

# MONTANA ADMINISTRATIVE REGISTER

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PAGES 99-154



# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 2

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULE I pertaining to the ) PROPOSED ADOPTION  
administration of the Economic )  
Impact and Destination Event Grant )  
Program )

TO: All Concerned Persons

1. On February 15, 2024, at 10:30 a.m., the Department of Commerce (department) will hold a public hearing via zoom to consider the proposed adoption of the above-stated rule.

Video:

[https://mt-gov.zoom.us/webinar/register/WN\\_gbnWGQfZQs-Q4qybvhF68Q](https://mt-gov.zoom.us/webinar/register/WN_gbnWGQfZQs-Q4qybvhF68Q)

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this process or need an alternative accessible format of this notice. If you require accommodation, please contact the department by 5:00 p.m. on February 13, 2024, to advise us of the nature of the accommodation you are requesting. Please contact the Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501; telephone (406) 841-2596; fax (406) 841-2771; TDD (406) 841-2702; or e-mail [docadministrativerules@mt.gov](mailto:docadministrativerules@mt.gov).

3. The proposed new rule is as follows:

NEW RULE I INCORPORATION BY REFERENCE OF RULES GOVERNING THE GUIDELINES FOR THE ECONOMIC IMPACT AND DESTINATION EVENT GRANT PROGRAM (1) The department adopts and incorporates by reference Guidelines for the Economic Impact and Destination Event Grant Program (Program or Event Grant Program), with the most current version being posted on the Tourism Grant Program website (Guidelines), as rules governing how the department will administer the Program.

- (2) The Guidelines address the following:
- (a) Introduction;
  - (b) Definitions;
  - (c) Eligible Applicants;
  - (d) Eligible Events;
  - (e) Ineligible Events;
  - (f) Eligible Uses of Funds;
  - (g) Ineligible Uses of Funds;
  - (h) Application Process;
  - (i) Application Review and Ranking Criteria; and

(j) Program Administration.

(3) Copies of the Guidelines may be obtained from the department's Destination MT Division, Office of Tourism, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501, or on its web site at <https://brand.mt.gov/Programs/Office-Of-Tourism/Tourism-Grant-Program>.

AUTH: 90-1-122, MCA

IMP: 90-1-122, MCA

REASON: The proposed new rule is necessary to implement and administer the Event Grant Program in accordance with SB 540, which was enacted by the 2023 Montana Legislature.

Section 1 of SB 540 authorizes the department to provide funding to eligible applicants to support Montana tourism.

The department proposes adopting NEW RULE I, which incorporates by reference the Guidelines. The proposed Guidelines can be reviewed on the department's web site at <https://brand.mt.gov/Programs/Office-Of-Tourism/Tourism-Grant-Program>. Interested persons may comment on the Guidelines in accordance with this notice.

Adopting the Guidelines is necessary to provide public notice on how the department plans to administer the Event Grant Program in compliance with SB 540.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Department of Commerce, Legal Department, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0533; telephone (406) 841-2596; fax (406) 841-2871; TDD (406) 841-2702; or e-mail [DOCAdministrativerules@mt.gov](mailto:DOCAdministrativerules@mt.gov), and must be received no later than 5:00 p.m., February 23, 2024.

5. The department's Office of Legal Affairs will 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. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of SB 540, Representative Daniel Zolnikov, was contacted on January 16, 2024, by e-mail at [Daniel.Zolnikov@legmt.gov](mailto:Daniel.Zolnikov@legmt.gov).

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

/s/ John Semmens  
JOHN SEMMENS  
Rule Reviewer

/s/ Mandy Rambo  
MANDY RAMBO  
Deputy Director  
Department of Commerce

Certified to the Secretary of State January 16, 2024.

BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of                    ) NOTICE OF PUBLIC HEARING ON  
ARM 8.111.602 pertaining to the                    ) PROPOSED AMENDMENT  
Housing Credit Program                            )

TO: All Concerned Persons

1. On February 15, 2024, at 11:00 a.m., the Department of Commerce (department) will hold a public hearing via zoom to consider the proposed amendment of the above-stated rule.

Video: [https://mt-gov.zoom.us/webinar/register/WN\\_2VOVYok4QTen2lom2nG\\_tw](https://mt-gov.zoom.us/webinar/register/WN_2VOVYok4QTen2lom2nG_tw)

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this process or need an alternative accessible format of this notice. If you require an accommodation, please contact the department by 5:00 p.m. on February 13, 2024, to advise us of the nature of the accommodation that you need. Please contact the department's Board of Housing at: 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501; telephone (406) 841-2596; fax (406) 841-2771; TDD (406) 841-2702; or e-mail [docadministrativerules@mt.gov](mailto:docadministrativerules@mt.gov).

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

8.111.602 DEFINITIONS When used in these rules, unless the context clearly requires a different meaning:

(1) and (2) remain the same.

(3) "QAP" means the board's "Housing Credit Program 2024 2025 Qualified Allocation Plan," which sets forth the application process and selection criteria used by the board for evaluation and selection of projects to receive awards for allocation of housing credits for calendar year 2024 2025. The board adopts and incorporates by reference the Housing Credit Program 2024 2025 Qualified Allocation Plan, copies of which may be obtained by contacting the Board of Housing by mail at P.O. Box 200528, Helena, MT 59620-0528, by telephone at (406) 841-2840 ~~(406) 841-2845~~ or ~~(406) 841-2838~~, or at the board's web site [www.housing.mt.gov](http://www.housing.mt.gov).

(4) and (5) remain the same.

AUTH: 90-6-106, MCA

IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.602 are necessary to adopt and incorporate by reference the board's Housing Credit Program 2025 Qualified Allocation Plan (QAP).



Federal low-income housing tax credits are allocated by the United States federal government to the states according to their population, for allocation to particular buildings. Each state's share of federal low-income housing tax credits is allocated to particular projects and buildings under programs administered by the respective state's housing credit agencies. The Montana Board of Housing is Montana's housing credit agency for purposes of administering the tax credit program and allocating tax credits in the state of Montana. In Montana, the program is known as the Montana Housing Credit Program. Federal law requires that tax credits allocated to the state by the federal government must be allocated by the state pursuant to a "qualified allocation plan" or "QAP."

Prior to publication of this notice, the board conducted several public meetings to consider suggestions and comments regarding the provisions of the 2025 QAP. After public notice of the proposed 2025 QAP and of the opportunity for public comment was published and distributed on October 2, 2023, a public hearing on the proposed 2025 QAP was held on October 24, 2023, and written comments were also received. At its November 13, 2023, meeting, after hearing and considering written and oral comments on the proposed 2025 QAP, staff recommendations, additional public comment, and various proposed revisions in response to comments, the board approved the 2025 QAP for submission to and approval by Montana's Governor, as required by the federal tax credit statute, 26 U.S.C. § 42. The Governor approved the 2025 QAP on December 4, 2023.

A copy of the 2025 QAP is available on the internet at <http://housing.mt.gov/MFQAP> or by requesting a copy from: Board of Housing, Multifamily Program Manager, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2840; fax (406) 841-2841; or e-mail to [docadministrativerules@mt.gov](mailto:docadministrativerules@mt.gov).

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: Board of Housing, Multifamily Program Manager, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2840; fax (406) 841-2048; or e-mail to [docadministrativerules@mt.gov](mailto:docadministrativerules@mt.gov), and must be received no later than 5:00 p.m., February 23, 2024.

5. The department's Office of Legal Affairs will 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. Such written request 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. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

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

BOARD OF HOUSING  
Bruce Posey, Chair

/s/ John Semmens  
John Semmens  
Rule Reviewer

/s/ Mandy Rambo  
Mandy Rambo  
Deputy Director  
Department of Commerce

Certified to the Secretary of State January 16, 2024.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I pertaining to reimbursement	)	PROPOSED ADOPTION
to counties for expert witness	)	
expenses in certain criminal	)	
proceedings	)	

TO: All Concerned Persons

1. On February 15, 2024, at 10:00 a.m., the Department of Justice will hold a public hearing via remote conferencing to consider the proposed adoption of the above-stated rule. Interested parties may access the remote conferencing platform in the following way:

Join Zoom Meeting at: <https://mt-gov.zoom.us/j/82247334784?pwd=cjdndW1MY3crcHhMODNjWHpRSUFyUT09>, meeting ID: 822 4733 4784, and password: 149159.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Justice no later than 5:00 p.m. on February 9, 2024, to advise us of the nature of the accommodation that you need. Please contact Maggie Sowisdral, Department of Justice, P.O Box 201401, Helena, Montana, 59620-1401; telephone (406) 444-3652; or e-mail [Maggie.Sowisdral@mt.gov](mailto:Maggie.Sowisdral@mt.gov).

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

NEW RULE I COUNTY REIMBURSEMENT FOR EXPERT WITNESS FEES

(1) The Department of Justice has been appropriated funds to reimburse counties for expert witness expenses in certain criminal proceedings.

(2) The funds shall be used to compensate expert witnesses in felony charges filed under Title 45, chapter 5, parts 1 or 5, MCA, except in cases for which the death penalty is being sought by the prosecution and when the witness fees and expenses must be paid by the office of court administrator as provided in 3-5-901, MCA.

(3) County attorneys shall submit a request for reimbursement to the attorney general by April 1 of each year for reimbursement of these expert witness expenses on a form prescribed by the Department of Justice.

(4) The attorney general shall make reimbursement determinations based on the following conditions:

(a) \$5,000 shall be reserved for each county with a population of 30,000 or more based on the most recent census data;

(b) the remaining balance shall be appropriated to counties with a population less than 30,000 based on the most recent census data; and

(c) the seriousness of the charge(s), complexity of the case, and financial need of the county.

(5) The attorney general shall make reimbursement determinations by May 1 of each year.

(6) Should there be unused funds, the Department of Justice at its discretion may reimburse counties for other civil and criminal cases.

AUTH: 26-2-506, MCA

IMP: 26-2-506, MCA

REASON: This rule is necessary because the 2023 Montana Legislature passed Senate Bill 229, which granted rulemaking authority to the Attorney General to adopt rules to provide for reimbursement procedures, including setting priorities for expenses and balancing between the needs of rural and urban counties.

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: Maggie Sowisdral, Department of Justice, P.O Box 201401, Helena, Montana, 59620-1401; telephone (406) 444-3652; or e-mail Maggie.Sowisdral@mt.gov, and must be received no later than 5:00 p.m., February 28, 2024.

5. David Ortley, Deputy Attorney General, Department of Justice, 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. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

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, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on November 30, 2023.

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

10. The cumulative amount for all persons of the proposed monetary benefit in NEW RULE I is approximately \$150,000 annually based on the FY 2024 dollar

amount appropriated to the Department of Justice to reimburse the 56 counties for their expert witness fees. The number of persons affected is 56 based on the number of counties in the state of Montana.

/s/ DAVID ORTLEY

David Ortley  
Deputy Attorney General  
Rule Reviewer

/s/ AUSTIN KNUDSEN

Austin Knudsen  
Attorney General  
Department of Justice

Certified to the Secretary of State January 16, 2024.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.16.7551, the amendment and	)	PROPOSED AMENDMENT,
transfer of ARM 24.16.102, 24.16.111,	)	AMENDMENT AND TRANSFER,
24.16.211, and 24.16.1508, the	)	TRANSFER, ADOPTION, AND
transfer of ARM 24.16.2101, the	)	REPEAL
adoption of NEW RULES I through IV,	)	
and the repeal of ARM 24.16.501,	)	
24.16.502, 24.16.503, 24.16.1002,	)	
24.16.1004, 24.16.1005, 24.16.1006,	)	
24.16.1007, 24.16.1008, 24.16.1009,	)	
24.16.1010, 24.16.1011, 24.16.1012,	)	
24.16.1501, 24.16.1502, 24.16.1503,	)	
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24.16.2521, 24.16.2522, 24.16.2523,	)	
24.16.2524, 24.16.2525, 24.16.2531,	)	
24.16.2532, 24.16.2533, 24.16.2541,	)	
24.16.2542, 24.16.2543, 24.16.2544,	)	
24.16.2551, 24.16.2552, 24.16.2553,	)	
24.16.2554, 24.16.2555, 24.16.2556,	)	
24.16.2557, 24.16.2571, 24.16.2581,	)	
24.16.5501, 24.16.6101, 24.16.6102,	)	
and 24.16.6901 regarding wages and	)	
hour rules	)	

TO: All Concerned Persons

1. On February 15, 2024, at 10:00 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/86442754453>  
Meeting ID: 864 4275 4453, Passcode: 132912  
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 864 4275 4453, Passcode: 132912

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 February 8, 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. GENERAL REASONABLE NECESSITY: In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the department's administrative rules. This review focuses on updating rules to current standards and procedures and eliminating unnecessary and redundant regulations.

The department determined it is reasonably necessary to repeal numerous wages and hour rules and replace their provisions with four new rules. The rules proposed for repeal were adopted in 1972 by restating similar federal regulatory provisions in Title 29 of the Code of Federal Regulations (CFR). Many of the current wages and hour rules are verbatim duplicates of the federal language but have not been updated to match their federal counterparts in decades. Instead of amending and retaining the lengthy, repetitive rules, the department is adopting NEW RULES I through IV to align with the current federal provisions by adopting and incorporating them by reference as allowed by 2-4-307, MCA.

The department is amending/retaining six rules, repealing 59 rules, and adopting four new rules to align with the Red Tape Relief Initiative. The new and transferred rules will be located in new subchapter 30 of Title 24, chapter 16 of the Administrative Rules of Montana (ARM). Where additional specific bases for a proposed action exist, the department will identify those reasons immediately following the specific rule.

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

24.16.7551 PENALTY WHEN PAYMENTS ARE MADE PRIOR TO DETERMINATIONS AND SUBSEQUENT TO DETERMINATIONS (1) In cases where the wages claimed are paid by the employer either before or after receipt of the initial letter commencing the claim ~~ARM 24.16.7527(1)~~ and prior to the issuance of a determination, no penalty will be imposed unless any of the special circumstances described in ARM 24.16.7556 apply.

(2) through (4) remain the same.

AUTH: 39-3-202, 39-3-403, MCA  
IMP: 39-3-206, MCA

REASON: The department is amending (1) to strike a reference to a repealed rule.

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

24.16.102 (24.16.3001) DEFINITIONS (1) "Administrator" means the administrator of the Employment Relations Standards Division, Montana Department

of Labor and Industry. The commissioner of Labor and Industry has delegated to the administrator the functions vested in the commissioner.

(2) and (3) remain the same.

(4) "Direct and close supervision" means a qualified and experienced person supervising the student-employee and continually available when the student-employee is working to supervise, give direction, and check the work of the student-employee.

(4) (5) "Division" means the Employment Relations Standards Division of the Montana Department of Labor and Industry.

(5) through (8) remain the same but are renumbered (6) through (9).

(10) "Qualified and experienced person" means a journey-worker level employee or equivalent highly skilled employee, in the same occupation as the student-employee and who supervises the student-employee.

(9) remains the same but is renumbered (11).

(12) "Safety instruction" means a minimum of 10 hours of offsite safety instruction, such as an OSHA 10 class, in addition to onsite safety instruction directly related to the occupation of the student-employee.

(10) and (11) remain the same but are renumbered (13) and (14).

AUTH: 39-3-202, 39-3-403, 39-71-417, 41-2-117, MCA

IMP: 39-3-201, 39-3-401, 39-3-404, 39-3-405, 39-3-406, 39-71-417, 41-2-103, 41-2-107, 41-2-109, 41-2-110, MCA

REASON: The 2021 Montana Legislature enacted Chapter 135, Laws of 2021 (House Bill 282), an act revising laws relating to the employment of minors. The bill was signed by the Governor on April 1, 2021, and became effective October 1, 2021. The bill allows student-employees 16 years or older to perform work functions in certain circumstances and revises statutory exemptions to allow student-learners to perform regular work in agriculture under direct and close supervision. The department determined it is reasonably necessary to amend this rule to implement the bill by defining several terms that are used in the legislation. Authority and implementation citations are updated to reflect the statutory changes. The amended rule will be transferred to the new subchapter.

24.16.111 (24.16.3004) STATUS OF CERTAIN PERSONAL ASSISTANTS FOR THE PURPOSE OF WAGE AND HOUR LAWS (1) For the purposes of wage and hour laws, a person with a disability ~~who receives~~ receiving services of a personal assistant or an immediately involved representative of the disabled person, such as a parent or guardian, is not the employer of the personal assistant despite ~~the exercise of control over~~ controlling the selection, management, and supervision of the personal assistant if:

(a) remains the same.

(b) the personal assistant is the employee of another person or entity that ~~has the right to exercise~~ exercises an employer's control over the personal assistant, including ~~the right to~~ employee discipline and ~~terminate employment~~ termination.

AUTH: 53-6-145, MCA



IMP: 53-6-145, MCA

REASON: It is reasonably necessary to modernize language and style of this rule as well as to simplify the rule's title or catchphrase.

24.16.211 (24.16.3007) EXECUTIVE, ADMINISTRATIVE, AND PROFESSIONAL EMPLOYEES - GENERAL POLICY GUIDANCE (1) ~~In order to ease any disparity between state and federal requirements, and to make it easier for employers and employees to understand the wage and hour provisions applicable to bona-fide executive, administrative, professional employees, and for persons employed in an outside sales capacity, the commissioner finds that it is appropriate that Montana harmonize its treatment of those employees under state wage and hour laws with the federal treatment of those same classes of persons under the Fair Labor Standards Act, 29 USC 201, et seq. The department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition:~~

~~(2) The following federal regulations are adopted by reference:~~

~~(a) 29 CFR part 541, subpart subparts A, B, C, D, F, G, and H as in effect on July 1, 2009.~~

~~(b) 29 CFR part 541, subpart B, as in effect on July 1, 2009.~~

~~(c) 29 CFR part 541, subpart C, as in effect on July 1, 2009.~~

~~(d) 29 CFR part 541, subpart D, as in effect on July 1, 2009.~~

~~(e) 29 CFR part 541, subpart F, as in effect on July 1, 2003.~~

~~(f) 29 CFR part 541, subpart G, as in effect on July 1, 2009.~~

~~(g) 29 CFR part 541, subpart H, as in effect on July 1, 2009.~~

~~(3) (2) Copies of the regulations incorporated by reference are available as follows: CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.~~

~~(a) A printed copy of the regulations incorporated by reference is available for inspection and purchase at cost from the department and the U.S. Government printing office. The address for the department is: Montana Department of Labor and Industry, Employment Relations Division, Labor Standard Bureau, 1805 Prospect Avenue, P.O. Box 8011, Helena, Montana, 59604. The address of the U.S. Government printing office is: U.S. Government Bookstore, 710 North Capitol Street N.W., Washington, D.C.~~

~~(b) An electronic copy of the regulations incorporated by reference is available at <http://erd.dli.mt.gov/labor-standards/wage-and-hour-payment-act> (Montana Department of Labor and Industry web site).~~

AUTH: 39-3-403, MCA

IMP: 39-3-401, 39-3-406, 39-3-408, MCA

REASON: It is reasonably necessary to amend this rule to update the adopted sections of the CFR to reflect the current federal regulations and accommodate several recent updates. The rule is further amended to utilize the same style and language as proposed in NEW RULES I through IV.

24.16.1508 (24.16.3022) TIPS OR SERVICE CHARGES (1) through (1)(b) remain the same.

~~(c) Tips may be distributed pursuant to a valid tip pool agreement. A tip pool agreement for the purpose of distribution of tips is valid only where voluntarily entered into by employees without the involvement of management. Employees must first determine whether to enter into a tip pool agreement, and if so, the details of that agreement. Where a valid tip pool agreement has been created, management may enforce the agreement.~~

(2) and (3) remain the same.

AUTH: 39-3-202, 39-3-403, MCA

IMP: 39-3-201, 39-3-218, 39-3-402, MCA

REASON: The 2021 Montana Legislature enacted Senate Bill 190, an act providing requirements for tip pools. Previously, Montana allowed only tip pools created voluntarily by employees, without management's involvement. It is reasonably necessary to strike (1)(c) from this rule to align with the statutory changes. Citations are amended to reflect all statutes implemented through the rule.

6. The rule proposed to be transferred is as follows:

24.16.2101 (24.16.3025) JOINT EMPLOYMENT

AUTH: 39-3-403, MCA

IMP: 39-3-402, MCA

7. The proposed new rules are as follows:

NEW RULE I (24.16.3010) HOURS WORKED - GENERAL POLICY

GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding hours worked in wage and hour regulation.

(a) 29 CFR 785.5, 785.6, and 785.8; and

(b) 29 CFR 785.11 through 785.48, except not adopt 29 CFR 785.39, which is replaced with the following:

(i) Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly worktime when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours but also during the corresponding hours on nonworking days. Thus, if an employee regularly works from 9 a.m. to 5 p.m. from Monday through Friday the travel time during these hours is worktime on Saturday and Sundays as well as on the other days. Regular meal period time is not counted.

(2) CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this rule to replace ARM 24.16.1002, 24.16.1004, and 24.16.1005 through 24.16.1012, which are proposed for repeal.

NEW RULE II (24.16.3019) EMPLOYER RECORD KEEPING - GENERAL POLICY GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding employer record keeping in wage and hour regulation.

(a) 29 CFR 516.1 through 516.8, except not adopt 29 CFR 516.6, which is replaced with the following:

(i) Supplementary basic records: Each employer required to maintain records under this part shall preserve for a period of at least three years:

(A) Basic employment and earning records. From the date of last entry, all basic time and earnings cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay period basis (for example, units produced) when those amounts determine in whole or in part the pay period earning or wages of those employees; and

(B) Wage rate tables. From their last effective date, all tables or schedules of the employer which provide the piece rates or other rates used in computing straight-time earnings, wages, or salary, or overtime computation;

(ii) Order, shipping, and billing records. From the last date of entry, the originals or true copies of all customer orders or invoices received, incoming or outgoing shipping or delivery records, as well as all bills of lading and all billings to customers (not including individual sales slips, cash register tapes or the like) which the employer retains in the usual course of business operations;

(iii) Records of additions to or deductions from wages paid: Each employer who makes additions to or deductions from wages paid shall preserve for at least three years from the date of last entry:

(A) Records of individual employee accounts for total additions to or deductions from wages paid each pay period; and

(B) All records used by the employer in determining the original cost, operating and maintenance cost and depreciation and interest charges, if such costs and charges are involved in the additions to or deductions from wages paid.

(b) 29 CFR 516.25 through 516.27; and

(c) not adopt 29 CFR 516.30, which is replaced with the following:

(i) Learners, apprentices, students, student-employees, or workers with disabilities employed under special certificates as provided in 39-3-406, MCA.

(A) Items required. With respect to persons employed as learners, apprentices, student-employees, messengers, or full-time students employed outside of their school hours in any retail or service establishment or workers with disabilities at special minimum hourly rates under special certificates pursuant to 39-3-406, MCA, employers must maintain and preserve records containing the same information and data required with respect to other employees employed in the same occupations.

(B) Segregation or designation on payroll and use of identifying symbol. Employers must also segregate on payroll or pay records the names and required information and data with respect to those employed under Special Certificates. A symbol or letter before each name must indicate the person is a "learner," "apprentice," "student-employee," "messenger," "student," or "worker with disabilities" employed under a Special Certificate.

(2) CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, 41-2-117, MCA

IMP: 39-3-404, 39-3-405, 39-3-406, 41-2-103, 41-2-107, 41-2-109, 41-2-110, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this rule to replace ARM 24.16.6101 and 24.16.6102, which are proposed for repeal.

The department is adopting (1)(a) to adopt the federal provisions regarding employer record keeping but require retention of basic employment records for three years instead of the two-year retention in the federal regulations.

It is reasonably necessary to adopt (1)(c) to implement House Bill 282 (2021), which allows student-employees 16 years or older to perform work functions in certain circumstances. The language of (1)(c) adds student-employees to the federal provision on employer record keeping.

### NEW RULE III (24.16.3013) WAGE PAYMENTS - GENERAL POLICY

GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding wage payments in wage and hour regulation.

(a) 29 CFR 531.2;

(b) 29 CFR 531.3;

(c) 29 CFR 531.6(a) and (c);

(d) not adopt 29 CFR 531.6(b), which is replaced with the following:

(i) A collective bargaining agreement shall be deemed to be "bona fide" when it is made with a labor organization certified by the National Labor Relations Board,

or which is the certified representative of the employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended, or the Montana Collective Bargaining for Public Employees Act, or the Montana Collective Bargaining for Nurses Act.

(e) 29 CFR 531.26, 29-32, 33(b), and 35;

(f) 29 CFR 547.0 through 547.2;

(g) 29 CFR 549.0 through 549.3; and

(h) 29 CFR 776.5 and 776.6.

(2) CFR regulations incorporated by reference are available at

<https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, MCA

IMP: 39-3-402, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this rule to replace ARM 24.16.502, 24.16.503, 24.16.1501 through 24.16.1507, 24.16.5501, and 24.16.6901, which are proposed for repeal.

It is reasonably necessary to adopt (1)(d) to restate the federal provision on "bona fide" collective bargaining agreements with the addition of two Montana-specific collective bargaining statutes.

NEW RULE IV (24.16.3016) OVERTIME COMPENSATION - GENERAL POLICY GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding overtime compensation in wage and hour regulation.

(a) 29 CFR 548;

(b) 29 CFR 778.5;

(c) 29 CFR 778.101 through 106;

(d) 29 CFR 778.108 through 121;

(e) 29 CFR 778.200 through 214;

(f) 29 CFR 778.215 through 217(c)(1), and 217(d);

(g) 29 CFR 778.218 through 225;

(h) 29 CFR 778.301 through 315;

(i) 29 CFR 778.318 through 333;

(j) 29 CFR 778.400 through 421;

(k) 29 CFR 778.500 through 503; and

(l) 29 CFR 778.600 and 601.

(2) CFR regulations incorporated by reference are available at

<https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this new rule to replace ARM 24.16.501, 24.16.2501 through 24.16.2505, 24.16.2512 through 24.16.2525, 24.16.2531 through 24.16.2533, 24.16.2541 through 24.16.2544, 24.16.2551 through 24.16.2557, 24.16.2571, and 24.16.2581, which are proposed for repeal.

The department is incorporating by reference 29 CFR 548.1-548.4, 29 CFR 778.214(a) through (e), 29 CFR 778.312-314, 778.400-421, and 778.601 to provide updated examples of frequently occurring situations and questions regarding overtime compensation since 1972.

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

24.16.501 WORKWEEK

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

REASON: For all 59 rules proposed for repeal, see GENERAL REASONABLE NECESSITY and REASONS for NEW RULES I through IV.

24.16.502 COVERAGE NOT DEPENDENT ON METHOD OF COMPENSATION

AUTH: 39-3-403, MCA

IMP: 39-3-404, MCA

24.16.503 COVERAGE NOT DEPENDENT ON PLACE OF WORK

AUTH: 39-3-403, MCA

IMP: 39-3-404, MCA

24.16.1002 GENERAL REQUIREMENTS

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

24.16.1004 EFFECT OF CUSTOM, CONTRACT OR AGREEMENT

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

24.16.1005 EMPLOYEES "SUFFERED OR PERMITTED" TO WORK

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

24.16.1006 REST AND MEAL PERIODS

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1007 SLEEPING TIME AND CERTAIN OTHER ACTIVITIES

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1008 PREPARATORY AND CONCLUDING ACTIVITIES

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1009 LECTURES, MEETINGS AND TRAINING PROGRAMS

AUTH: 39-3-402, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1010 TRAVEL TIME

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1011 ADJUSTING GRIEVANCES, MEDICAL ATTENTION, CIVIC  
AND CHARITABLE WORK, AND SUGGESTION SYSTEMS

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1012 RECORDING WORKING TIME

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.1501 PURPOSE AND SCOPE

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.1502 BOARD, LODGING OR OTHER FACILITIES

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.1503 EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.1504 RELATION TO OTHER LAWS

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.1505 DEFINING THE TERM "FURNISHED" AS APPLIED TO BOARD, LODGING, OR OTHER FACILITIES

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.1506 "REASONABLE COST"; "FAIR VALUE"

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.1507 "FREE AND CLEAR" PAYMENT; "KICKBACKS"

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

24.16.2501 RELATION TO OTHER LAWS GENERALLY

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2502 MAXIMUM NONOVERTIME HOURS

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.2503 APPLICATION OF OVERTIME PROVISION GENERALLY

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2504 THE WORKWEEK AS THE BASIS FOR APPLYING SECTION 39-3-405, MCA

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2505 DETERMINING THE WORKWEEK



AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2512 THE REGULAR RATE

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.2513 PAYMENTS OTHER THAN CASH

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.2514 COMMISSION PAYMENTS - GENERAL

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2515 PAYMENTS THAT MAY BE EXCLUDED FROM THE  
"REGULAR RATE"

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2516 EXTRA COMPENSATION PAID FOR OVERTIME

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2517 BONUSES

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2518 CONDITIONS FOR EXCLUSION OF BENEFIT PLAN  
CONTRIBUTIONS

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2519 PAYMENTS NOT FOR HOURS WORKED AND  
REIMBURSEMENT FOR EXPENSES

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2520 PAY FOR CERTAIN IDLE HOURS

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2521 PAY FOR FOREGOING HOLIDAYS AND VACATIONS

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2522 "SHOW-UP" OR "REPORTING PAY"

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2523 "CALL-BACK" PAY

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2524 PAY FOR NONPRODUCTIVE HOURS DISTINGUISHED

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2525 OTHER SIMILAR PAYMENTS

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2531 CHANGE IN THE BEGINNING OF THE WORKWEEK

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2532 RETROACTIVE PAY INCREASES

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2533 HOW DEDUCTIONS AFFECT THE REGULAR RATE

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2541 THE OVERTIME RATE IS AN HOURLY RATE

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2542 FIXED SUM FOR VARYING AMOUNTS OF OVERTIME

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2543 FLAT RATE FOR SPECIAL JOB PERFORMED IN OVERTIME HOURS

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2544 PAYMENT FOR ALL HOURS WORKED IN OVERTIME WORKWEEK IS REQUIRED

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2551 PRODUCTIVE AND NONPRODUCTIVE HOURS OF WORK

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2552 PAYING FOR BUT NOT COUNTING HOURS WORKED

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2553 DECREASE IN HOURS WITHOUT DECREASING PAY—GENERAL

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2554 REDUCING THE FIXED WORKWEEK FOR WHICH A SALARY IS PAID

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2555 REDUCTION OF REGULAR OVERTIME WORKWEEK WITHOUT REDUCTION OF TAKE HOME PAY

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2556 ALTERNATING WORKWEEKS OF DIFFERENT FIXED LENGTHS

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2557 PRIZES AS BONUSES

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2571 DEVICES TO EVADE THE OVERTIME REQUIREMENTS

AUTH: 39-3-403, MCA  
IMP: 39-3-405, MCA

24.16.2581 VETERANS SUBSISTENCE ALLOWANCES

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.5501 SCOPE OF REGULATIONS

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.6101 FORM OF RECORDS

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.6102 GENERAL REQUIREMENTS

AUTH: 39-3-403, MCA  
IMP: 39-3-404, 39-3-405, MCA

24.16.6901 REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

AUTH: 39-3-403, MCA  
IMP: 39-3-402, MCA

9. 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](http://dli.mt.gov/rules) or P.O. Box 1728; Helena, Montana 59624. Comments must be received no later than 5:00 p.m., February 23, 2024.

10. An electronic copy of this notice of public hearing is available at [dli.mt.gov/rules](http://dli.mt.gov/rules) and [sosmt.gov/ARM/register](http://sosmt.gov/ARM/register).

11. 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](http://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.

12. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on October 16, 2023 (HB 282) by electronic mail.

13. 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.

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

/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 January 16, 2024.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.3.2408 pertaining to ballot ) PROPOSED AMENDMENT  
form and uniformity )

TO: All Concerned Persons

1. On February 20, 2024, at 3:00 p.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m., February 13, 2024, to advise us of the nature of the accommodation needed. Please contact Andy Ritter, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-7911; fax (406) 444-3976; TDD/Montana Relay Service 711; or email [Andrew.Ritter@mt.gov](mailto:Andrew.Ritter@mt.gov).

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

44.3.2408 BALLOT FORM AND UNIFORMITY (1) The Secretary of State's Office adopts and incorporates by reference the "Ballot Layout Guide" dated ~~November 28, 2023~~ January 16, 2024, which county election administrators must follow to ensure uniformity of the ballot form for each type of ballot used in the state as required by 13-12-202, MCA. A copy of the Ballot Layout Guide can be accessed on the Secretary of State's website at [sosmt.gov](http://sosmt.gov).

AUTH: 13-1-202, 13-12-202, MCA  
IMP: 13-1-202, 13-12-202, MCA

REASONABLE NECESSITY: The proposed changes update the reference to the latest version of the Ballot Layout Guide.

4. With regard to the requirements of 2-4-302(1)(c), MCA, it has been determined that this proposed rule amendment will not have a fiscal impact.

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: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [angela.nunn@mt.gov](mailto:angela.nunn@mt.gov), and must be received no later than 5:00 p.m., February 23, 2024.

6. Austin James, Secretary of State's Office, has been designated to preside over and conduct the hearing.

7. The Secretary of State 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 may submit their request online at <https://sosmt.gov/arm/secretary-of-state-administrative-rules/> or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to [sosarm@mt.gov](mailto:sosarm@mt.gov).

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 Secretary of State has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ AUSTIN MARKUS JAMES  
Austin Markus James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 16th day of January, 2024.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the amendment of            ) NOTICE OF AMENDMENT  
ARM 4.3.602 pertaining to                    )  
nonrefundable application fees            )

TO: All Concerned Persons

1. On September 8, 2023, the Department of Agriculture published MAR Notice No. 4-23-277 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 923 of the 2023 Montana Administrative Register, Issue Number 17.

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

3. No comments or testimony were received.

/s/ Cort Jensen  
Cort Jensen  
Rule Reviewer

/s/ Christy Clark  
Christy Clark  
Director  
Agriculture

Certified to the Secretary of State January 16, 2024.



BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the amendment of            ) NOTICE OF AMENDMENT  
ARM 4.17.107 pertaining to annual        )  
report and assessment fees                )

TO: All Concerned Persons

1. On September 8, 2023, the Department of Agriculture published MAR Notice No. 4-23-279 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 925 of the 2023 Montana Administrative Register, Issue Number 17.

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

3. No comments or testimony were received.

/s/ Cort Jensen  
Cort Jensen  
Rule Reviewer

/s/ Christy Clark  
Christy Clark  
Director  
Agriculture

Certified to the Secretary of State January 16, 2024.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 4.2.101, 4.2.102, 4.5.303,	)	REPEAL
4.7.101, 4.9.101, 4.9.402, 4.10.1003,	)	
4.10.1011, 4.10.1501, 4.12.729,	)	
4.12.731, 4.12.742, 4.12.743,	)	
4.12.1027, 4.12.1407, 4.12.1409,	)	
4.12.1431, 4.12.1438, 4.12.1439,	)	
4.12.1439, 4.12.1440, 4.12.1441,	)	
4.12.1442, 4.12.1443, 4.12.1444,	)	
4.12.2205, 4.12.2615, 4.12.3002,	)	
4.12.3008, 4.12.3501, 4.12.3502,	)	
4.12.3503, 4.12.3504, 4.12.3505,	)	
4.13.1002, 4.13.1005, 4.13.1006,	)	
4.13.1007, and 4.16.101 and the	)	
repeal of ARM 4.7.101 and 4.12.2607	)	
pertaining to updating administrative	)	
rule references and citations	)	

TO: All Concerned Persons

1. On November 17, 2023, the Department of Agriculture published MAR Notice No. 4-23-281 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1576 of the 2023 Montana Administrative Register, Issue Number 22.

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

3. No comments or testimony were received.

/s/ Cort Jensen  
Cort Jensen  
Rule Reviewer

/s/ Christy Clark  
Christy Clark  
Director  
Agriculture

Certified to the Secretary of State January 16, 2024.

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

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Ennis        ) EMERGENCY RULE  
Fishing Access Site in Madison        )  
County        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Ennis Fishing Access Site:

(a) There are ice jams on the Madison River that have caused water to channel and flood multiple portions of the Ennis Fishing Access Site.

(b) The combination of dangerous conditions includes changing flooded areas throughout the site, moving ice and debris, and potentially unstable trees that could fall, rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating at the fishing access site would be at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 2 of the 2024 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 9, 2024, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-1285; or e-mail cbell@mt.gov.

3. The emergency rule is effective January 16, 2024, when this rule notice is filed with the Secretary of State.

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

RULE 1 ENNIS FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Ennis Fishing Access Site is located along the Madison River in Madison County.

(2) The Ennis Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will remain in effect until the department determines that the site is again safe for public occupancy. This will depend on the extent and duration of the ice jams on the river causing flooding into the fishing access site. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA  
IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rules is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to: Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; or e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than February 26, 2024.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. 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 made by completing the request form at any rules hearing held by the department.

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

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on January 16, 2024.

/s/ Quentin Kujala  
Quentin Kujala  
Chief of Conservation Policy  
Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff  
Kevin Rechkoff  
Rule Reviewer

Certified to the Secretary of State January 16, 2024.

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

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Valley        ) EMERGENCY RULE  
Garden Fishing Access Site in        )  
Madison County        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of emergency rule closing the Valley Garden Fishing Access Site:

(a) There are ice jams on the Madison River that have caused water to channel and flood multiple portions of the Valley Garden Fishing Access Site.

(b) The combination of dangerous conditions includes changing flooded areas throughout the site, moving ice and debris, and potentially unstable trees that could fall, rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating at the fishing access site would be at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 2 of the 2024 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 9, 2024, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-1285; or e-mail cbell@mt.gov.

3. The emergency rule is effective January 16, 2024, when this rule notice is filed with the Secretary of State.

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

RULE 1 VALLEY GARDEN FISHING ACCESS SITE EMERGENCY  
CLOSURE (1) The Valley Garden Fishing Access Site is located along the Madison River in Madison County.

(2) The Valley Garden Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will remain in effect until the department determines that the site is again safe for public occupancy. This will depend on the extent and duration of the ice jams on the river causing flooding into the fishing access site. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA  
IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rules is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to: Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; or e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than February 26, 2024.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. 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 made by completing the request form at any rules hearing held by the department.

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

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on January 16, 2024.

/s/ Quentin Kujala  
Quentin Kujala  
Chief of Conservation Policy  
Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff  
Kevin Rechkoff  
Rule Reviewer

Certified to the Secretary of State January 16, 2024.

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

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Selway        ) EMERGENCY RULE  
Park Fishing Access Site in                )  
Beaverhead County                         )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Selway Park Fishing Access Site:

(a) There are ice jams on the Beaverhead River that have caused water to channel and flood multiple portions of the Selway Park Fishing Access Site.

(b) The combination of dangerous conditions includes changing flooded areas throughout the site, moving ice and debris, and potentially unstable trees that could fall, rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating at the fishing access site would be at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 2 of the 2024 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 9, 2024, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-1285; or e-mail cbell@mt.gov.

3. The emergency rule is effective January 16, 2024, when this rule notice is filed with the Secretary of State.

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

RULE 1 SELWAY PARK FISHING ACCESS SITE EMERGENCY CLOSURE

(1) The Selway Park Fishing Access Site is located along the Beaverhead River in Beaverhead County.

(2) The Selway Park Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will remain in effect until the department determines that the site is again safe for public occupancy. This will depend on the extent and duration of the ice jams on the river causing flooding into the fishing access site. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA  
IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rules is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to: Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; or e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than February 26, 2024.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. 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 made by completing the request form at any rules hearing held by the department.

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

9. The special notice requirements of 2-4-303, MCA, have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on January 16, 2024.

/s/ Quentin Kujala  
Quentin Kujala  
Chief of Conservation Policy  
Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff  
Kevin Rechkoff  
Rule Reviewer

Certified to the Secretary of State January 16, 2024.



BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION AND
RULE I and the amendment of ARM	)	AMENDMENT
23.12.102 pertaining to criminal	)	
history information provided by the	)	
department to qualified entities	)	

TO: All Concerned Persons

1. On December 8, 2023, the Department of Justice published MAR Notice No. 23-12-281 pertaining to the proposed adoption and amendment of the above-stated rules at page 1691 of the 2023 Montana Administrative Register, Issue Number 23.

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

3. The department has adopted the above-stated rule as proposed: NEW RULE I (23.12.107).

4. No comments or testimony were received.

/s/ DAVID ORTLEY  
David Ortley  
Deputy Attorney General  
Rule Reviewer

/s/ AUSTIN KNUDSEN  
Austin Knudsen  
Attorney General  
Department of Justice

Certified to the Secretary of State January 16, 2024.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION AND
RULES I through V and the repeal of	)	REPEAL
ARM 24.216.101, 24.216.201,	)	
24.216.202, 24.216.402, 24.216.502,	)	
24.216.503, 24.216.506, 24.216.508,	)	
24.216.511, 24.216.512, 24.216.2102,	)	
24.216.2104, and 24.216.2301	)	
regarding registered sanitarians and	)	
sanitarians-in-training	)	

TO: All Concerned Persons

1. On December 8, 2023, the Department of Labor and Industry (agency) published MAR Notice No. 24-217-1 regarding the public hearing on the proposed adoption and repeal of the above-stated rules, at page 1728 of the 2023 Montana Administrative Register, Issue No. 23.

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

3. The agency has adopted NEW RULES I (24.217.401), II (24.217.501), III (24.217.504), IV (24.217.508), and V (24.217.2301), as proposed.

4. The agency has repealed ARM 24.216.101, 24.216.201, 24.216.202, 24.216.402, 24.216.502, 24.216.503, 24.216.506, 24.216.508, 24.216.511, 24.216.512, 24.216.2102, 24.216.2104, and 24.216.2301, as proposed.

/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 January 16, 2024.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 44.3.2408 pertaining to ballot )  
form and uniformity )

TO: All Concerned Persons

1. On December 8, 2023, the Secretary of State published MAR Notice No. 44-2-269 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1739 of the 2023 Montana Administrative Register, Issue Number 23.
2. On January 5, 2024, a public hearing was held on the proposed amendment of the above-stated rule.
3. The Secretary of State has amended the above-stated rule as proposed.
4. The Secretary of State did not receive any substantive comments on the proposed rulemaking action.

/s/ AUSTIN MARKUS JAMES  
Austin Markus James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 16th day of January, 2024.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULE I pertaining to reporting results )  
during an election )

TO: All Concerned Persons

1. On December 8, 2023, the Secretary of State (SOS) published MAR Notice No. 44-2-270 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1741 of the 2023 Montana Administrative Register, Issue Number 23.

2. On January 5, 2024, a public hearing was held on the proposed adoption of the above-stated rule.

3. The Secretary of State has adopted NEW RULE I (44.3.1801) as proposed.

4. The Secretary of State has thoroughly considered the comment received. A summary of the comment and SOS's response are as follows:

COMMENT #1: A commenter suggested the addition of new language in NEW RULE I(2), that indicates, "In the event that a county election administrator is unable to report results as required, the Secretary of State may authorize the county election administrator to ~~publicly post results~~ forgo the requirement to provide the results to the Secretary of State's election night reporting system prior to publicly posting the results."

RESPONSE #1: The Secretary of State appreciates the suggestion. However, the SOS does not have the authority to waive or forgo a statutory requirement in administrative rule.

/s/ AUSTIN MARKUS JAMES  
Austin Markus James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 16th day of January, 2024.

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

In the matter of the Workforce                    )  
Innovation and Opportunity Act                )  
Montana State Plan                                )

NOTICE OF PUBLIC COMMENT

TO: All Concerned Persons

1. Until February 23, 2024, the Department of Labor and Industry (department) will accept public comments regarding the Workforce Innovation and Opportunity Act Montana State Plan (WIOA State Plan).

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public comment process or need an alternative accessible format of this notice. If you require an accommodation, contact the department to advise us of the nature of the accommodation that you need. Please contact Crystal Armstrong, P.O. Box 1728, Helena, Montana 59604; telephone (406) 444-6518; Montana Relay 711; or e-mail [crystal.armstrong@mt.gov](mailto:crystal.armstrong@mt.gov).

3. The WIOA State Plan is available for review at <https://swib.mt.gov/program-information/state-plan>. Printed versions are available upon request.

4. After public comments are received, the department will consider and incorporate the comments into the final WIOA State Plan.

5. Concerned persons may submit their data, views, or arguments in writing at [dli.mt.gov/rules](https://dli.mt.gov/rules) or P.O. Box 1728; Helena, Montana 59624, and must be received no later than February 23, 2024, at 5:00 p.m.

/s/ Sarah Swanson

Sarah Swanson, Commissioner

DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State on January 16, 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.

## HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

### Definitions:

**Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

**Montana Administrative Register (MAR or Register)** is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

### Use of the Administrative Rules of Montana (ARM):

Known  
Subject

1. Consult ARM Topical Index.  
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.



## 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 August 4, 2023, through January 12, 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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(Montana Tax Appeal Board)

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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 December 2023 appear. Potential vacancies from February 1, 2024 through February 29, 2024, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of January 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 DECEMBER 2023**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Invasive Species Council (ISC)</b>			
Mr. James Allen Helena	Governor	Cloninger	12/15/2023 5/1/2027
Qualifications (if required): DOT Designee			
Mr. Jared Beaver Billings	Governor	Mangold	12/15/2023 5/1/2027
Qualifications (if required): MSU Extension Agency Representative			
Ms. Jasmine Chaffee Helena	Governor	Reimer	12/15/2023 5/1/2027
Qualifications (if required): Department of Agriculture Designee			
Mr. Sean Fritzler	Governor	Whiteman	12/15/2023 5/1/2027
Qualifications (if required): Crow Nation Representative			
Ms. Pamela Schwend Joliet	Governor	Christiaens	12/15/2023 5/1/2027
Qualifications (if required): Conty Weed Districts Representative			
Tracy Tyner	Governor	Gopher	12/15/2023 5/1/2025
Qualifications (if required): Rocky Boy Representative			

**EXECUTIVE BRANCH APPOINTEES FOR DECEMBER 2023**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Council on Developmental Disabilities (MCDD)</b>			
Mr. Mike Yakawich	Governor	Custer	12/15/2023
Billings			1/1/2025
Qualifications (if required): State Legislature			
<b>Public Safety Officer Standards and Training Council (POST)</b>			
Ms. Meghan Mulcahy	Governor	Glade	12/15/2023
Butte			1/1/2027
Qualifications (if required): Member of the Board of Crime Control			
<b>Teachers' Retirement Board (TRS)</b>			
Mr. Brian Youngren	Governor	Hitchcock	12/15/2023
Ronan			7/1/2026
Qualifications (if required): Member of the retirement system			

**EXECUTIVE BRANCH VACANCIES – FEBRUARY 1, 2024 THROUGH FEBRUARY 29, 2024**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Public Education</b>		
Mr. Jesse Miles Barnhart, Broadus Qualifications (if required): District 2, Republican	Governor	2/1/2024
Mrs. Anne Marie Dowling Keith, Bozeman Qualifications (if required): District 1, Independent	Governor	2/1/2024
<b>Board of Regents of Higher Education</b>		
Mr. William A. Johnstone, Bozeman Qualifications (if required): District 1, Democrat	Governor	2/1/2024
Ms. Brianne Kristine Rogers Dugan, Bozeman Qualifications (if required): District 1 Democrat	Governor	2/1/2024

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