fund adviser" means an investment adviser who provides advice solely to one or more qualifying private fund(s).

(c) "Qualifying private fund" means an issuer that qualifies for the exclusion from the definition of an investment company under one or more of sections 3(c)(1), 3(c)(5), and 3(c)(7) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-3(c)(1), (5) and (7)).

(d) "Retail buyer fund" means a qualifying private fund that is not a venture capital fund and that qualifies for the exclusion from the definition of an investment company under one or both of sections 3(c)(1) and 3(c)(5) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-3(c)(1) and (5)).

(e) "Value of primary residence" means the fair market value of a person's primary residence, subtracted by the amount of debt secured by the property up to its fair market value.

(f) "Venture capital fund" means a private fund that meets the definition of a venture capital fund in SEC Rule 203(l)-1, 17 C.F.R. § 275.203(l)-1.

(2) Subject to the additional requirements of (3), a private fund adviser shall be exempt from the registration requirements of 30-10-201, MCA, applicable to investment advisors if the private fund adviser satisfies each of the following conditions:

(a) neither the private fund adviser nor any of its advisory affiliates are subject to a disqualifying event as described in 30-10-201(13), MCA, and/or Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1);

(b) the private fund adviser makes available to the department upon written request:

(i) each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4; and

(ii) if the private fund adviser is not required to submit such filings to the Securities and Exchange Commission, the private fund adviser prepares the reports and amendments referenced in (2)(b)(i) on or before the date(s) such report(s) would be required to be filed pursuant to SEC Rule 204-4;

(c) the private fund adviser pays the fees specified in 30-10-209, MCA, for each calendar year in which it relies upon the exemption established by this rule. If the private fund adviser has paid an initial fee pursuant to this rule and it intends to rely on the exemption in a succeeding calendar year, it must pay the renewal fee specified by 30-10-209, MCA, before January 1 of the succeeding year.

(3) In order to qualify for the exemption described in (2), a private fund adviser who advises at least one retail buyer fund shall, except as otherwise provided in (9) below, in addition to satisfying each of the conditions specified in (2), comply with the following requirements:

(a) The private fund adviser shall advise only those retail buyer funds whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who:

(i) at the time the securities are purchased from the issuer, either:

(A) after deducting the value of the primary residence from the person's net worth, would each meet the definition of "accredited investor" in SEC Rule 501(a) of Regulation D, 17 C.F.R. § 230.501(a); or

(B) were employees, managers, directors, or officers of the private fund adviser; or

(ii) obtained the securities through a transfer not involving the sale of that security.

(b) The private fund adviser shall not enter into, perform, renew, or extend any investment advisory contract that provides for compensation to the investment adviser based on a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds of an investor in the private fund that is not a qualified client as defined in SEC Rule 205-3, 17 C.F.R. § 275.205-3.

(c) At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a retail buyer fund:

(i) all services, if any, to be provided to individual beneficial owners, and to the fund itself;

(ii) all duties, if any, the investment adviser owes to the beneficial owners, and to the fund itself; and

(iii) any other material information affecting the rights or responsibilities of the beneficial owners that the private fund advisor is required to disclose under other state or federal law.

(d) The private fund adviser shall obtain on an annual basis and at liquidation financial statements of each retail buyer fund audited by an independent certified public accountant (CPA). A copy of the audited financial statements shall be delivered to each beneficial owner of the fund within 180 days after the end of each fiscal year and within 180 days of liquidation, and shall be made available to CSI on written request.

(4) If a private fund adviser is registered with the Securities and Exchange Commission, the adviser is not eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered investment advisers in 30-10-201, MCA, and the fees found at 30-10-209, MCA.

(5) A person is exempt from the registration requirements of 30-10-201, MCA, applicable to investment advisor representatives if the person is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to this rule and does not otherwise act as an investment adviser representative.

(6) Upon a written request from the department, an investment adviser relying on an exemption provided by this rule shall make available the records set forth in (2)(b) or (3)(d). Failure to comply with the request will result in the loss of the exemption provided by this rule.

(7) An investment adviser who becomes ineligible for the exemption provided by this rule must comply with all applicable laws and rules requiring registration or notice filing within 90 days after the date the investment adviser's eligibility for this exemption ceases.

(8) An investment advisor may request, pursuant to the process in 30-10-209(4), MCA, an exemption or exception to the requirements of (2)(a). The requirements of (2)(a) may be waived upon the commissioner's discretion after a determination is made that the waiver would be in the public interest.

(9) An investment adviser to a retail buyer fund that has one or more beneficial owners who do not satisfy the conditions set forth in (3)(a) is eligible for the exemption contained in (2) if the following conditions are satisfied:

(a) the subject fund existed prior to the effective date of this rule;

(b) as of the effective date of this rule, the subject fund ceases to accept beneficial owners other than those described in (3)(a);

(c) the investment adviser discloses in writing the information described in (3)(c) to all beneficial owners of the fund; and

(d) as of the effective date of this rule, the investment adviser delivers audited financial statements as required by (3)(d).

(10) Investment advisers to qualified private funds shall have 120 days from the effective date of this rule to establish compliance with this rule. CSI shall take no

administrative action relating to registration failures during such grace period. However, the anti-fraud provisions of (11) remain in effect.

(11) Nothing in this rule shall be construed to provide an exemption from the operation of the anti-fraud provisions of 30-10-301, MCA.

AUTH: 30-10-105, 30-10-107, MCA

IMP: 30-10-105, 30-10-201, MCA

REASON: The Commissioner of Securities and Insurance, Montana State Auditor, Troy Downing (commissioner) is the statewide elected official responsible for administering the Securities Act of Montana, including regulating investment advisors. The North American Securities Administrators Association (NASAA) is an organization of securities regulators representing state and provincial securities regulators in the United States, Canada, and Mexico; it provides a forum for the development of uniform policy and regulation when uniformity is appropriate. To date, over 40 states have adopted some form of the NASAA Registration Exemption for Investment Advisers to Private Funds Model Rule (October 2013).

The commissioner finds that adoption of a similar regulation is appropriate in the public interest and consistent with the purposes of the Securities Act of Montana in promoting uniformity among the states and facilitating capital formation in Montana. (Sections 30-10-102(2) and (3), 30-10-107(1), MCA.)

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

6.10.501 REGISTRATION AND EXAMINATION - SECURITIES SALESPERSON, INVESTMENT ADVISER REPRESENTATIVES, BROKER-DEALERS, AND INVESTMENT ADVISERS (1) through (3) remain the same.

(4) Any individual who has been registered as an agent in any state within two years from the date of filing an application for registration shall not be required to retake the examinations in (1) to be eligible for registration.

(5) Any individual who is not registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program (MQP) pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the MQP shall be deemed in compliance with the examination requirements of (1) as long as the individual elects to participate in the NASAA Examination Validity Extension Program (EVEP) within two years of agent registration termination.

(6) Any individual who has not been registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA MQP pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA MQP shall be deemed in compliance with the examination requirements of (1).

(7) Successful participation in the FINRA MQP shall not extend the Series 66/Uniform Combined State Law Examination for purposes of investment adviser representative registration.

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

(9) An individual who terminates their registration as an investment adviser representative may maintain the validity of their Series 65/Uniform Investment Adviser Law Examination (Series 65 Examination) or the investment adviser representative portion of the Series 66/Uniform Combined State Law Examination (Series 66 Examination), as applicable, without being employed by or associated with an investment adviser or federal covered investment adviser for a maximum of five years following the termination of the effectiveness of the investment adviser representative registration if the individual meets all of the following:

(a) the individual previously passed the examination for which they seek to maintain validity under this rule;

(b) the individual was registered as an investment adviser representative for at least one year immediately preceding the termination of the investment adviser representative registration;

(c) the individual was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while registered as an investment adviser representative or at any period after termination of the registration;

(d) the person elects to participate in EVEP under (9) within two years from the effective date of the termination of the investment adviser representative registration;

(e) the individual does not have a deficiency under the investment adviser representative continuing education program at the time the investment adviser representative registration becomes ineffective;

(f) the person completes annually on or before December 31 of each calendar year in which the person participates in the IAR EVEP:

(i) six credits of IAR CE Ethics and Professional Responsibility Content offered by an Authorized Provider, including at least three hours covering the topic of ethics; and

(ii) six credits of IAR CE Products and Practice Content offered by an Authorized Provider;

(g) an individual who elects to participate in EVEP is required to complete credits required by (9)(f) for each calendar year that elapses after the individual's investment adviser representative registration became ineffective regardless of when the individual elects to participate in EVEP; and

(h) an individual who complies with the FINRA MQP under FINRA Rule 1240(c) shall be considered in compliance with (9)(f)(ii).

(5) and (6) remain the same but are renumbered (10) and (11).

AUTH: 30-10-107, 30-10-209, MCA
IMP: 30-10-201, MCA

REASON: The commissioner is the statewide elected official responsible for administering the Securities Act of Montana, including regulating registration and qualifications of broker-dealers and investment advisor representatives. The North

American Securities Administrators Association (NASAA) is an organization of securities regulators representing state and provincial securities regulators in the United States, Canada, and Mexico; it provides a forum for the development of uniform policy and regulation when uniformity is appropriate. To date, several states have adopted or incorporated all or part of NASAA's Investment Adviser Representative Examination Validity Extension Program Model Rule (adopted April 17, 2023) (EVEP Model Rule), as well as NASAA's Model Rule for Examination Requirements for Broker-Dealer (adopted September 18, 2022) (BD Examination Model Rule). The model rules also rely, in part, on the requirements of the Maintaining Qualifications Program (MQP) under the Financial Industry Regulatory Authority (FINRA).

Both FINRA's MQP and the two NASAA model rules allow for broker-dealer salespersons and investment advisor representatives (IARs) to maintain their licensure after they have left the industry for a period of up to five years. The commissioner finds that adoption of similar regulations is appropriate in the public interest and consistent with the purposes of the Securities Act of Montana in promoting uniformity among the states and protecting the public interest as well as investors. (Sections 30-10-102(1) and (2), 30-10-107(1), MCA.)

Although FINRA requires salespersons to complete continuing education throughout the duration of their licensure, IARs are not similarly required, and Montana does not impose a separate continuing education requirement on IARs with current, active registration. The commissioner thus proposes to adopt the NASAA model rules with slight revisions so that the continuing education components only apply when IARs are attempting to maintain licensure while not actively practicing.

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: Laura Shirliff, Creative and Digital Services Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail csi@mt.gov, and must be received no later than 5:00 p.m., July 26, 2024.

6. Kirsten Madsen, Interim Deputy Securities Commissioner, has been designated to preside over and conduct this hearing.

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

8. An electronic copy of this proposal notice is available through the Secretary of State's website at <http://sosmt.gov/ARM/Register>.

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, CSI has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Kirsten Madsen

Kirsten Madsen
Rule Reviewer

/s/ Mary Belcher

Mary Belcher
Deputy Auditor
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

Certified to the Secretary of State, June 11, 2024.

BEFORE THE STATE PARKS AND RECREATION BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 12.3.650 and the adoption of	)	PROPOSED AMENDMENT AND
NEW RULES I and II pertaining to the	)	ADOPTION
Smith River private and commercial)	
use permit system)	

TO: All Concerned Persons

1. On July 19, 2024, at 10:00 a.m., the State Parks and Recreation Board (board) will hold a public hearing via the ZOOM meeting platform to consider the proposed amendment and adoption of the above-stated rules. There will be no in-person hearing. Interested parties may access the telephonic public hearing in the following way:

Dial by telephone: +1 646 558 8656
Meeting ID: 824 1382 8204
Passcode: 008333

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Fish, Wildlife and Parks (FWP), no later than 5:00 p.m., on July 5, 2024, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 594-8071; or e-mail to cbell@mt.gov.

3. Statement of Reasonable Necessity. The board has statutory authority to establish rules governing the issuance of recreational use permits (both private and commercial) for the Smith River. The board promulgated ARM 12.3.650 and 12.3.651 in 2023 to establish certain regulations historically contained in the board's Smith River State Park and River Corridor Biennial Rule (biennial rule), to recognize new legislative limits on permits for nonresidents, and to reflect a new bonus point system authorized by the legislature. The purpose of the proposed amendment to ARM 12.3.650(6) is to correct an inadvertent reference to "June 15" as the end of the peak season and to have the rule reflect the "July 15" date that is the historical end of the peak season as reflected in the biennial rule. The purpose of NEW RULE I and NEW RULE II is to establish certain regulations relating to commercial use that have been historically contained in the biennial rule in the same fashion as was accomplished in promulgating the private permit provisions in ARM 12.3.650 in 2023.

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

12.3.650 SMITH RIVER PERMIT (1) A permit and payment of floating fees are required to float the Smith River from the Camp Baker put-in to the Eden Bridge take-out year-round. This requirement does not apply to a landowner conducting a day float solely for the purpose of performing maintenance on their contiguous fee title property adjacent to the Smith River in the permitted section of the river.

(2) The permit authorizes the holder and the members of their group to a float beginning on the date specified on the permit.

(3) The permit is issued to an individual and is non-transferable and non-refundable.

(4) A person must submit a permit application to participate in the general lottery. A person must be a minimum of 12 years of age at the time they submit a permit application. No person may submit more than one permit application. A person may purchase an unlimited number of Smith River Super Permit lottery chances.

(5) A permit season begins on April 1 and continues through March 31 of the following year. The percentage of overall permits issued to nonresidents is limited by 23-2-408(1)(b), MCA.

(a) The department shall use a general random lottery to allocate permits that authorize a launch date from April 1 through August 15.

(b) Permits that authorize a launch date from August 16 through March 31 must be obtained by contacting the department's regional office in Great Falls.

(6) A person receiving a permit through the general lottery for a launch date during the peak season of May 15 through ~~June 15~~ July 15 may not apply for a permit the following calendar year for a launch date within this same time period. They may apply for a permit outside of the peak season, accompany another permitted group during the peak season, obtain a cancelled launch permit, or apply for a Super Permit. The department may waive this restriction for trips cancelled due to unsafe conditions caused by inclement weather or river flows, insufficient flows for navigability, or other similar exigent circumstances, not including trips cancelled due to undesirable fishing conditions.

(7) Any permits on dates not fully subscribed during the general lottery shall be made available by the end of March on a first come, first served basis subject to 23-2-408, MCA.

(8) The recipient of a permit must notify the department's regional office in Great Falls or the Camp Baker ranger station when cancelling a permit.

(9) A person cancelling their permit less than two days before their launch date shall be prohibited from applying for a permit the following permit season. This restriction does not apply if the river flows are below 100 cubic feet per second. The department may waive the cancellation penalty for permits cancelled less than two days prior to the launch date due to unsafe conditions caused by inclement weather or river flows, insufficient flows for navigability, or other similar exigent circumstances, not including trips cancelled due to undesirable fishing conditions.

(10) A cancelled permit shall be made available on a daily, first come, first served basis subject to 23-2-408(1)(b), MCA.

(11) Each year the department shall conduct an additional lottery that is separate from the general lottery and is used to issue one permit (Smith River Super Permit) that is valid any day of the year of issuance. An individual may purchase an

unlimited number of Super Permit lottery chances. The department may reserve one permit from the general lottery or a cancelled permit to ensure compliance with 23-2-408(1)(b), MCA.

(12) Additional rules governing recreation and commercial use on the Smith River can be found in the board's Smith River biennial rules.

AUTH: 23-1-102, 23-1-106, 23-1-111, 23-2-408, MCA

IMP: 23-2-408, 23-2-409, MCA

REASON: The purpose of the proposed amendment is to correct an inadvertent reference to "June 15" as the end of the peak season and to have the rule reflect the "July 15" date that is the historical end of the peak season as contained in the biennial rule.

5. The proposed new rules are as follows:

NEW RULE I (ARM 12.11.6801) SMITH RIVER COMMERCIAL USE

PERMIT (1) No person, group or entity may conduct commercial use within the Smith River State Park and River Corridor without first obtaining a commercial use permit from the department.

(2) Commercial use shall be administered in accordance with the department's commercial use rules, including but not limited to the department's authority to establish terms and conditions for commercial use.

(3) Commercial outfitters and guides conducting angling trips must be licensed by the State of Montana. The commercial outfitters authorized to conduct commercial float trips on the Smith River are limited to those outfitters identified in Appendix A to the State Parks and Recreation Board's Smith River biennial rules. The department may update Appendix A as necessary to reflect business transfers.

(4) Any commercial launches held by the outfitters currently identified in Appendix A that may become available by no longer being allocated to a valid commercial use permit will be made available to the remaining outfitters identified in Appendix A via a random lottery to be conducted by the department. In the event any commercial launches remain available after that initial lottery, they will be made available to other licensed outfitters via a second random lottery to be conducted by the department.

AUTH: 23-1-102, 23-1-106, 23-1-111, 23-2-408, MCA

IMP: 23-2-408, 23-2-409, MCA

REASON: The board is proposing this rule to place portions of the board's biennial rule relating to commercial use into administrative rule in the same fashion as was done with the portions relating to private permit floats in 2023, and to adopt a specific mechanism for reallocating any commercial launches formerly associated with a commercial use permit that is no longer issued.

While the department already has the general authority in ARM 12.14.121(6) to reallocate rationed units of use in the event of a commercial use permit revocation,

the proposed rule would require reallocation of these specific rationed units of use (i.e., commercial launches) among the current rationed unit holders through a random lottery process. Apart from permit revocation, other possible circumstances that could result in the availability of rationed launches for reallocation would include (a) the death of a permit holder with no subsequent sale or transfer of the permitted business to a buyer/transferee eligible to receive their own commercial use permit or (b) an inter vivos sale or transfer of the permitted business to a buyer/transferee who is ineligible to receive their own commercial use permit. If any commercial launches remain available after the initial lottery among the Appendix A outfitters, they will be made available to other licensed outfitters through a second random lottery process.

Apart from the addition of the proposed provision in (4) establishing the lottery process for reallocation, there are no differences between the language of the proposed rule and the current biennial rule.

NEW RULE II (ARM 12.11.6802) SMITH RIVER COMMERCIAL USE PERMIT RESTRICTIONS (1) Commercial outfitters are limited to a maximum of 73 float trips per calendar year.

(2) The department shall establish commercial outfitter float trip dates in consultation with the commercial outfitters and in accordance with the following criteria:

(a) For launch dates during April and from August 1 through 15, all commercial outfitters must finalize their float trip dates seven days prior to the private permit lottery referenced in ARM 12.3.650. Commercial outfitters seeking to reschedule a float trip in the above-referenced timeframe after the private permit lottery must use the reservation system to request a cancelled float trip. All commercial float trips not reserved by an outfitter as required above will be available to the public in the private permit lottery.

(b) For launch dates during May, June, and July, all commercial float trips not reserved by a commercial outfitter will be designated "On Hold" and will not be included in the private permit lottery referenced in ARM 12.3.650. After the lottery, commercial outfitters may utilize available "On Hold" float trips 29 or more days in advance of an available date. All commercial float trips not utilized by an outfitter will be available to the public via the reservation system 28 days prior to the float trip date. Commercial outfitters seeking to reschedule a float trip to an available date 28 days or fewer from a desired float trip date must use the public reservation system to request an open float trip.

(3) There is a maximum of one commercial float trip allowed on Mondays, Tuesdays, Thursdays, Fridays, and Saturdays and a maximum of two commercial launches allowed on Sundays and Wednesdays. This equates to a maximum of nine commercial float trips per week.

(4) Commercial outfitters must cancel all un-booked float trips a minimum of 14 days prior to the float trip date. The park manager may waive disciplinary action for float trips cancelled less than 14 days prior to the float trip date due to unsafe conditions caused by inclement weather or river flows, insufficient flows for navigability, or other similar exigent circumstances. This does not include float trips cancelled due to undesirable conditions.

- (5) Commercial float trip fees must be paid at Camp Baker prior to launching.
- (6) The park manager may waive the float trip fee and other related fees for a maximum of two commercial float trips each season on a case-by-case basis when the commercial user donates one or more float trips to a recognized charitable or not-for-profit event and the commercial user is not compensated. No additional commercial float trips may be authorized under this provision. Commercial outfitters requesting a fee waiver must submit a written request to the park manager a minimum of 30 days prior to the anticipated float trip date. Waiver requests shall be considered in the order received.

AUTH: 23-1-102, 23-1-106, 23-1-111, 23-2-408, MCA
IMP: 23-2-408, 23-2-409, MCA

REASON: The board is proposing this rule to place portions of the board's biennial rule relating to commercial use into administrative rule in the same fashion as was done with the portions relating to private permit floats in 2023. There are no differences between the language of the proposed rule and the current biennial rule.

- 6. The board anticipates no fiscal impact from the amendment and adoption of the rules proposed in this notice.
- 7. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Deb O'Neill, Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or email doneill@mt.gov, and must be received no later than 5:00 p.m., July 22, 2024.
- 8. Jeffrey M. Hindoiien or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.
- 9. FWP maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by FWP, the State Parks and Recreation Board, or the Fish and Wildlife Commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written requests may be mailed or delivered to: Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to <https://public.govdelivery.com/accounts/MTFWP/subscriber/new>.
- 10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.
- 11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment and adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Jeffrey M. Hindoien
Jeffrey M. Hindoien
Rule Reviewer

/s/ Russ Kipp
Russ Kipp
Chair
State Parks and Recreation Board

/s/ Dustin Temple
Dustin Temple
Director
Fish, Wildlife and Parks

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I and the amendment of ARM	)	PROPOSED ADOPTION AND
17.36.126, 17.38.101, and 17.38.234	)	AMENDMENT
and the amendment to Circular DEQ-)	
1 pertaining to ultraviolet treatment of	)	(PUBLIC WATER SUPPLY)
groundwater sources of public water)	
systems)	

TO: All Concerned Persons

1. On July 15, 2024, at 10:00 a.m., the Department of Environmental Quality (department) will hold an in-person public hearing in Room 111 of the Metcalf Building, at 1520 E. Sixth Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules. Interested parties may also attend the hearing electronically in the following ways:

[https://mt-](https://mt-gov.zoom.us/j/85795825271?pwd=bEZsRFg2aEtNVzRCYjd1Ujd6bFBRQT09)

[gov.zoom.us/j/85795825271?pwd=bEZsRFg2aEtNVzRCYjd1Ujd6bFBRQT09](https://mt-gov.zoom.us/j/85795825271?pwd=bEZsRFg2aEtNVzRCYjd1Ujd6bFBRQT09)

Passcode: 523824

Or One tap mobile :

+12133388477,,85795825271#,,,,*523824# US (Los Angeles)

+12063379723,,85795825271#,,,,*523824# US (Seattle)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 213 338 8477 US (Los Angeles)

+1 206 337 9723 US (Seattle)

+1 646 558 8656 US (New York)

Webinar ID: 857 9582 5271

Passcode: 523824

International numbers available: <https://mt-gov.zoom.us/j/85795825271?pwd=bEZsRFg2aEtNVzRCYjd1Ujd6bFBRQT09>

Or an H.323/SIP room system:

H.323: 162.255.37.11 (US West) or 162.255.36.11 (US East)

Meeting ID: 857 9582 5271

Passcode: 523824

SIP: 85795825271@zoomcrc.com

Passcode: 523824

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 P.M. on July 5, 2024, to advise us of the nature of the accommodation that you need. Please contact the Department of Environmental

Quality at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-442@mt.gov.

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

NEW RULE I ULTRAVIOLET TREATMENT FOR GROUNDWATER

SOURCES (1) Systems that use ultraviolet (UV) treatment for any groundwater source must meet the requirements of this rule. All UV treatment must be reviewed and approved by the department under the requirements of ARM 17.38.101. All systems that are designed and approved to provide 4-log virus inactivation must treat all water to be served to achieve 4-log virus inactivation.

(2) For systems using UV treatment that does not provide 4-log virus inactivation:

(a) a sample tap must be installed that allows for sampling of raw water from each source individually;

(b) one raw water total coliform sample must be collected by the system from each source that is subject to the UV treatment at the same frequency as the distribution system total coliform samples. Raw water samples under this rule are in addition to routine total coliform monitoring; and

(c) raw water sample results are subject to ARM 17.38.211, 17.38.215, and 17.38.234.

(3) Systems with UV treatment that provide 4-log virus inactivation must monitor to ensure the UV treatment is functioning.

(a) Monitoring must be done at the point of disinfectant application.

(b) The dose and flow rate must be monitored and recorded continuously.

(c) For each day the treatment system is operating and serving water, the following must be recorded for each UV reactor:

(i) date;

(ii) treatment plant name;

(iii) treatment plant on and off time;

(iv) dose; and

(v) flow rate.

(4) Systems with UV treatment that provide 4-log virus inactivation must report on department-approved forms and formats that include the following information:

(a) Public water system name; public water system identification number; month and year; treatment plant name; treatment plant status (on and off);

(b) For each day the treatment system was operational and serving water, it must include the date, minimum daily dose, and highest flow rate;

(c) If the UV treatment system consists of multiple UV reactors, the monitoring and reporting shall be for each reactor separately;

(d) The operational status of all UV lamps; and

(e) The calibration of ultraviolet transmittance (UVT) instruments, calibration of the UV sensors, and recalibration of reference sensors in accordance with a protocol the department approves.

(f) Water that does not meet the specifications of this rule is not allowed. All of the water served must be treated by UV treatment to the minimum UV dose as approved by the department.

AUTH: 75-6-104, MCA

IMP: 75-6-104, MCA

REASON: In NEW RULE I, the department proposes requirements for public water supply systems that use ultraviolet (UV) treatment for groundwater sources. Such requirements already exist for surface water sources. With advances in UV technology, the decreasing cost of units, and the scaling of the application to smaller systems, the technology is now being used for more groundwater sources. The proposed new rule is necessary to protect public health by ensuring that groundwater UV treatment units reach the disinfection levels that they are intended to reach.

The proposed new rule sets forth requirements for systems that have installed UV treatment but are not required to meet 4-log virus inactivation, and for those that are required to meet 4-log virus inactivation.

For those systems that do not provide 4-log virus inactivation, the proposed new rule requires the system to collect raw water samples from each source. This is necessary because UV treatment that provides less than 4-log virus inactivation may prevent the indicator organism (total coliform) from reproducing without having an effect on viruses. By inactivating the indicator organism, but not the pathogens in the water, a negative total coliform sample may not accurately reflect the contamination level of the water being served. The proposed requirements in (2)(a), that a sample tap be installed to sample for raw water, and in (2)(b), that raw water be sampled at the same frequency as total coliform, are necessary to ensure that risks of contamination are identified. The requirement in (2)(c), that raw water samples be subject to the federal Groundwater Rule and revised total coliform rules as outlined in ARM 17.38.211, 17.38.215, and 17.38.234, is necessary because these rules provide specific requirements to address positive total coliform sample results that are indicative of a water quality problem. It is not intended that consecutive systems (e.g., vending machines, etc.) be subject to this rule because consecutive systems, by definition under 40 CFR 141.2, receive finished water.

For those systems that do have to meet 4-log inactivation, the department proposes the monitoring requirements in (3) and reporting requirements in (4).

Section (3) proposes UV treatment monitoring requirements. Systems must monitor at a higher frequency than is required to report to the department in order to establish the lowest values for the day. In (3), the proposed UV treatment monitoring for groundwater sources mirrors the surface water treatment rule's UV requirements. In (3)(a), the monitoring must occur at the application site because that is where the treatment occurs, and there is no residual. The treatment is immediate, and the monitoring is only accurate at the point of disinfectant application. In (3)(b), the proposed rule requires the dose and flow rate to be measured continuously because without measuring it continuously, it will be unknown if water that does not meet the specifications of this rule is served. Each day that the UV treatment is operational and serving water, systems need to record

the date, treatment plant name, treatment plant on and off time, and, for each UV reactor, the dose and flow rate as described in (3)(c). The dose is calculated from several parameters, so the reactor must monitor the components to calculate the dose.

Section (4) proposes reporting requirements that must be submitted to the department about UV treatment. This requirement is a necessary part of the monitoring process because if the minimum daily dose is above the designed and approved dose, the department confirms that the water is being treated to 4-log virus inactivation standards.

Subsection (4)(c) requires systems that have multiple UV reactors to report the monitoring requirements separately. This is especially necessary for UV treatment systems that have multiple UV reactors in a series to achieve 4-log virus inactivation (e.g., a 2-log reactor followed by another 2-log reactor). The department needs to know that each reactor met its approved dose to be able to determine if the UV treatment system met the 4-log virus inactivation standard together.

Subsection (4)(d) requires information about the UV treatment lamps. The lamps are part of the apparatus that sends the UV light through the water. Knowing which lamps are in operation will be helpful to troubleshoot problems with the treatment.

In (4)(e), the proposed rule requires that the UVT (ultraviolet transmittance) instruments, the UV sensors, and the reference sensor units be calibrated and reported according to state-established protocols as authorized by 40 CFR 141.403(b)(3)(iii) for groundwater, which is consistent with the surface water treatment rule, as authorized by 40 CFR 141.720(d)(3) and 40 CFR 141.403(b)(3)(iii) authorizes the department to require monitoring of alternative treatment (e.g., UV) and to determine subsequent monitoring and reporting requirements.

Subsection (4)(f) proposes that the reported minimum daily dose must be equal to or greater than the approved dose. This is how the department will verify compliance with UV treatment reporting. If a water system reports a minimum daily dose that is below the approved UV dose, then the water system served any water that did not meet the 4-log virus inactivation standard and would be in violation. This standard differs from the UV treatment rule for surface water that only requires 95% of the water must meet the approved UV dose. Groundwater sources either confirmed to be an *E.coli*-positive source, or that is susceptible to pathogen contamination based on environmental factors (e.g., shallow static water level, proximity to waste water infrastructure, etc.) are required to treat to 4-log virus inactivation. All water (100%) must be treated to the 4-log virus inactivation standard because the UV treatment is a form of disinfection that does not maintain a residual or continual treatment after point of application. If some of the water served is not treated, then it is possible for pathogens to be supplied to the distribution system for consumption. All water served must be treated to the 4-log virus inactivation standard to ensure that all the served water is pathogen free.

NEW RULE I will be applied to public water systems with groundwater sources that have new UV treatment. However, there are public water systems that voluntarily installed UV treatment that were not reviewed and approved by the department, and these systems may develop problems. If a system with existing voluntary UV treatment develops a problem (e.g., positive total coliform or *E. coli*

sample results from source or distribution system, etc.) that makes the department question the microbial quality of the water served, the system will be subject to these rules to protect public health.

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

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

(a) Department Circular DEQ-1, "Standards for Water Works," 2022 2024 edition;

(b) through (2) remain the same.

AUTH: 76-4-104, MCA

IMP: 76-4-104, MCA

REASON: It is reasonable and necessary to amend this rule to update the year to reflect the current Circular DEQ-1 edition.

17.38.101 PLANS FOR PUBLIC WATER SUPPLY OR PUBLIC SEWAGE SYSTEM (1) through (21) remain the same.

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

(a) Department Circular DEQ-1, 2022 2024 edition, which sets forth the requirements for the design and preparation of plans and specifications for public water supply systems;

(b) through (23) remain the same.

AUTH: 75-6-104, MCA

IMP: 75-6-104, 75-6-112, 75-6-121, MCA

REASON: It is reasonable and necessary to amend this rule to update the year to reflect the current Circular DEQ-1 edition.

17.38.234 TESTING AND SAMPLING RECORDS AND REPORTING REQUIREMENTS (1) remains the same.

(2) A supplier shall keep a daily record of the samples and control tests required in ARM 17.38.225, 17.38.227, 17.38.230, ~~and 17.38.234(4), and [NEW RULE I]~~. The records must be kept on report forms approved by the department and must be prepared in duplicate. Unless indicated otherwise in these rules, the original records must be forwarded to the department by the tenth day of the month following testing.

(3) through (10) remain the same.

AUTH: 75-6-104, MCA

IMP: 75-6-104, MCA

REASON: It is reasonable and necessary to amend this rule to require the water system to record, keep, and submit the UV treatment-monitored information to the department. The department will use the submitted UV treatment-monitored information from the water systems to determine compliance with NEW RULE I. This is reasonable and necessary to protect public health by ensuring that the implemented UV treatment meets the design intent.

5. The proposed amendments to Circular DEQ-1 are as follows, new matter underlined, deleted matter interlined:

CIRCULAR DEQ-1: POLICY ON ULTRAVIOLET LIGHT FOR TREATMENT OF PUBLIC WATER SUPPLIES

Initial paragraphs to section B. remain the same.

C. INSTALLATION OF UV SYSTEMS

(1) through (15) remain the same.

(16) For water sources not required to provide 4-log virus inactivation and use UV treatment that provides less than 4-log virus inactivation, a raw water sample tap must be installed on each and every source before all treatment (including blending of two or more sources).

D. to E. remain the same.

F. RECORD KEEPING AND ACCESS

A record must be kept of the water quality test data, dates of lamp replacement and cleaning, a record of when the device was shut down and the reason for shutdown, and the dates of prefilter replacement.

MDEQ must have access to the UV water treatment system and records.

~~Water system owners will be required to submit operating reports and required sample results on a monthly or quarterly basis, as required by MDEQ.~~

The monitoring and reporting requirements for UV treatment of groundwater sources can be found in [NEW RULE I] and surface water sources in ARM 17.38.214.

REASON: It is reasonable and necessary to amend Circular DEQ-1 to be consistent with proposed UV treatment for groundwater systems. For water sources that are not required to provide 4-log virus inactivation, a raw water sample tap is required. This is necessary to ensure better protection of public health, as discussed in the statement of reasonable necessity for NEW RULE I. Adding the monitoring and reporting requirements with rule citations helps the design engineers better understand the monitoring requirements to adjust the design for the intended operation of treatment systems accordingly.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Department of Environmental Quality, at 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; telephone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-442@mt.gov, and must be received no later than 5:00 p.m., July 19, 2024.

7. Marisa Heiling, staff attorney for the department, has been designated to preside over and conduct this hearing.

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

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

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

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

/s/ Sarah Christopherson
SARAH CHRISTOPHERSON
Rule Reviewer

/s/ Christopher Dorrington
CHRISTOPHER DORRINGTON
Director
Department of Environmental Quality

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 17.36.103 pertaining to) PROPOSED AMENDMENT
application contents)
) (WATER QUALITY)

TO: All Concerned Persons

1. On July 16, 2024, at 1:00 p.m., the Department of Environmental Quality (department) will hold an in-person public hearing in Room 111 of the Metcalf Building, at 1520 E. Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules. Interested parties may also attend the hearing electronically in the following ways:

Please click the link below to join the webinar:

[https://mt-](https://mt-gov.zoom.us/j/83481610549?pwd=uIBGOFsUW5muCHuLyeXLXrZ24E9Icw.8Am12oRam1bBv5D-)

[gov.zoom.us/j/83481610549?pwd=uIBGOFsUW5muCHuLyeXLXrZ24E9Icw.8Am12oRam1bBv5D-](https://mt-gov.zoom.us/j/83481610549?pwd=uIBGOFsUW5muCHuLyeXLXrZ24E9Icw.8Am12oRam1bBv5D-)

Passcode: 934926

Or One tap mobile :

+12133388477,,83481610549#,,,,*934926# US (Los Angeles)

+12063379723,,83481610549#,,,,*934926# US (Seattle)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 213 338 8477 US (Los Angeles)

+1 206 337 9723 US (Seattle)

+1 646 558 8656 US (New York)

Webinar ID: 834 8161 0549

Passcode: 934926

International numbers available: <https://mt-gov.zoom.us/j/83481610549?pwd=uIBGOFsUW5muCHuLyeXLXrZ24E9Icw.8Am12oRam1bBv5D->

Or an H.323/SIP room system:

H.323: 162.255.37.11 (US West) or 162.255.36.11 (US East)

Meeting ID: 834 8161 0549

Passcode: 934926

SIP: 83481610549@zoomcrc.com

Passcode: 934926

2. The Department of Environmental Quality will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Environmental Quality no later than 5:00 P.M. on July 8, 2024, to advise us of the nature of the accommodation that you need. Please contact the Department of Environmental

Quality at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-447@mt.gov.

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

17.36.103 APPLICATION – CONTENTS (1) In addition to the completed application form required by ARM 17.36.102, the following information must be submitted to the reviewing authority as part of an application:

(a) through (m) remain the same.

~~(n) except for connections to existing public systems addressed under ARM 17.36.123 or projects within reservation boundaries, if the proposed water supply is from wells or springs, or is relocating an existing multiple-user water supply, a letter from the Department of Natural Resources and Conservation stating that the water supply:~~

~~(i) is, or is not, located in a controlled groundwater area; and~~

~~(ii) is either exempt from water rights permitting requirements or has a water right, as defined in 85-2-102, MCA;~~

~~(o) for projects within reservation boundaries, water rights predetermination information or the equivalent authorization may be provided by the appropriate water management board;~~

(p) through (s) remain the same, but are renumbered (n) through (q).

AUTH: 76-4-104, MCA

IMP: 76-4-104, 76-4-125, MCA

REASON: The Department of Environmental Quality (department) is proposing to amend ARM 17.36.103(1) to repeal existing (n) and (o) to be consistent with statutory authority under recent judicial interpretation between the department and the Department of Natural Resources and Conservation (DNRC). Thus, the department will no longer require a letter (predetermination letter) from DNRC to allow the Sanitation in Subdivisions Act (Sanitation Act) approval to proceed as previously required under this rule.

The department (or a delegated health department) reviews facilities in proposed subdivisions under the Sanitation Act. 76-4-101 et seq., MCA. The Sanitation Act's purpose is "to protect the quality and potability of water for public water supplies and domestic uses and to protect the quality of water." 76-4-101, MCA. The Sanitation Act satisfies its purpose through the department's evaluation of the physical presence and properties of water (i.e., quantity and quality). 76-4-104(7), MCA. The department does not have statutory authority to review the validity of legal water availability (i.e., water rights), which is DNRC's authority under the Water Use Act. 85-2-101 et seq, MCA. Likewise, DNRC does not have authority to evaluate subdivisions under the Sanitation Act or prior to an application under Title 85, chapter 2, MCA.

In MAR Notice No. 17-358 published in Issue Number 8 of the Montana Administrative Register (MAR) on April 24, 2014, the department amended ARM 17.36.103 to add (1)(n)–then numbered (1)(s). The department reasoned that it

would require applicants to provide information to the department about the status of water rights for any proposed water supply using wells or springs, except for connections with existing public water supply systems, which requires certification of appropriate water rights under ARM 17.36.123—then ARM 17.36.328. Applicants could either submit proof of a water right or a letter from the DNRC stating that the subdivision is exempt from DNRC permitting requirements. The reason statement continued that without the water rights information, the department would not issue a Sanitation in Subdivisions Act approval.

In 2014, following adoption of ARM 17.36.103(1)(n)—then numbered (1)(s)—the department entered a memorandum of understanding with DNRC. The memorandum of understanding memorialized the joint agency procedure for expeditious and coordinated review of applications for subdivisions that obtain water from wells or springs. The relevant application review procedure required DNRC's predetermination of the necessity of a water right permit or certificate for the proposed water supply.

In MAR Notice No. 17-421 published in Issue 24 of the MAR on December 23, 2022, the department proposed to amend ARM 17.36.103(1)(n) and add (1)(o). The department reasoned that in current (1)(n), the water rights letter would be required for relocations of existing multiple-user wells, which are most likely to impact water rights. Subsection (1)(n) would now also require a statement regarding a controlled groundwater area because of lack of dependable water or pollution which could impact setbacks or the quality and dependability of water supplies. Subsection (1)(o) updated water rights language to address current and future changes to water right jurisdiction based on tribal water compacts.

However, on February 14, 2024, the Montana First Judicial District Court issued an order in *Upper Missouri Waterkeeper et al. v. Broadwater County and DNRC*. Cause No. BDV-2022-38. Although the department was not party to the litigation, the District Court noted that the Montana Legislature has not authorized the department to promulgate rules under 76-4-104, MCA, as to the legal appropriability of water—ARM 17.36.103(1)(n) and (o), but only the factual existence and properties of water. p. 50.

Under the Sanitation Act, and upon judicial direction, the department has limited statutory authority to assess physical water availability—not legal availability through the assessment of water rights—which is DNRC's limited statutory authority under the Water Use Act. However, DNRC does not have statutory authority to approve subdivisions. This means that the department's and DNRC's roles are distinct without legislation that designates the department's and DNRC's roles in this area of currently overlapping dependency.

While the department values the utility of the DNRC's predetermination letters in subdivision approvals under the Sanitation Act, it understands that the District Court noted that the department lacks statutory authority to require such information prior to subdivision approval. Additionally, experience administering the rule has caused the department to reevaluate whether the rule is necessary and appropriate. Following extensive consideration of the law, the judicial determination, and the rule in practice, the department finds it necessary to amend the rule to repeal (1)(n) and (o) until it has definitive statutory authority to require such information from the applicant—and ultimately DNRC—for this process.

Therefore, through this amendment, the department no longer requires predetermination from the DNRC to allow Sanitation Act approval to proceed to be consistent with the District Court's order, DNRC's current legal authority, and the department's current legal authority.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Department of Environmental Quality, at 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; telephone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMAR17-447@mt.gov, and must be received no later than 5:00 p.m., July 19, 2024.

5. Marisa Heiling, staff attorney for the department, has been designated to preside over and conduct this hearing.

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

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

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

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

/s/ Jonathan Morgan
JONATHAN MORGAN
Rule Reviewer

/s/ Christopher Dorrington
CHRISTOPHER DORRINGTON
Director
Department of Environmental Quality

Certified to the Secretary of State June 11, 2024.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.159.632, 24.159.659, and) PROPOSED AMENDMENT
24.159.663 pertaining to the Board of)
Nursing)

TO: All Concerned Persons

1. On July 19, 2024, at 11:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/86881837782>
Meeting ID: 868 8183 7782, Passcode: 461831
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 868 8183 7782, Passcode: 461831

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 department no later than 5:00 p.m., on July 12, 2024, to advise us of the nature of the accommodation that you need. Please contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

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

24.159.632 PROGRAM SURVEYS (1) To ensure ongoing compliance with the board's statutes and rules, those approved programs not accredited by a national nursing accreditation agency recognized by the U.S. Department of Education must be surveyed onsite and reevaluated for continued approval at least every five years. Each time a program survey is performed, the entire program is evaluated for all components under board jurisdiction. For schools with RN and PN programs for which only the RN program holds national nursing accreditation from an agency recognized by the U.S. Department of Education, PN program continued approval will be contingent upon the RN program accreditation visits and reports and an onsite survey at least every five years will not be required.

(2) through (6) remain the same.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, 37-8-302, MCA

REASON: Over the past year, all four practical nursing programs in Montana have reached out to inquire about their next PN program onsite survey; three of the four have RN programs that have become accredited in the past few years. PN programs have the same administration including policies and procedures as the RN programs, so board evaluation would for the most part be duplicative of the accreditors' evaluations. PN programs in Montana have historically had excellent NCLEX-PN pass rates, which are one objective metric that demonstrates efficacy of program curricula. Requiring a board onsite survey in addition to the accreditation visit already conducted of the RN program would increase administrative burdens on nursing programs without translating to higher public protection.

24.159.659 FACULTY FOR REGISTERED NURSING PROGRAMS

(1) through (1)(b) remain the same.

(c) except as otherwise provided in these rules, hold at least a graduate degree ~~in nursing~~ from a nationally accredited program.

(2) The majority of the faculty members of a registered nursing program shall hold a graduate degree with a major in nursing. If the graduate degree is not in nursing, the faculty member shall hold a minimum of a baccalaureate degree in nursing or, in the case of interprofessional faculty teaching non-clinical nursing courses, advanced preparation appropriate to the content being taught.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: According to the Status of the Nursing Workforce in Montana report released in October 2023 by the Montana Department of Labor and Industry, Montana's number of RNs with a graduate degree is just over half of the U.S. average (13% of Montana RNs hold a master's or doctorate in nursing; 21% of U.S. RNs hold a graduate degree in nursing). This shortage of faculty prepared in accordance with Montana's current rule can create difficulty for Montana nursing programs to even find qualified faculty and the current rule can create an unnecessary burden on these programs by causing them to pass up otherwise qualified nurses who are graduate prepared in related studies.

24.159.663 WAIVER OF FACULTY QUALIFICATIONS (1) remains the same.

(2) Programs may employ a maximum of ten percent or 2.0 FTE of faculty, whichever is greater, based on total faculty FTE, who do not hold a graduate degree ~~in nursing (for registered nurse education programs)~~ as required in ARM 24.159.659 or a baccalaureate degree in nursing ~~(for practical nurse education programs)~~ as required in ARM 24.159.662. Those individuals shall have no more than five years from the date of employment to obtain the requisite degree.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: See reason for ARM 24.159.659.

4. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received no later than 5:00 p.m., July 19, 2024.

5. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and sosmt.gov/ARM/register.

6. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

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

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

9. Department staff has been designated to preside over and conduct this hearing.

BOARD OF NURSING
SARAH SPANGLER, RN, PRESIDENT

/s/ JENNIFER STALLKAMP
Jennifer Stallkamp
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.301.1001, 24.301.1003, and	)	PROPOSED AMENDMENT AND
24.301.1007 and the repeal of ARM	)	REPEAL
24.301.1006 pertaining to)	
underground facilities)	

TO: All Concerned Persons

1. On July 11, 2024, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/82779856648>
Meeting ID: 827 7985 6648, Passcode: 579828
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 827 7985 6648, Passcode: 579828

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 department no later than 5:00 p.m., on July 5, 2024, to advise us of the nature of the accommodation that you need. Please contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

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

24.301.1001 DEFINITIONS For the purposes of this chapter, the following definitions apply:

- (1) ~~"Advisory council" means the underground facility protection advisory council provided for by 69-4-520, MCA.~~
- (2) remains the same but is renumbered (1).
- (3) ~~"Department" means the Department of Labor and Industry, as provided by 69-4-501, MCA.~~
- (4) ~~"Excavator" has the same meaning as provided by 69-4-501, MCA.~~
- (5) ~~"Incident" has the same meaning as provided by 69-4-501, MCA.~~
- (6) ~~"Underground facility owner" has the same meaning as provided by 69-4-501, MCA.~~

AUTH: 69-4-522, MCA
IMP: 69-4-501, 69-4-520, MCA

REASON: There is reasonable necessity to repeal (1) and (3) through (6) because they merely adopt definitions from statutes. Those statutes already govern the program, so it is not necessary to repeat the definitions in rule.

24.301.1003 ASSESSMENT AND COLLECTION OF CIVIL PENALTIES

(1) remains the same.

(2) To timely issue civil penalties as required by 69-4-524 and 69-4-525, MCA, if a call center does not respond within ten days of a request, the department may issue a civil penalty based solely on the number of locate requests identified by the call center that takes locate requests for the area in which the incident occurred.

(a) For good cause shown, a party to whom a civil penalty has been issued pursuant to ~~(2)~~ this section may seek a recalculation of the penalty based on information received from all call centers.

~~(b) The department may withdraw a civil penalty if the underground facility owner, pursuant to 69-4-529, MCA, timely notifies the department that the civil penalty is not required.~~

~~(3) A party aggrieved by the imposition of a civil penalty may dispute the penalty as provided for in ARM 24.301.1009.~~

~~(4) The department may refer for debt collection any civil penalty that has not been disputed and remains unpaid for more than 75 days after issuance.~~

AUTH: 69-4-522, MCA

IMP: 69-4-522, 69-4-524, 69-4-525, 69-4-529, 69-4-530, MCA

REASON: Subsection (2)(b) is proposed to be stricken because it unnecessarily duplicates 69-4-529(3), MCA. Section (3) is proposed to be stricken because it is an unnecessary cross reference. Section (4) is proposed to be stricken because it is unnecessary to set forth business process in rule, and the process for collecting debts owed is set forth in statute.

24.301.1007 COLLECTION OF ANNUAL FEES (1) through (3) remain the same.

~~(4) The department may refer fees remaining unpaid for more than 90 days for collection.~~

~~(a) (4)~~ The department, in its sole discretion, may allow an underground facility owner billed an annual fee of less than \$50 to defer payment of the fee until the following year. During the deferral period, the department will not refer an underground facility owner having a deferred annual fee to collection.

~~(b)~~ The department will not defer payment of annual fees more than once every two years for an underground facility owner.

(5) The amount of the annual fee to be paid by an underground facility owner is ~~\$0.10~~ \$0.08 per outgoing locate request made by each call center.

AUTH: 69-4-522, MCA

IMP: 69-4-522, 69-4-530, MCA

REASON: Section (4) is proposed to be stricken because it unnecessarily sets forth business process. The fee rate change proposed in (5) is expected to impact approximately 364 facility owners and result in a decrease in revenue of \$13,255.90.

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

24.301.1006 COLLECTION OF FINES

AUTH: 69-4-522, MCA

IMP: 69-4-522, 69-4-529, 69-4-530, MCA

REASON: There is reasonable necessity to repeal this rule. Section (1) unnecessarily duplicates 69-4-529(5), MCA. Section (2) unnecessarily cross-references ARM 24.301.1009. Section (3) unnecessarily sets forth business process relating to the statutory authority set forth at 69-4-530, MCA.

5. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received no later than 5:00 p.m., July 19, 2024.

6. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and sosmt.gov/ARM/register.

7. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

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

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

10. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR

Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON

Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 36.12.906 pertaining to the East) PROPOSED AMENDMENT
Valley Controlled Groundwater Area)

TO: All Concerned Persons

1. On July 24, 2024, at 10:00 a.m., the Department of Natural Resources and Conservation (DNRC) will hold a public hearing at the DNRC building in the Montana Conference Room, first floor, located at 1539 Eleventh 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 the department no later than 5:00 p.m. on July 8, 2024, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601; telephone (406) 444-6615; Montana Relay 711; or e-mail DNRCOAH@mt.gov.

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

36.12.906 EAST VALLEY CONTROLLED GROUNDWATER AREA

(1) remains the same.

(2) A map of the area within the EVCGWA described in (1) is posted at <http://dnrc.mt.gov/divisions/water/water-rights/controlled-ground-water-areas/east-valley> on the department's website.

(3) remains the same.

(4) The following controls apply in Zone 2 of EVCGWA.

(a) remains the same.

(b) New groundwater developments or changes to existing groundwater appropriations are allowed and the department may accept and process the following applications and forms pursuant to 85-2-306(2), 85-2-311, and 85-2-402, MCA, when the application or form is accompanied by documentation of prior written approval from Lewis and Clark County Board of Health, the Lewis and Clark County Water Quality Protection District, the U.S. Environmental Protection Agency, the Montana Department of Environmental Quality, and the Montana Department of Natural Resources and Conservation:

(i) remains the same.

(ii) an East Valley Controlled Groundwater Area Permit Application, Form EVCGWA 600, up to 35 GPM and 10 AF per year;

(ii) and (iii) remain the same but are renumbered (iii) and (iv).

(5) In addition to conditions necessary to satisfy the criteria in 85-2-306(2), 85-2-311, and 85-2-402, MCA, a department order authorizing a new groundwater development or change to existing groundwater appropriation must include conditions consistent with the recommendations included in the prior written approval from Lewis and Clark County Board of Health, the Lewis and Clark County Water Quality Protection District, the U.S. Environmental Protection Agency, the Montana Department of Environmental Quality, and the Montana Department of Natural Resources and Conservation. The prior written approval pursuant to (3)(b) and (4)(b) must include recommendations for:

(a) through (6) remain the same.

AUTH: 85-2-506, 85-2-508, MCA

IMP: 85-2-506, 85-2-508, MCA

REASON: This amendment is necessary to correct the rule to fulfill the intent of the petition to designate the EVCGWA filed with the department by Lewis and Clark City-County Health Department on August 25, 2014. The petition stated that "exempt wells" meaning those under 85-2-306, MCA, where the appropriation is limited to 35 GPM and 10 AF could be obtained in Zone 2. The department adopted ARM 36.12.906 in 2016 which prohibited any new wells under 85-2-306, MCA, for both Zone 1 and Zone 2. This amendment clarifies that users in Zone 2 can apply for an exception to the permit requirements of 85-2-311, MCA, if the appropriation has approval from the technical advisory group and the appropriation is limited to 35 GPM and 10 AF.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601, or e-mail DNRCOAH@mt.gov, and must be received no later than 5:00 p.m. on July 24, 2024.

5. Martin Balukas, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person in paragraph 2 or may be made by completing a request form at any rules hearing held by the department.

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

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

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

/s/ Molly Kelly
Molly Kelly
Rule Reviewer

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 36.14.204, 36.14.205,) PROPOSED AMENDMENT
36.14.206, and 36.14.207 pertaining)
to dam safety hazard determinations)

TO: All Concerned Persons

1. On July 19, 2024, at 10:00 a.m., the Department of Natural Resources and Conservation (DNRC) will hold a public hearing at the DNRC building in the Montana Conference Room, first floor, located at 1539 Eleventh Avenue, Helena, Montana, and via Zoom, to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting: <https://mt-gov.zoom.us/j/89850962753?pwd=VlVtajRQRkpkZnN5OHRieXhTQXk1dz09>; Meeting ID: 898 5096 2753; Password: 535283; or
- b. Dial by Telephone: +1 646 558 8656; Meeting ID: 898 5096 2753; Password: 535283; Find your local number: <https://mt-gov.zoom.us/j/89850962753?pwd=VlVtajRQRkpkZnN5OHRieXhTQXk1dz09>

2. The department will provide 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 accommodation, contact the department no later than 5:00 p.m. on July 8, 2024, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601; telephone (406) 444-6615; Montana Relay 711; or e-mail DNRCOAH@mt.gov.

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

36.14.204 APPLICATION (1) remains the same.

(2) An application must be made on a form provided by the department and must contain at least the following:

(a) through (c) remain the same.

(d) evaluation of the potential flooded area caused by dam failure or a written request for the department to conduct a simplified dam breach evaluation;

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

~~(e)(f)~~ an inspection application fee of \$125.

(3) remains the same.

AUTH: 85-15-110, MCA

IMP: 85-15-209, MCA

REASON: The proposed amendment is necessary because it provides both dam owners and the department flexibility to respond to applications more quickly and at lower cost to certain applicants. Subsection (2)(d) is amended to permit a dam owner either to employ their own engineer to provide their own evaluation, or to request a simplified, conservative evaluation performed by the department. Subsection (2)(f) is amended to clarify that the fee owed is for the application, and not merely any inspection performed by the department.

36.14.205 APPLICATION PROCESSING PROCEDURES

(1) The department shall:

(a) remains the same.

~~(b) arrange for a field investigation with the dam owner to gather data or information to make a hazard determination;~~

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

AUTH: 85-15-110, MCA

IMP: 85-15-209, MCA

REASON: The proposed amendment is necessary due to the proposed amendment to ARM 36.14.204. If ARM 36.14.204 is amended to permit an applicant to elect either to provide their own evaluation or request a simplified department evaluation, there may be circumstances in which the department may not need to arrange for a field investigation with the dam owner to gather data or information to make a hazard determination. The proposed amendment is necessary to reflect that the field investigation described in this provision is no longer mandatory in all cases.

36.14.206 CRITERIA FOR DETERMINATION (1) and (2) remain the same.

(3) For purposes of the hazard determination classification in this ~~section~~ rule, the following apply:

(a) and (b) remain the same.

(c) The breach flow hydrograph and downstream routing of the breach flows ~~will~~ may be estimated by the department either by visual determination or dam breach modeling techniques.

AUTH: 85-15-110, MCA

IMP: 85-15-209, MCA

REASON: The proposed amendment is necessary due to the proposed amendment to ARM 36.14.204. If ARM 36.14.204 is amended to permit an applicant to elect either to provide their own evaluation or request a simplified department evaluation, there may be circumstances in which the department may not need to estimate the breach flow hydrograph and downstream routing of breach flows by visual determination or dam breach techniques. The proposed amendment

is necessary to reflect that the analysis described in this provision is no longer mandatory in all cases.

36.14.207 CHANGE IN CLASSIFICATION (1) A high-hazard dam owner may request the department to reconsider a hazard determination.

(a) remains the same.

(b) The owner shall pay for reasonable inspection, analysis, and processing costs incurred by the department as a result of the reconsideration.

(2) remains the same.

AUTH: 85-15-110, MCA

IMP: 85-15-209, MCA

REASON: The proposed amendment is necessary to address the fact that the costs incurred by the department in responding to a request for change in classification are not limited to inspection costs. The department also incurs costs related to analyzing and processing the request. This amendment permits the department to require payment of its reasonable costs related to inspection, analysis, and processing the request.

The proposed amendment may increase costs associated with a request for change in classification for dam owners who elect to hire an engineer to develop application materials. There are 2,678 privately owned, state-regulated dams in Montana that could be affected by the proposed amendment. The estimate of additional cost of choosing to hire an engineer to develop application materials may vary widely and ranges between zero and thousands of dollars.

Dam owners who choose not to hire an engineer to develop application materials will not be exposed to increased costs. If a dam owner chooses not to hire an engineer to develop application materials, the DNRC will perform a simplified analysis at no additional cost to the applicant.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601; telephone (406) 444-6852; or e-mail DNRCOAH@mt.gov, and must be received no later than 5:00 p.m., July 19, 2024.

5. Martin Balukas, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless

a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person in paragraph 2 or may be made by completing a request form at any rules hearing held by the department.

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

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

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

/s/ Cameron Boster
Cameron Boster
Rule Reviewer

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

Certified to the Secretary of State June 11, 2024.

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

In the matter of the amendment of	)	AMENDED NOTICE OF PUBLIC
ARM 37.40.307, 37.40.315,	)	HEARING ON PROPOSED
37.85.104, 37.85.105, 37.85.106,	)	AMENDMENT
37.85.212, 37.86.1006, 37.86.2002,)	
37.86.2102, 37.86.2105, and)	
37.86.3607 pertaining to updating)	
Medicaid and non-Medicaid provider)	
rates, fee schedules, and effective)	
dates)	

TO: All Concerned Persons

1. On May 24, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1067 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1132 of the 2024 Montana Administrative Register, Issue Number 10.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on July 5, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The proposed fee schedule for the Big Sky Waiver home and community-based services for elderly and physically disabled persons referenced in ARM 37.85.105(4)(a) was posted on the department's website with the following incorrect rates:

- T1016 UA - Case Management: \$16.78. The correct proposed rate is \$17.45.
- T2031 UA Level 1 - Assisted Living Facilities and Adult Foster Homes: \$152.51. The correct proposed rate is \$124.75.
- G0238 Respiratory Therapeutic Procedures: \$13.63. The correct proposed rate is \$8.44.

- A0080 UA U9 Transportation Miles: \$0.53. The correct proposed rate is \$0.59.
- T1000 UA U9 Private Duty Nursing: \$17.64. The correct proposed rate is \$19.30.
- T2040 UA U9 Financial Manager: \$188.10. The correct proposed rate is \$181.92.
- T2041UA U9 Independence Advisor: \$188.10. The correct proposed rate is \$181.92.

On June 11, 2024, the department corrected these errors in the proposed fee schedule. The corrected proposed fee schedule is accessible at: <https://medicaidprovider.mt.gov/proposedfs>.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., July 19, 2024.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State June 11, 2024.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.62.705 pertaining to Child) PROPOSED AMENDMENT
Support Services Fee Schedule)

TO: All Concerned Persons

1. On July 12, 2024, at 1:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89694224978?pwd=VGtrckYyeE1QQ2R1aGZWa2szcm13UT09>, meeting ID: 896 9422 4978, and password: 973837; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 896 9422 4978, and password: 973837. Find your local number: <https://mt-gov.zoom.us/u/kPjl4l4A1>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 28, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

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

37.62.705 FEE SCHEDULE (1) through (1)(b) remain the same.

(c) a fee of \$25.00 shall be collected for from each application applicant for non-assistance related services. This fee shall be collected from the applicant at the time of application in the form of a personal check, electronic check, cashier's check, or money order, credit card, or debit card.

(2) and (3) remain the same.

(a) for parent locate services, a fee of \$10.00 if the social security number of the person to be located is provided to the CSSD, and \$14.00 if the social security number of the person to be located is not provided; and

(b) for each intercept of federal or state payments, a standardized fee of \$25.00 or actual costs if less than the standardized fee; federal or state payments include, but are not limited to, income tax refunds; and

~~(c) for photocopies of CSSD files, records and other materials, for each page, a fee of \$.25.~~

(4) through (6) remain the same.

AUTH: 40-5-202, 40-5-210, MCA
IMP: 40-5-210, MC

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.62.705 Fee Schedule.

CSSD proposes amending ARM 37.62.705 Fee Schedule in three ways to reduce barriers to CSSD services.

1. To allow payment of the application fee by methods other than cashier's checks or money orders. Changing the rule to allow personal checks and debit/credit cards will reduce a barrier to CSSD services and allow for commonly used electronic payment methods.
2. Require an application fee per applicant, not per application form. Changing the rule as proposed will align it with federal regulation at 45 CFR 302.33(c)--State Plan Requirements.
3. The photocopying fee for CSSD files, records, or materials should be entirely removed. CSSD files and most CSSD records and materials are now in electronic format, and they can be provided electronically at no cost.

ARM 37.62.705

1. ARM 37.62.705 only allows payment of the child support application fee by cashier's check or money order. Obtaining a cashier's check or money order can be a barrier to services as a fee is usually involved in obtaining those payment types. There is also a customer service issue when only cashier's checks or money orders are allowed for application fees. Electronic payment methods, such as debit/credit cards, electronic checks, and online payments, are commonplace now with current technology. The rule, as written, does not allow these payment methods.
2. ARM 37.62.705 requires a fee per application, not per applicant. The proposed amendment would align the rule with federal regulation at 45 CFR 302.33(c)--State Plan Requirements. The state plan must provide that an application fee be charged to everyone who applies for services. The proposed amendment would also reduce a possible financial barrier by limiting the application fees collected per applicant when they request CSSD services.
3. ARM 37.62.705 requires a photocopy fee of \$.25 per page for CSSD files, records, or other materials. The proposed amendment would remove that fee in its entirety. CSSD files and most CSSD records and materials are now in electronic format, and they can be provided electronically at no cost. By removing the photocopy fee, we are removing any possible financial barrier

that may occur when requesting photocopies of CSSD files, records, or materials.

Fiscal Impact

During FFY 2023, CSSD application fees accounted for only \$22,368 of CSSD's FFY 2023 budget of \$11,768,279. Based on application fee data for FFY 2023, the first proposed amendment to ARM 37.62.705(1)(c) would have decreased the amount collected in application fees by \$175. The proposed amendment to ARM 37.62.705(1)(c) requiring an application fee per applicant rather than per application is not expected to have any substantive change to the CSSD budget. The proposed amendment to ARM 37.62.705(3)(c) is expected to have minimal financial impact and affect between zero and 12 people across the state per year, because photocopies are rarely requested from CSSD since materials can be provided electronically at no cost.

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: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., July 19, 2024.

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

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 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. Written requests may be mailed or delivered to the contact person in paragraph 5.

8. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

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

/s/ April Armstrong
April Armstrong
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 38.3.401 pertaining to the	)	AMENDMENT
completion of applications for motor)	
carrier operating authority	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Public Service Regulation proposes to amend the above-stated rule.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 5:00 p.m. on July 19, 2024, to advise us of the nature of the accommodation that you need. Please contact the Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT, 59620-2601; telephone (800) 646-6150; fax (406) 444-7618; or e-mail pschelp@mt.gov.

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

38.3.401 COMPLETION OF APPLICATIONS (1) Applications for operating authority shall be in conformity with the requirements of the Montana Motor Carrier Act.

(2) Application forms for operating authority must be submitted on a form supplied by this commission.

(3) The application form must be completed, signed by the proper party, and verified in accordance with 1-6-105, MCA ~~notarized~~.

AUTH: 69-12-201, MCA

IMP: 69-12-311, ~~69-12-312, 69-12-313, 69-12-314, 69-12-340, MCA~~

REASON: The department proposes to amend the above-listed rule because on several occasions applicants for motor carrier authority have needed to amend their application after it has been filed with the Public Service Commission. Substituting an unsworn written declaration requirement for the notary requirement will make the application process more efficient for both applicants and regulatory compliance staff, while still ensuring that applications will be verified as true and correct. The two implementation citations that the department proposes to strike were repealed by 2021 House Bill 365 (deregulating Class B carriers) and 2023 Senate Bill 33 (deregulating Class C carriers). The implementation statute that the department proposes to add requires Class E motor carrier authority applications to be verified.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT, 59620-2601; telephone (800) 646-6150; fax (406) 444-7618; or e-mail pschelp@mt.gov; and must be received no later than 5:00 p.m. on July 19, 2024. Please reference Docket No. 2024.06.063 when submitting a comment.

5. The Montana Consumer Counsel, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments to the Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT 59620-2601, no later than 5:00 p.m. on July 19, 2024.

7. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. The department is unable to determine how many persons will be directly affected by this rulemaking because it is unknown how many motor carrier authority applications will be filed in the future. However, the department estimates that ten percent of those directly affected is two persons based on approximately 19 motor carrier operating authority applications filed with the Public Service Commission from 2022 to the present.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. 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. The department's programs are: electric utilities, providers and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines; motor carriers; rail carriers; and administrative procedures. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT, 59620-2601; telephone (800) 646-6150; fax (406) 444-7618; e-mail pschelp@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

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

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

/s/ AMANDA S. WEBSTER
Amanda S. Webster
Rule Reviewer

/s/ JAMES BROWN
James Brown
President
Public Service Commission

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION,
RULE I pertaining to intent to award;	)	AMENDMENT, AND REPEAL
the amendment of ARM 2.5.503,)	
2.5.601, 2.5.602, 2.5.604, 2.5.605, and)	
2.5.609 pertaining to public notice,)	
competitive sealed bids, competitive)	
sealed proposals, sole source)	
procurement, exigency procurements,)	
and alternative procurement methods;)	
and the repeal of ARM 2.5.302,)	
2.5.303, 2.5.304, 2.5.305, and 2.5.502)	
pertaining to requisitions from the)	
agencies to the division, enforcing the)	
contract, contract renewal, completion)	
notification for contracts with)	
performance security, and bid,)	
proposal, and contract performance)	
security)	

TO: All Concerned Persons

1. On April 26, 2024, the Department of Administration published MAR Notice No. 2-5-643 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 770 of the 2024 Montana Administrative Register, Issue Number 8.

2. On May 21, 2024, a public hearing was held on the proposed changes to the above-stated rules in person and by videoconference and telephonic platform.

3. No testimony or comments were received at the hearing or by the deadline.

4. The department has adopted NEW RULE I (ARM 2.5.510) exactly as proposed.

5. The department has amended ARM 2.5.503, 2.5.601, 2.5.602, 2.5.604, 2.5.605, and 2.5.609 exactly as proposed.

6. The department has repealed ARM 2.5.302, 2.5.303, 2.5.304, 2.5.305, and 2.5.502 exactly as proposed.

/s/ Misty Ann Giles
Misty Ann Giles, Director
Department of Administration

/s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State June 11, 2024.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.9.1601, 12.9.1602,)
12.9.1603, 12.9.1604, 12.9.1605, and)
12.9.1606 pertaining to Montana)
Wildlife Habitat Improvement Act)
Termination Date and Eligible)
Expenditures)

TO: All Concerned Persons

1. On April 12, 2024, the Department of Fish, Wildlife and Parks (FWP) published MAR Notice No. 12-628 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 668 of the 2024 Montana Administrative Register, Issue Number 7.

2. On May 2, 2024, a public hearing was held on the proposed amendment of the above-stated rules, via Zoom. FWP received written comments by May 13, 2024.

3. FWP has amended ARM 12.9.1601, 12.9.1602, 12.9.1603, 12.9.1604, 12.9.1605, and 12.9.1606 as proposed.

4. FWP has thoroughly considered the comments and testimony received. A summary of the comment received and FWP's response is as follows:

COMMENT 1: One commenter supported the changes.

RESPONSE 1: The department is thankful for and appreciates the support.

/s/ Benjamin Rowe
Benjamin Rowe
Rule Reviewer

/s/ Melissa Watson
Melissa Watson
Chief of Staff
Department of Fish, Wildlife and Parks

Certified to the Secretary of State on June 11, 2024.

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

In the matter of the repeal of an	)	NOTICE OF REPEAL OF
emergency rule closing the	)	EMERGENCY RULE
Yellowstone River from the Joe)	
Brown Fishing Access Site to the)	
Carbella BLM Boat Ramp in Park)	
County)	

TO: All Concerned Persons

1. On May 20, 2024, the Department of Fish, Wildlife and Parks (department) adopted an emergency rule closing the Yellowstone River from the Joe Brown Fishing Access Site to the Carbella BLM Boat Ramp in Park County in Notice No. 12-630, published in the 2024 Montana Administrative Register, Issue Number 11.

2. The rule has been in place until the construction at Carbella Bridge on the Yellowstone River is completed and the risk of danger to the public is no longer present. Given that the construction at Carbella Bridge has been completed and there is no longer a danger to the public, the department is repealing RULE I YELLOWSTONE RIVER EMERGENCY CLOSURE.

3. The repeal of the emergency rule is effective May 30, 2024, when this rule notice is filed with the Secretary of State.

4. The repeal of the emergency rule will be sent as a press release to newspapers throughout the state and posted on the department's website at fwp.mt.gov. Moreover, signs informing the public of the closure will be removed at access points.

5. The special notice requirement of 2-4-303, MCA, has been met. All committee members of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by email on May 30, 2024. Lastly, the emergency rule repeal notice will be sent to interested parties and published in Issue Number 12 of the 2024 Montana Administrative Register.

/s/ Jeffrey Hindoien
Jeffrey Hindoien
Rule Reviewer

/s/ Dustin Temple
Dustin Temple
Director
Fish, Wildlife and Parks

Certified to the Secretary of State May 30, 2024.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 18.8.202, 18.8.415, 18.8.1502,)
18.8.1503, and 18.8.1505 pertaining)
to Motor Carrier Services)

TO: All Concerned Persons

1. On May 10, 2024, the Department of Transportation (department) published MAR Notice No. 18-200 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 987 of the 2024 Montana Administrative Register, Issue Number 9.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Valerie A. Balukas
Valerie A. Balukas
Rule Reviewer

/s/ Lawrence Flynn
Lawrence Flynn
Deputy Director
Department of Transportation

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 20.7.501, 20.7.502, 20.7.503,	)	REPEAL
20.7.509, 20.7.510, 20.7.511, and)	
20.7.512 and the repeal of ARM)	
20.7.504, 20.7.505, 20.7.506, and)	
20.7.507 concerning the siting,)	
establishment, and expansion of)	
prerelease centers)	

TO: All Concerned Persons

1. On April 26, 2024, the Department of Corrections published MAR Notice No. 20-7-72 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 826 of the 2024 Montana Administrative Register, Issue Number 8.

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

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

4. No comments or testimony were received.

/s/ Andres Haladay
Andres Haladay
Rule Reviewer

/s/ Brian Gootkin
Brian Gootkin
Director
Department of Corrections

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.29.1401A, 24.29.1402,	)	REPEAL
24.29.1404, 24.29.1406, 24.29.1407,)	
24.29.1408, 24.29.1409, 24.29.1433,)	
24.29.1534, 24.29.1538, and)	
24.29.1616 and the repeal of ARM)	
24.29.1415 and 24.29.1432 pertaining)	
to workers' compensation)	

TO: All Concerned Persons

1. On May 10, 2024, the Department of Labor and Industry (agency) published MAR Notice No. 24-29-417 regarding the public hearing on the proposed changes to the above-stated rules, at page 991 of the 2024 Montana Administrative Register, Issue No. 9.

2. On June 4, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. No comments were received by the deadline.

3. The agency has amended ARM 24.29.1401A, 24.29.1402, 24.29.1404, 24.29.1406, 24.29.1407, 24.29.1408, 24.29.1409, 24.29.1433, 24.29.1534, 24.29.1538, and 24.29.1616 as proposed.

4. The agency has repealed ARM 24.29.1415 and 24.29.1432 as proposed.

5. All amendments and repeals are effective July 1, 2024.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment and	)	NOTICE OF AMENDMENT AND
transfer of ARM 24.11.204, 24.11.317,	)	TRANSFER, ADOPTION, AND
24.11.335, 24.11.447, 24.11.451,	)	REPEAL
24.11.457, 24.11.458, 24.11.462,)	
24.11.463, 24.11.469, 24.11.472,)	
24.11.475, 24.11.613, 24.11.915,)	
24.11.2005, 24.11.2007, 24.11.2015,)	
24.11.2201, 24.11.2204, 24.11.2205,)	
24.11.2208, 24.11.2221, 24.11.2405,)	
24.11.2407, 24.11.2504, 24.11.2506,)	
24.11.2701, 24.11.2704, 24.11.2707,)	
24.11.2711, and 24.11.2715, the)	
adoption of NEW RULES I through)	
XL, and the repeal of ARM 24.11.101,)	
24.11.201, 24.11.203, 24.11.206,)	
24.11.207, 24.11.208, 24.11.210,)	
24.11.315, 24.11.316, 24.11.318,)	
24.11.319, 24.11.320, 24.11.325,)	
24.11.326, 24.11.327, 24.11.328,)	
24.11.329, 24.11.331, 24.11.336,)	
24.11.337, 24.11.441, 24.11.442,)	
24.11.443, 24.11.445, 24.11.450A,)	
24.11.452A, 24.11.453A, 24.11.454A,)	
24.11.455, 24.11.456, 24.11.459,)	
24.11.464, 24.11.465A, 24.11.470,)	
24.11.471, 24.11.476, 24.11.481,)	
24.11.485, 24.11.487, 24.11.490,)	
24.11.491, 24.11.511, 24.11.515,)	
24.11.516, 24.11.517, 24.11.518,)	
24.11.521, 24.11.523, 24.11.525,)	
24.11.531, 24.11.534, 24.11.616,)	
24.11.617, 24.11.911, 24.11.1205,)	
24.11.1207, 24.11.1209, 24.11.1213,)	
24.11.1221, 24.11.1225, 24.11.1228,)	
24.11.1229, 24.11.2011, 24.11.2225,)	
24.11.2401, 24.11.2403, 24.11.2411,)	
24.11.2501, 24.11.2511, 24.11.2515,)	
and 24.11.2801 pertaining to)	
unemployment insurance)	

TO: All Concerned Persons

1. On March 22, 2024, the Department of Labor and Industry (agency) published MAR Notice No. 24-40-414 regarding the public hearing on the proposed

changes to the above-stated rules, at page 511 of the 2024 Montana Administrative Register, Issue No. 6.

2. On April 11, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. Comments were received by the deadline.

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

COMMENT 1: A commenter suggested that ARM 24.11.2403 not be repealed. The commenter suggested that the reasoning to repeal ARM 24.11.2403, that the rule was duplicative of statute and ARM 24.11.2407, was incorrect because the rule does not specifically refer to Professional Employer Organizations. The commenter suggests that ARM 24.11.2403 provides needed clarity to status determinations.

RESPONSE 1: The department disagrees. As written, ARM 24.11.2403(1) says that the law governing professional employer organizations governs professional employer organizations. Section 39-8-207(4)(b) states that the professional employer organization is the employing unit for purposes of unemployment insurance. It is therefore unnecessary to restate the statute in administrative rule. ARM 24.11.2403(2) provides that employment status determinations under unemployment insurance should correspond to determinations under the workers' compensation act. Such is a requirement of 39-71-417, MCA, and related independent contractor statutes as well as the definitions of "employee" under the Unemployment Insurance laws in Title 39, chapter 51, MCA. It is not necessary to restate statute, laws of general applicability, or policy statements in administrative rule.

COMMENT 2: A commenter stated a lack of concern about proposed amendments to ARM 24.11.2005 and 24.11.2204.

RESPONSE 2: The department acknowledges the comment.

COMMENT 3: A commenter suggested that a mileage based per diem for meals and incidentals should be accepted by the department in NEW RULE IX as an exclusion from wages. The commenter suggested this change was in line with federal guidance, and that Montana should not be more restrictive than the IRS.

RESPONSE 3: The department agrees that Montana should not be more restrictive than IRS guidance. As previously written, the rule was specifically designed to align with federal guidance. However, the term "incidentals" was not included. Based on the received comment, the term is now included. Further amendment to the rule as specified by the commenter is not necessary. Because IRS guidance recognizes that a flat rate includes a mileage based per diem model, the rule as proposed encompasses the change.

4. The agency has adopted NEW RULE IX (24.40.411) with the following amendments, new matter underlined, deleted matter interlined:

NEW RULE IX (24.40.411) PAYMENTS THAT ARE NOT WAGES –
EMPLOYEE EXPENSES, JUROR FEES, DIRECTOR'S FEES, AND MILITARY
DIFFERENTIAL PAY (1) remains as proposed.

(2) Employer reimbursement of employee expenses must be based on:

(a) remains as proposed.

(b) a flat rate for meals and incidentals not exceeding the per diem allowed by the Internal Revenue Service for the year, unless the employer has a documented higher rate of reimbursement; or

(c) through (5) remain as proposed.

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

IMP: 39-51-201, 39-51-1103, MCA

5. The agency has amended and transferred ARM 24.11.204 (24.40.101), 24.11.317 (24.40.207), 24.11.335 (24.40.211), 24.11.447 (24.40.821), 24.11.451 (24.40.601), 24.11.457 (24.40.615), 24.11.458 (24.40.909), 24.11.462 (24.40.619), 24.11.463 (24.40.911), 24.11.469 (24.40.919), 24.11.472 (24.40.921), 24.11.475 (24.40.903), 24.11.613 (24.40.1501), 24.11.915 (24.40.103), 24.11.2005 (24.40.1401), 24.11.2007 (24.40.1403), 24.11.2015 (24.40.1405), 24.11.2201 (24.40.1503), 24.11.2204 (24.40.1509), 24.11.2205 (24.40.1511), 24.11.2208 (24.40.1513), 24.11.2221 (24.40.1517), 24.11.2405 (24.40.503), 24.11.2407 (24.40.501), 24.11.2504 (24.40.409), 24.11.2506 (24.40.405), 24.11.2701 (24.40.1601), 24.11.2704 (24.40.1603), 24.11.2707 (24.40.1605), 24.11.2711 (24.40.1609), and 24.11.2715 (24.40.1611) as proposed.

6. The agency has adopted NEW RULES I (24.40.105), II (24.40.109), III (24.40.111), IV (24.40.201), V (24.40.203), VI (24.40.209), VII (24.40.401), VIII (24.40.403), X (24.40.603), XI (24.40.605), XII (24.40.609), XIII (24.40.611), XIV (24.40.617), XV (24.40.623), XVI (24.40.801), XVII (24.40.803), XVIII (24.40.805), XIX (24.40.809), XX (24.40.811), XXI (24.40.813), XXII (24.40.823), XXIII (24.40.831), XXIV (24.40.833), XXV (24.40.835), XXVI (24.40.841), XXVII (24.40.901), XXVIII (24.40.907), XXIX (24.40.915), XXX (24.40.917), XXXI (24.40.925), XXXII (24.40.927), XXXIII (24.40.1101), XXXIV (24.40.1103), XXXV (24.40.1107), XXXVI (24.40.1109), XXXVII (24.40.1111), XXXVIII (24.40.1201), XXXIX (24.40.1203), and XL (24.40.1505) as proposed.

7. The agency has repealed ARM 24.11.101, 24.11.201, 24.11.203, 24.11.206, 24.11.207, 24.11.208, 24.11.210, 24.11.315, 24.11.316, 24.11.318, 24.11.319, 24.11.320, 24.11.325, 24.11.326, 24.11.327, 24.11.328, 24.11.329, 24.11.331, 24.11.336, 24.11.337, 24.11.441, 24.11.442, 24.11.443, 24.11.445, 24.11.450A, 24.11.452A, 24.11.453A, 24.11.454A, 24.11.455, 24.11.456, 24.11.459, 24.11.464, 24.11.465A, 24.11.470, 24.11.471, 24.11.476, 24.11.481, 24.11.485, 24.11.487, 24.11.490, 24.11.491, 24.11.511, 24.11.515, 24.11.516, 24.11.517, 24.11.518, 24.11.521, 24.11.523, 24.11.525, 24.11.531, 24.11.534, 24.11.616,

24.11.617, 24.11.911, 24.11.1205, 24.11.1207, 24.11.1209, 24.11.1213, 24.11.1221, 24.11.1225, 24.11.1228, 24.11.1229, 24.11.2011, 24.11.2225, 24.11.2401, 24.11.2403, 24.11.2411, 24.11.2501, 24.11.2511, 24.11.2515, and 24.11.2801 as proposed.

8. All amendments, transfers, repeals, and adoptions are effective July 1, 2024.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.126.301, 24.126.401,	)	ADOPTION, AND REPEAL
24.126.412, 24.126.504, 24.126.511,)	
24.126.515, 24.126.701, 24.126.704,)	
24.126.2103, and 24.126.2301, the)	
adoption of NEW RULES I and II, and)	
the repeal of ARM 24.126.502,)	
24.126.507, 24.126.510, 24.126.2105,)	
and 24.126.2304 pertaining to the)	
Board of Chiropractors)	

TO: All Concerned Persons

1. On April 12, 2024, the Board of Chiropractors (agency) published MAR Notice No. 24-126-39 regarding the public hearing on the proposed changes to the above-stated rules, at page 680 of the 2024 Montana Administrative Register, Issue No. 7.

2. On May 7, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. Comments were received by the deadline.

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

Comment 1: One commenter requests clarification as to whether licensees can continue to get continuing education (CE) credits from online options.

Response 1: The board's proposal allows for virtual options in ARM 24.126.2103(7)(b), and (7)(d) allows for self-study, so long as the content directly relates to the profession, is designed to increase competent or ethical practice, to stay current with the profession, or to enhance professional skills, and contains significant academic or practical content.

Comment 2: One commenter suggested retaining language in ARM 24.126.301(1) to include chiropractic colleges.

Response 2: The commenter's proposed language exists in 37-12-101, MCA, and it is therefore unnecessary to repeat in rule.

Comment 3: One commenter suggested retaining "any licensee" in the definition of "chiropractic physiotherapy" at ARM 24.126.301(1).

Response 3: The proposed definition is based off Federation of Chiropractic Licensing Boards model language, with the previous language of "ordered" retained to acknowledge the practice of unlicensed assistants.

Comment 4: One commenter was opposed to the change in definition of "chiropractic physiotherapy," noting that the board took steps in 2012 and 2013 to address the issue of "ordering" unlicensed personnel to perform services. The commenter further notes that statute is clear that only licensed chiropractors may perform services.

Response 4: The board acknowledges the commenter's concern, but notes that chiropractic assistants are standard within the practice and insurance law allows chiropractors to bill for the services of assistants. If chiropractors are not delegating tasks for which a license is required, using an unlicensed assistant is acceptable.

4. The agency has amended ARM 24.126.301, 24.126.401, 24.126.412, 24.126.504, 24.126.511, 24.126.515, 24.126.701, 24.126.704, 24.126.2103, and 24.126.2301 as proposed.

5. The agency has adopted NEW RULES I (24.126.404) and II (24.126.516) as proposed.

6. The agency has repealed ARM 24.126.502, 24.126.507, 24.126.510, 24.126.2105, and 24.126.2304 as proposed.

BOARD OF CHIROPRACTORS
JULIE MURACK, DC, PRESIDENT

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.138.509 pertaining to dental)
hygiene limited access permit)

TO: All Concerned Persons

1. On December 22, 2023, the Board of Dentistry (agency) published MAR Notice No. 24-138-84 regarding the public hearing on the proposed changes to the above-stated rule, at page 1782 of the 2023 Montana Administrative Register, Issue No. 24.

2. On January 16, 2024, a public hearing was held on the proposed changes to the above-stated rule via the videoconference and telephonic platform. Comments were received by the deadline.

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

Comment 1: Several commenters believe that the board's proposed rule is a significant expansion of care without a great amount of data to support the expansion.

Response 1: The board respectfully disagrees with the commenter, and notes that it is following the 2022 active supervision decision of the commissioner.

Comment 2: One commenter suggested the board review the schools where LAP practice has been occurring to see if it has been successful.

Response 2: The board is not charged with determining success of a particular program. It licenses individuals to minimum standards of competency and is charged with determining where LAPs may practice, not with determining the success of access to care issues.

Comment 3: Several commenters suggested that cooperative patient care agreements between hygienists and dentists would be successful and protect public safety.

Response 3: LAPs are statutorily allowed to practice in public health facilities and programs without a cooperative patient care agreement. The commenters' request requires a statute change and cannot be addressed through rule. The board understands that stakeholders are working together to review the issue.

Comment 4: Several commenters believe allowing LAPs to identify where they can practice using criteria set in rule is too broad.

Response 4: The 2022 Active Supervision Decision issued by the Commissioner of the Department of Labor and Industry indicates that the board has no framework by which it judges which additional public health facilities to allow LAPs to practice in. The board is therefore setting criteria, based on the statute allowing the practice, so LAPs can understand where practice is allowed and not allowed. See also response to Comment 3.

Comment 5: One commenter believes the board's proposal will make medical care available without parental involvement and will circumvent informed parental consent.

Response 5: Informed consent is still required for children to obtain care provided by an LAP. LAPs have been providing care in specific public schools, group homes for youth, head start programs, and other public health facilities where parents may not be immediately present for more than a decade, and in that time, the board has not received any complaints relating to a lack of informed consent from a parent.

Comment 6: One commenter supports the rule as drafted, stating that LAPs have been safely practicing in Montana for 20 years with no disciplinary action taken against an LAP.

Response 6: The board appreciates all comments received during the rulemaking process.

Comment 7: One commenter believes the board's proposed rule will invade the private lives of children, and that there is no way to guarantee a student's HIPAA rights by having an LAP perform services in a school.

Response 7: The board respectfully disagrees with the commenter and notes the parents still make the decision on whether to have their child receive services. LAPs are subject to HIPAA requirements.

Comment 8: One commenter believes the proposed rule will lead to children being manipulated by an LAP without a parent present.

Response 8: The board understands the commenter's concern but notes that LAP practice is an opt-in practice, meaning parents must affirmatively consent to having their children seen.

Comment 9: Several commenters believe the expansion goes beyond what the legislature intended.

Response 9: The board disagrees with the commenters, noting that the legislature has had ample opportunity to exclude schools if it disagreed with the board's

rulemaking. It has not done so. The legislature remains free to amend the statute if it disagrees with the board.

Comment 10: One commenter believes there should be some professional supervision of LAPs by a dentist.

Response 10: The legislature has set the scope of practice of an LAP, including that they may practice under public health supervision, meaning no dentist need be involved. The commenter's suggestion requires a statute change.

Comment 11: One commenter notes that 95% of children in Montana have a dental home, and that Montana is doing a very good job of providing dental care to children.

Response 11: The commenter does not cite to a source that 95% of children have a dental home. The board requests the commenter provide the data to the board for further review.

Comment 12: One commenter asks why dentists could not set up a clinic in these facilities to treat the children.

Response 12: Dentists are able to work in public health facilities.

Comment 13: One commenter notes that in speaking with pediatric dentists, the dentists have relayed that an LAP is performing services that duplicate the dental care provided by a dentist.

Response 13: The board appreciates all comments received during the rulemaking process.

Comment 14: One commenter notes the legislature gave authority to the board to identify other facilities, not "designate" them.

Response 14: The board is identifying facilities based on an objective standard, rather than individually evaluating and naming facilities in rule, to allow consistent application of the rules.

Comment 15: One commenter notes the legislature has discussed the topic at length, and voted against expanding services in public schools. The commenter suggests that the board seek legislation to specifically include schools.

Response 15: The board notes that bills both adding schools and prohibiting schools have been attempted and failed as legislative proposals. The board's authority remains in statute to identify additional public health facilities, and the board's current rule has raised concerns that it is infringing on the trade of hygienists. Therefore, the board is proposing this rule to address the restraint of

trade concern, while being respectful of the objection raised by the Economic Affairs Interim Committee. The legislature remains free to amend the statute as it sees fit.

Comment 16: One commenter opposes the lack of oversight of LAPs and requests the board require LAPs to refer to a dentist that can provide dental care.

Response 16: The board already has this requirement. Section 37-4-405 (4)(a)(i), MCA requires LAPs to refer to a dentist when the patient requires care beyond what the LAP can provide.

Comment 17: One commenter requests the board consider the fiscal cost to taxpayers for the proposed expansion.

Response 17: This is outside the scope of the proposed rulemaking.

Comment 18: One commenter suggests the board's proposal will lead to a larger "Nanny State."

Response 18: The board appreciates all comments received during the rulemaking process.

Comment 19: One commenter notes regulatory industries have been captured by the industries they are supposed to be regulating and can no longer be trusted to protect the best interests of people.

Response 19: This comment is outside the scope of the proposed rulemaking.

Comment 20: One commenter suggests vaccines and fluoridation are outdated public health practices and are not safe or effective.

Response 20: This comment is outside the scope of the proposed rulemaking.

Comment 21: One commenter questions whether parents and guardians will be providing fully informed consent for children receiving care.

Response 21: LAP practice requires informed consent before a child is treated.

Comment 22: Once commenter asks whether it is even practical for LAPs to practice in homeless and family violence centers.

Response 22: The LAP wishing to provide services in the facilities is responsible for ensuring the practice meets health and safety standards.

Comment 23: One commenter asks if there will be dedicated locations to practice in the facilities and how instruments will be sterilized between patients.

Response 23: See response to Comment 22.

Comment 24: One commenter asks how LAP hygienists will be insured.

Response 24: This is outside the scope of the proposed rulemaking.

Comment 25: One commenter asks if these rule changes will be a gateway for health professionals to have further access to all public health facilities.

Response 25: The board believes this to be outside the scope of this rulemaking process.

Comment 26: One commenter disagrees with the board's determination that the rule changes will not have a significant and direct impact on Montana small businesses.

Response 26: The board disagrees with the commenter.

Comment 27: One commenter noted that children especially need to see a dentist to identify disease early.

Response 27: The board does not disagree with the commenter, but notes that many children in Montana do not, for a variety of reasons, see a dentist. LAPs may be able to identify children who have not previously seen a dentist and refer those children who require dental care to a dentist.

Comment 28: One commenter has concerns that without a cooperative agreement, parents or patients will believe that they have received more care than they have.

Response 28: LAPs are statutorily allowed to practice in public health facilities and programs without a cooperative patient care agreement. The commenter's request requires a statute change and cannot be addressed through rule. Further, the LAP is responsible for communicating to the patient the care provided.

Comment 29: Several commenters note that other states require a collaborative agreement for LAP practice and suggest Montana follow that requirement as well.

Response 29: LAP practice does not require a collaborative agreement in Montana, and the commenters' suggestions require a statute change.

Comment 30: One commenter suggests the board take more time to find out where LAPs are currently practicing and how well it is working before deciding to include more schools.

Response 30: The board appreciates all comments made during the rulemaking process. See also response to Comment 2.

Comment 31: One commenter suggests the board consult with a work group formed by the Montana Dental Association and the Montana Dental Hygienists' Association to resolve the issue.

Response 31: The board is responding to an active supervision decision issued by the commissioner in 2022 in identifying facilities where an LAP may practice. The board looks forward to learning about the findings from the workgroup. Given that the LAPs have been safely practicing in schools for 16 years without disciplinary action, the board determined that schools were an acceptable place for LAPs to work.

Comment 32: Several commenters note that the proposed rule may not resolve the active supervision issue identified by the commissioner.

Response 32: The board is currently working to resolve the active supervision issue raised by the commissioner.

4. The agency has amended ARM 24.138.509 as proposed.

BOARD OF DENTISTRY
ALLEN CASTEEL, LD, CHAIR

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.213.301, 24.213.401,) ADOPTION, AND REPEAL
24.213.408, and 24.213.504, the)
adoption of NEW RULES I through III,)
and the repeal of ARM 24.213.402,)
24.213.410, 24.213.415, 24.213.502,)
24.213.2101, 24.213.2104,)
24.213.2121, and 24.213.2301)
pertaining to the board of respiratory)
care practitioners)

TO: All Concerned Persons

1. On April 12, 2024, the Board of Respiratory Care Practitioners (agency) published MAR Notice No. 24-213-23 regarding the public hearing on the proposed changes to the above-stated rules, at page 704 of the 2024 Montana Administrative Register, Issue No 7.
2. On May 3, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. No comments were received by the deadline.
3. The agency has amended ARM 24.213.301, 24.213.401, 24.213.408, and 24.213.504 as proposed.
4. The agency has adopted NEW RULE I (24.213.2130), NEW RULE II (24.213.2310), and NEW RULE III (24.213.423) as proposed.
5. The agency has repealed ARM 24.213.402, 24.213.410, 24.213.415, 24.213.502, 24.213.2101, 24.213.2104, 24.213.2121, and 24.213.2301 as proposed.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
BRIAN CAYKO, PRESIDING OFFICER

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

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 11, 2024.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 42.26.311 and the repeal of	)	REPEAL
ARM 42.26.306 pertaining to Tax)	
Haven Corporation Water's Edge)	
Filing Requirements to Implement)	
Senate Bill 246 (2023))	

TO: All Concerned Persons

1. On April 26, 2024, the Department of Revenue published MAR Notice No. 42-1077 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 962 of the 2024 Montana Administrative Register, Issue Number 8.

2. On May 21, 2024, the department held a public hearing to consider the proposed amendment and repeal. No interested persons appeared at the hearing. No oral or written comments were received.

3. The department has amended and repealed the above-described rules as proposed.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State June 11, 2024.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION AND
RULES I through XI and the repeal of	)	REPEAL
ARM 1.1.101, 1.2.101 through)	
1.2.519, 1.3.101 and 1.3.102, and)	
1.3.301 through 1.3.313 pertaining to)	
State Agency Administrative)	
Rulemaking)	

TO: All Concerned Persons

1. On March 22, 2024, the Secretary of State (SOS) published MAR Notice No. 44-2-275 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules at page 593 of the 2024 Montana Administrative Register, Issue Number 6.

2. On April 12, 2024, a public hearing was held on the proposed adoption and repeal of the above-stated rules.

3. SOS has adopted the following rules as proposed: NEW RULE III (ARM 1.4.102), NEW RULE IX (ARM 1.4.104), NEW RULE X (ARM 1.4.107), and NEW RULE XI (ARM 1.4.108).

4. SOS has repealed the following rules as proposed: ARM 1.1.101, 1.2.101 through 1.2.519, 1.3.101 and 1.3.102, and 1.3.301 through 1.3.313.

5. SOS has adopted the following rules as proposed, with the following changes from the original proposal, new matter underlined, deleted matter stricken:

NEW RULE I (ARM 1.4.101) INTRODUCTION AND AGENCY RULEMAKING REQUIREMENTS (1) Agencies conducting administrative rulemaking must comply with Title 2, chapter 4, MCA, which outlines the requirements for administrative rulemaking, and the model rules of practice in this chapter, that guide agencies and supplement the statutory requirements. Additional guidance can be found on the Secretary of State's website at <https://rules.mt.gov>.

AUTH: 2-4-202, 2-15-401, MCA

IMP: 2-4-202, 2-4-305, 2-4-306, 2-15-401, MCA

NEW RULE II (ARM 1.4.103) MONTANA ADMINISTRATIVE REGISTER SCHEDULE AND SUBMISSION STANDARDS FILING DATES AND EFFECTIVE DATES (1) The schedule established by the Secretary of State for publication of the Montana Administrative Register, including filing deadlines for agency submissions, is ~~located on the SOS website~~ at <https://rules.mt.gov>.

(2) SOS will post on its website a draft of the next year's publication schedule on July 1 of each year. Agencies may provide feedback on the draft publication schedule. SOS will post an official publication schedule on September 1 of each year.

~~(2)~~ (3) An agency may submit notices in advance of the filing deadline for inclusion in a future issue of the Montana Administrative Register and, except as provided in 2-4-306, MCA, rule changes included in the adoption notice are adopted on the date the adoption notice is filed with the Secretary of State and are effective after publication in the Register.

(4) Agencies submitting notices to SOS for publication in the Register must follow the format standards and use the system developed by SOS to ensure consistency and maintain professional publishing standards.

AUTH: 2-4-302, 2-4-306, 2-15-401, MCA

IMP: 2-4-306, 2-4-311, 2-4-312, MCA

NEW RULE IV (ARM 1.4.109) ORGANIZATIONAL RULE (1) remains as proposed.

AUTH: 2-4-202, 2-15-401, MCA

IMP: 2-4-201, 2-4-202, ~~2-4-302~~, MCA

NEW RULE VI (ARM 1.4.105) PUBLICATION AND ARRANGEMENT OF THE MONTANA ADMINISTRATIVE REGISTER (1) The Montana Administrative Register (MAR) is published at <https://rules.mt.gov> according to the schedule referenced in ARM 1.4.103 ~~posted on the Secretary of State's website (<https://sosmt.gov/arm>).~~

(2) remains as proposed.

AUTH: 2-15-401, MCA

IMP: 2-4-312, MCA

NEW RULE VIII (ARM 1.4.106) PUBLIC PARTICIPATION AND COMMENTS

(1) A public hearing related to a rulemaking notice shall be conducted by and under the control of a presiding officer designated by the agency.

~~(1)~~(2) In accordance with 2-4-305, MCA, an agency shall consider all comments received regarding the proposed rulemaking. If the rule is adopted and comments were received, the adoption notice must include a brief statement of reasons for and against the adoption of the rule. The agency may choose to summarize comments and agency responses as its "Statement of Reasons" in the adoption notice. ~~If an agency receives any comments urging against adoption and the agency proceeds to adopt the proposed rule, the reasons for overruling the considerations must be stated.~~

AUTH: 2-15-401, MCA

IMP: 2-4-302, 2-4-305, 2-15-401, MCA

6. The Secretary of State will not adopt the following rules as proposed: NEW RULE V and NEW RULE VII.

7. The Secretary of State has thoroughly considered the comments received. A summary of the comments and SOS's responses are as follows:

Comment #1: Comments were received expressing support of the overwhelming majority of changes proposed in the notice and noted that these changes and updates to the rules that govern rulemaking appropriately redirect users to the rulemaking statutes whenever possible.

Response #1: The Secretary of State's Office appreciates the comments and support of this significant change in the rulemaking landscape to improve the effectiveness and efficiency of rulemaking in this state.

Comment #2: A commenter noted their support for the Secretary of State's efforts to simplify, shorten, clarify, and make more user friendly the administrative rules relating to rulemaking.

Response #2: The Secretary of State's Office appreciates the comment and support of this significant change in the rulemaking landscape to improve the effectiveness and efficiency of rulemaking in this state.

Comment #3: A commenter noted that the catchphrase NEW RULE I (ARM 1.4.101) appears to be vague with the inclusion of the word "Introduction."

Response #3: The Secretary of State's Office appreciates the comment. SOS has updated the catchphrase to better reflect the scope of the rule.

Comment #4: A commenter suggested updates to the proposed authorizing and implementing statutes related to NEW RULE I (ARM 1.4.101).

Response #4: The Secretary of State's Office appreciates the comment and reviewed the suggested statutory references. SOS has updated the authorizing and implementing statutes to also include 2-4-202, MCA.

Comment #5: A commenter indicated that the catchphrase for NEW RULE II (ARM 1.4.103) does not accurately reflect the scope of the rule.

Response #5: The Secretary of State appreciates the comment. SOS has updated the catchphrase to further reflect the scope of the rule.

Comment #6: A comment was received in relation to NEW RULE II (ARM 1.4.103) regarding how the statutory provisions impact advance filing (2-4-302(2), 2-4-305(11), and 2-4-306(1), MCA).

Response #6: The Secretary of State believes the statutory provisions are clear. SOS will be available to assist agencies on specific questions as needed.

Comment #7: Comments were received regarding the publication schedule not being included in NEW RULE II (ARM 1.4.103) and recommended that SOS reincorporate the schedule back into the rule as it allows agencies to plan for future rulemakings.

Response #7: The Secretary of State's Office appreciates the comments received. SOS adjusted the rule to incorporate the long-standing informal practice of seeking agency feedback on the proposed schedule and added the timeline in which the schedule will be finalized to provide agencies assurance that they can rely on the published schedule to plan their rulemaking activities. SOS has declined to put the schedule in the new rule.

Comment #8: A commenter noted that NEW RULE II (ARM 1.4.103) should include the requirement that for a rulemaking to be valid, an agency must use the SOS electronic system.

Response #8: The Secretary of State's Office appreciates the comment and has amended NEW RULE II (ARM 1.4.103) to incorporate the recommendation.

Comment #9: A commenter suggested the term "catchphrase," as used in NEW RULE III (ARM 1.4.102), is an archaic term that is confusing to the public and recommended replacing it with a new term.

Response #9: The Secretary of State's Office appreciates the comment. The term "catchphrase" is still widely used by several agencies. NEW RULE III (ARM 1.4.102) also included the term "name" to further clarify that this is the descriptor for the content of the rule.

Comment #10: A commenter encouraged the Secretary of State's Office to require clear and encompassing rule titles for agency rules.

Response #10: The Secretary of State's Office appreciates the comment. This is addressed in NEW RULE II(1)(b) (ARM 1.4.103).

Comment #11: A commenter questioned the continued use of the Gregg Manual and suggested the adoption of an alternative style manual.

Response #11: The Secretary of State's Office appreciates the comment. SOS elects to use the Gregg Manual as proposed. The agency will evaluate a proposed amendment for options, including a Montana state-specific style guide as other states have done, at a future time.

Comment #12: Comments were received suggesting the addition of procedural guidance or clarification addressing the adoption of organizational rules outside of the regular notice submission process.

Response #12: The Secretary of State's Office appreciates the comment. However, SOS believes the statute (2-4-201, MCA) is clear and does not want to unnecessarily repeat statute in the rule. The agency will consider the request as resource documents for agencies are created.

Comment #13: A commenter noted that proposed NEW RULE IV (ARM 1.4.109) does not implement 2-4-302, MCA.

Response #13: The Secretary of State's Office appreciates the comment and has removed 2-4-302, MCA, as an implementing statute.

Comment #14: Comments were received indicating that NEW RULE V is duplicative of 2-4-202, MCA.

Response #14: The Secretary of State's Office appreciates the comments received and after further evaluation, SOS has determined NEW RULE V is not necessary. The rules adopted in this notice constitute the model rules of practice. In addition, the new system simplifies the rulemaking process by providing automated tools and built-in forms designed to assist agencies in fulfilling the statutory requirements.

Comment #15: A commenter suggested that NEW RULE VI(1) should be cross-referenced into NEW RULE II and recommended that these new rules should be assigned rule numbers in a consecutive order for ease of reference.

Response #15: The Secretary of State's Office appreciates the comment received. SOS has updated the language in NEW RULE VI (ARM 1.4.105) to include a reference to NEW RULE II (ARM 1.4.103).

Comment #16: A commenter indicated that the language proposed in NEW RULE VI(2)(a) is confusing as it refers only to rulemaking notices that propose changes to current rules, when it appears that proposed new rules would also fall within this section.

Response #16: The Secretary of State's Office appreciates the comment received. SOS intends the language ("changes to current rules") to broadly mean changes to the Administrative Rules of Montana including proposing new rules and amending and repealing current rules.

Comment #17: A commenter suggested transferring the content in NEW RULE VII to NEW RULE II.

Response #17: The Secretary of State's Office appreciates the comment received and agrees. SOS will not adopt NEW RULE VII as proposed. The content of the proposed rule has been transferred to NEW RULE II (ARM 1.4.103).

Comment #18: A commenter noted the broad language in the final sentence of proposed NEW RULE VIII(1) and raised concern about its potential implications.

Response #18: The Secretary of State's Office appreciates the comment. Upon review, SOS has determined that the underlying statute is clear and the last sentence unnecessary. Accordingly, the agency removed the last sentence from the proposed rule in the final adoption.

Comment #19: A commenter requested guidance as to the form to be used for statement of reasons in the adoption notice if the historical practice of comments and responses is no longer sufficient.

Response #19: The Secretary of State's Office appreciates the comment received. As proposed, SOS has determined NEW RULE VIII (ARM 1.4.106) addresses agencies' statutory requirement while allowing the historic practice of using comments and responses in adoption notices. SOS will consider including formatting guidance in future resource documents for agencies.

Comment #20: A commenter indicated that NEW RULE IX is not an adequate replacement to portions of ARM 1.2.519. The commenter further suggested that NEW RULE IX(2) unnecessarily duplicates 2-4-110, MCA.

Response #20: The Secretary of State's Office appreciates the comment received. In preparing for the launch of a new electronic system, SOS's review of ARM 1.2.519 found that there was unnecessary and outdated content. NEW RULE IX (ARM 1.4.104) was proposed to provide an approval process for rule review and department authorization that can be accomplished in an electronic filing system while providing flexibility to establish agency-specific processes in fulfilling the requirements of 2-4-110, MCA.

Comment #21: A comment was received regarding how the Secretary of State's Office would maintain a per-page fee in NEW RULE X(1)(a) with the transition from a paper-based process to an electronic process.

Response #21: The Secretary of State's Office confirmed when working with the new administrative rules system vendor that the new electronic system will include the number of pages in a notice. Therefore, SOS will continue to make the \$60/page option available to agencies.

Comment #22: Comments were received looking for additional clarification on whether NEW RULE X(1)(b) includes all notice types. Additionally, commenters asked for clarification on the effective date of the fees.

Response #22: The Secretary of State's Office appreciates the comments and confirms that the intent was that all notice types are included in the total volume count fee structure. Additionally, with the adoption of this rule, SOS will be waiving all fees charged to agencies related to rulemaking submissions in fiscal year 2025. The fees contained in NEW RULE X (ARM 1.4.107) will become effective starting fiscal year 2026.

Comment #23: An agency is seeking clarification regarding the fiscal impact statement included in the proposal notice, and how the agency costs are configured for the implementation of the new administrative rulemaking system.

Response #23: The Secretary of State's Office is authorized to establish fees commensurate with costs in accordance with 2-15-405, MCA. The fees proposed in NEW RULE X (ARM 1.4.107) related to the submission of notices for publication cover SOS costs for providing that service. The software used for the electronic filing system is managed through the statewide IT enterprise system, and costs are allocated through the information technology budgeting process.

Comment #24: A comment was received indicating that the adoption of NEW RULE XI was not necessary.

Response #24: The Secretary of State's Office appreciates the comment. This rule, NEW RULE XI (ARM 1.4.108), is proposed to guide agencies in how they can efficiently and accurately comply with the statutory provisions in 2-4-302(8)(a), MCA, with regard to contact information for bill sponsors.

Comment #25: A commenter noted that other style and drafting conventions, such as those found in ARM 1.2.215 and 1.2.216, are useful in keeping consistency in rulemaking and encouraged the Secretary of State's Office to include the information proposed to be repealed in ARM Title 1, chapter 2, subchapter 2 in its forthcoming guidance.

Response #25: The Secretary of State's Office appreciates the comment. SOS agrees consistency in rulemaking is important and is planning to transfer the instructional guidance into the rulemaking resources that will be made available to agency rulemakers. Additionally, the automation of the new administrative rules system will provide standardization and structured formatting.

Comment #26: A commenter opposed the repeal of ARM 1.3.308 and cited the requirement in 2-4-315, MCA, to "prescribe by rule the form for petitions and the procedures for their submission, consideration, and disposition." The commenter said that agencies have adopted this rule by reference.

Response #26: The Secretary of State's Office appreciates the comment. Section 2-4-315, MCA requires agencies to determine the form and procedures for submitting petitions. The statute does not require SOS to publish petitions in the

Montana Administrative Register. Therefore, it was determined unnecessary for inclusion in the model rules.

Comment #27: A commenter opposed the repeal of ARM 1.3.311(2) and requests that the Secretary of State's Office reevaluate whether its provisions can be incorporated within NEW RULE V or NEW RULE VIII (ARM 1.4.106).

Response #27: The Secretary of State's Office appreciates the comment. SOS updated NEW RULE VIII (ARM 1.4.106) to clarify that public hearings are conducted by and under the control of a presiding officer designated by the agency. SOS intends to include guidance based on the language in ARM 1.3.311 in the resource materials referenced in NEW RULE I (ARM 1.4.101).

Comment #28: A commenter noted that with the changes proposed in this notice, SOS may also be required to update or repeal ARM 44.17.101.

Response #28: The Secretary of State's Office appreciates the comment. SOS intends to include any necessary changes to ARM 44.17.101 in a future rulemaking notice.

Comment #29: A commenter noted that it is unclear whether existing agency requirements for the rulemaking process will be contained in SOS guidance and, if so, whether the SOS guidance will be adopted and incorporated by reference.

Response #29: The Secretary of State's Office appreciates the comment. SOS believes the rulemaking requirements are adequately outlined in statute and the proposed administrative rules. Any resource materials developed will be provided as guidance to agencies, particularly as they transition into the new electronic system. As future resources are developed, SOS will adopt and incorporate by reference materials when necessary in compliance with the statute.

/s/ AUSTIN MARKUS JAMES
Austin Markus James
Rule Reviewer

/s/ CHRISTI JACOBSEN
Christi Jacobsen
Secretary of State

Dated this 11th day of June, 2024.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

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 (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- 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
- 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.

RECENT RULEMAKING BY AGENCY

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, 2023. This table includes notices in which those rules adopted during the period December 22, 2023, through June 7, 2024, occurred 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, 2023, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2023 or 2024 Montana Administrative Register.

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

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- | | |
|--------------------------------------|--|
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| 2-12-646 | Local Government Public Meeting Recordings, p. 781 |
| 2-59-642 | Definitions - Out-of-State State-Chartered Bank or National Bank Seeking to Exercise Fiduciary Powers in Montana - Out-of-State Nonbank Trust Companies Seeking to Exercise Fiduciary Powers in Montana - Fiduciary Foreign Trust Companies, p. 490, 1058 |
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| 2-43-641 | Application Process for Disability Benefits, p. 1201, 1428, 44 |
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- Deferred Compensation Plan Investment Policy Statement and the Montana Fixed Fund Investment Policy Statement, p. 784
- 2-43-648 Basic Period of Service - Receipt of Service Credit on or After Termination of Employment - Calculation of Highest Average Compensation or Final Average Compensation, p. 787

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- 8-97-102 Conservation Reserve Payment Enhancement Program, p. 1, 328

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- 10-54-292 Early Literacy Targeted Intervention Programs, p. 1656, 721

- 10-56-286 Assessment Standards, p. 662
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- 10-63-270 Early Childhood Education Standards, p. 185, 722

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- 10-121-2401 Collection Acquisition and Select Collection Loans, p. 1088

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- 10-102-2301 Updating Rules to Comply With Recent Legislation, p. 1431, 1858
- 10-102-2302 Updating Rules to Comply With Recent Legislation, p. 198, 605
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- 12-626 Big Game Management Policy, p. 502

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in May 2024 appear. Potential vacancies from July 1, 2024 through July 31, 2024, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of June 1, 2024.

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

EXECUTIVE BRANCH APPOINTEES FOR MAY 2024

Appointee

Appointed By

Succeeds

Appointment/End Date

No appointees - May 2024

EXECUTIVE BRANCH VACANCIES – JULY 1, 2024 THROUGH JULY 31, 2024

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Clinical Laboratory Science Practitioners		
Mr. Will Peterman, Hardin	Governor	7/1/2024
Qualifications (if required): Clinical Laboratory Science Practitioner		
Board of Funeral Service		
Mr. Tyson K. Moore, Stevensville	Governor	7/1/2024
Qualifications (if required): Licensed mortician		
Board of Nursing		
Mrs. Nicole Guay, Missoula	Governor	7/1/2024
Qualifications (if required): Licensed Practical Nurse (LPN)		
Ms. Sandy Sacry, Whitehall	Governor	7/1/2024
Qualifications (if required): Registered Professional Nurse (RN), with experience in school of nursing		
Ms. Desma Meissner, Great Falls	Governor	7/1/2024
Qualifications (if required): Registered nurse with School of Nursing experience		
Board of Pharmacy		
Dr. Starla Blank, Clancy	Governor	7/1/2024
Qualifications (if required): Licensed Pharmacist		
Dr. Paul Edward Brand, Florence	Governor	7/1/2024
Qualifications (if required): Licensed Pharmacist		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2024 THROUGH JULY 31, 2024

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Public Accountants		
Ms. Lucinda Willis, Polson	Governor	7/1/2024
Qualifications (if required): Member of the general public who is not engaged in the practice of public accounting		
Ms. Renatta Jones, Billings	Governor	7/1/2024
Qualifications (if required): Certified Public Accountant		
Board of Speech-Language Pathologists and Audiologists		
Dr. Jennifer Schoffer Closson, Lolo	Governor	7/1/2024
Qualifications (if required): Speech-Language Pathologist		
Board of Regents of Higher Education		
Mr. Garret Yeager, Choteau	Governor	7/1/2024
Qualifications (if required): Student Regent		
Family Education Savings Program Oversight Committee		
Dr. Cheryl Crawley, Great Falls	Governor	7/1/2024
Qualifications (if required): Member of general public		
Future Fisheries Review Panel		
Ms. Nancy Winslow, Missoula	Governor	7/1/2024
Qualifications (if required): Expertise in mining reclamation techniques		
Mr. William Mytton, Absarokee	Governor	7/1/2024
Qualifications (if required): Expertise in commercial agriculture		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2024 THROUGH JULY 31, 2024

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Geospatial Information Advisory Council		
Mr. Valentijn Hoff, Missoula Qualifications (if required): MUS Representative	Governor	7/1/2024
Mr. Allen J. Armstrong, Billings Qualifications (if required): Employed by U.S. Dept of Agriculture (Natural Resources Conservation Service)	Governor	7/1/2024
Mr. Brian Collins, Missoula Qualifications (if required): Department Director who may send designee	Governor	7/1/2024
Historical Society Board of Trustees		
Mr. Michael Gerard Shields, Helena Qualifications (if required): Public Representative	Governor	7/1/2024
Mr. A. Clifford Edwards, Billings Qualifications (if required): Public Representative	Governor	7/1/2024
Dr. Sara Alicia Scott, Missoula Qualifications (if required): Public Representative	Governor	7/1/2024
Mental Disabilities Board of Visitors		
Mr. Tyson Schumacher, Billings Qualifications (if required): Experience with treatment of children with serious emotional disturbances	Governor	7/1/2024

EXECUTIVE BRANCH VACANCIES – JULY 1, 2024 THROUGH JULY 31, 2024

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Mental Disabilities Board of Visitors, Cont.		
Ms. Paulette Lassiter, Glendive	Governor	7/1/2024
Qualifications (if required): Professional in treatment of adults with serious mental illness		
Montana Forest Action Advisory Council		
Mr. Tim Love, Missoula	Governor	7/1/2024
Qualifications (if required): Collaboratives or Firesafe Councils Representative		
Mr. Gordy Sanders, Seeley Lake	Governor	7/1/2024
Qualifications (if required): Timber Industry Representative		
Mr. Jeff Schmidt, Red Lodge	Governor	7/1/2024
Qualifications (if required): Recreation Industry		
Mr. Ethan Kunard, Helena	Governor	7/1/2024
Qualifications (if required): Watershed Restoration Representative		
Mr. Mark Aagnes, Helena	Governor	7/1/2024
Qualifications (if required): Wildlife Conservation or land trust organization		
Mr. Jim Durglo, St. Ignatius	Governor	7/1/2024
Qualifications (if required): Montana's Tribal Nations		
Mr. Jeff Burrows, Hamilton	Governor	7/1/2024
Qualifications (if required): Elected County Official		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2024 THROUGH JULY 31, 2024

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Forest Action Advisory Council Cont.		
Ms. Kari Decker, Missoula	Governor	7/1/2024
Qualifications (if required): Representative at Large		
Ms. Julia Kertz Grant, Seattle	Governor	7/1/2024
Qualifications (if required): Private Landowners Representative		
Montana Historical Society Board of Trustees		
Ms. Candi Zion, Winifred	Governor	7/1/2024
Qualifications (if required): Public Member		
State Electrical Board		
Mr. Rick Hutchinson, Black Eagle	Governor	7/1/2024
Qualifications (if required): Licensed Electrician		
Teachers' Retirement Board		
Mr. Daniel Trost, Helena	Governor	7/1/2024
Qualifications (if required): Representative of the public		
Mr. Scott A. Dubbs, Lewistown	Governor	7/1/2024
Qualifications (if required): Administrator and member of the system		
Western Montana Conservation Commission (WMCC)		
Mr. Duane Braaten, Kalispell	Governor	7/1/2024
Qualifications (if required): Electric Coop Representative		

EXECUTIVE BRANCH VACANCIES – JULY 1, 2024 THROUGH JULY 31, 2024

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Western Montana Conservation Commission (WMCC) Cont. Mr. Lech Naumovich, Whitefish Qualifications (if required): Public Member	Governor	7/1/2024

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CHRISTI JACOBSEN
SECRETARY OF STATE

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