

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 10

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.50.501 through 17.50.503, 17.50.508,))
17.50.509, and 17.50.513; the adoption)
of New Rules I through XXVI; and the)
repeal of ARM 17.50.505, 17.50.506,)
17.50.510, 17.50.511, 17.50.526,)
17.50.530, 17.50.531, 17.50.542,)
17.50.701, 17.50.702, 17.50.705 through)
17.50.710, 17.50.715, 17.50.716, and)
17.50.720 through 17.50.726 pertaining)
to the licensing and operation of solid)
waste landfill facilities)

AMENDED NOTICE OF PUBLIC
HEARING AND EXTENSION OF
COMMENT PERIOD ON
PROPOSED AMENDMENT,
ADOPTION, AND REPEAL

(SOLID WASTE)

TO: All Concerned Persons

1. On April 24, 2008, the Department of Environmental Quality published MAR Notice No. 17-269 regarding a notice of public hearing on the proposed amendment, adoption, and repeal of the above-stated rules at page 688, 2008 Montana Administrative Register, issue number 8. The department is publishing this amended notice to extend the public comment period, provide notice of a second hearing, add language to New Rule XVII, and propose adoption of a new rule pertaining to a saving clause.

2. Another public hearing will be held on July 9, 2008, at 9:00 a.m. in Room 35, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules, with the proposed additional language in New Rule XVII shown below, and the proposed adoption of NEW RULE XXVI. In addition, the comment period for MAR Notice No. 17-269 and this amended notice is extended to July 23, 2008.

3. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., June 30, 2008, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson, Paralegal, at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

4. The department is proposing to add the underlined language to New Rule XVII.

NEW RULE XVII ADOPTION OF FEDERAL LANDFILL GROUND WATER MONITORING AND CORRECTIVE ACTION (1) Except as provided otherwise in [NEW RULE XIX], the department adopts and incorporates by reference 40 CFR

Part 258, subpart E, and Appendices I and II to 40 CFR Part 258 pertaining to ground water monitoring and corrective action.

(2) through (4) remain as proposed in the original notice of public hearing.

REASON: The department is proposing to amend New Rule XVII(1) by adopting by reference 40 CFR Part 258 Appendices I and II. These appendices contain lists of contaminants for which ground water detection and assessment monitoring must be done and for which standards must be adopted. Monitoring of the contaminants and exceedances of the standards are then used to determine whether and what forms of corrective action will be required.

These appendices are referred to in numerous federal regulations being adopted by reference in New Subchapter IV, and in New Rule XIX(6). The department believes that it is necessary to adopt them by reference to make clear to the regulated community 1) which contaminants must be monitored for and 2) what the standards for those contaminants are that, when exceeded, will trigger requirements for further analysis and action.

5. The new rule provides as follows, stricken matter interlined, new matter underlined:

NEW RULE XXVI SAVING CLAUSE (1) The repeal of ARM 17.50.505, 17.50.506, 17.50.510, 17.50.511, 17.50.526, 17.50.530, 17.50.531, 17.50.542, 17.50.701, 17.50.702, 17.50.705 through 17.50.710, 17.50.715, 17.50.716, and 17.50.720 through 17.50.726 does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this rule].

AUTH: 75-10-204, MCA

IMP: 75-10-204, MCA

REASON: The department is proposing to adopt New Rule XXVI because it believes that, when it repeals a rule, the repealed rule still applies to actions that occurred while the rule was in effect. So, if a violation of a now-repealed rule had occurred while the rule was in effect, that violation could be the subject of an enforcement action after the rule was repealed.

Proposed New Rule XXVI would make this explicit.

This rule is necessary because it is desirable to have continuous coverage of rules, and enforcement against violations of rules should not be barred because the rule was repealed. If enforcement were barred, an incentive to comply with existing rules would be removed and the environmental degradation that the rules are designed to prevent might occur.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to Elois Johnson at ejohnson@mt.gov, and must be

received no later than 5:00 p.m., July 23, 2008. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Richard H. Opper
RICHARD H. OPPER
Director

Reviewed by:

John F. North
John F. North, Rule Reviewer

Certified to the Secretary of State, May 12, 2008.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 1.3.211 through 1.3.224,) PROPOSED AMENDMENT AND
1.3.226, 1.3.227, 1.3.229 through) REPEAL
1.3.233; and repeal of ARM 1.3.225,)
all pertaining to model rules)

TO: All Concerned Persons

1. On June 11, 2008, at 10:30 a.m., a public hearing will be held to consider the proposed amendment and repeal of the above-stated rules in Room 455, State Capitol Building, Helena, Montana. This hearing is being held in conjunction with the Secretary of State's Office public hearing on proposed changes to model rules in this issue of the Montana Administrative Register in MAR Notice No. 44-2-145.

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 no later than 5:00 p.m. on May 29, 2008, to advise us of the nature of the accommodation that you need. Please contact Ali Bovingdon, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail abovingdon@mt.gov.

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

1.3.211 CONTESTED CASES, INTRODUCTION (1) A rule is an agency determination statement of general applicability that interprets law or describes agency requirements. ~~It applies to all persons who come within its terms~~ are subject to the requirements or regulations of the agency. ~~In contrast, a~~ A contested case involves an agency determination applicable to that affects the rights or responsibilities of a specifically named party. "Contested case" and "party" are defined by 2-4-102, MCA.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.212 MODEL RULE 8 CONTESTED CASES, NOTICE OF OPPORTUNITY TO BE HEARD (1) All parties to contested cases shall be afforded notice of hearing. ~~pursuant to 2-4-601, MCA~~. As illustrated by sample form ~~18~~ 212a, the notice must include:

- (a) ~~all items required by 2-4-601(2), MCA;~~ the time, place, and nature of the hearing;
- (b) the legal authority and jurisdiction under which the hearing is being

conducted:

- (c) a citation to the statutes and rules involved;
- (d) a short and plain statement of the issues involved;
- (e) notice that formal proceedings may be waived pursuant to 2-4-603, MCA;
- ~~(b) (f)~~ a provision statement advising parties of their right to be represented by counsel at the hearing; (2-4-105, MCA); and
- (c) remains the same but is renumbered (g).

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.213 MODEL RULE 9 CONTESTED CASES, EMERGENCY SUSPENSION OF A LICENSE (1) ~~Section~~ Pursuant to 2-4-631(3), MCA, provides: "...if the agency finds that public health safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined." if an agency makes a determination that public health, safety, or welfare requires emergency action, the agency may order immediate suspension of a license. The order must include findings justifying emergency action, and revocation proceedings must be promptly instituted and determined.

- (a) See sample form ~~19~~ 213a.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.214 MODEL RULE 10 CONTESTED CASES, DEFAULT ORDER
(1) If in a contested case, if a party does not appear to contest an intended agency action, the agency may enter a default order. If a default is entered, pursuant to 2-4-623, MCA, the order must contain be in writing and include findings of fact and conclusions of law. 2-4-623, MCA.

- (a) See sample form ~~20~~ 214a.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.215 MODEL RULE 14 CONTESTED CASES, INFORMAL DISPOSITION (1) remains the same.
(2) ~~Any informal~~ Informal proceedings in contested cases must be conducted in accordance with the provisions of 2-4-604, MCA. give the parties an opportunity to present to the agency or the hearing examiner written or oral evidence challenging the agency's actions, its refusal to act, its justifications for determination, or other evidence relating to the contested case.

(3) ~~An informal conference, in the nature of a pretrial conference,~~ may be used conducted prior to the proceedings in order to define issues, determine witnesses, and agree upon stipulations.

(4) A record of proceedings conducted under this part must be made in accordance with 2-6-604, MCA.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.216 MODEL RULE 12 CONTESTED CASES, APPLICATION FOR MORE DEFINITE AND DETAILED STATEMENT (1) Upon application to the agency or the designated hearing examiner, a party who has been given notice of a contested case hearing may apply for a more definite and detailed statement of the issues involved in the hearing. ~~2-4-604(2)(d), MCA.~~

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.217 MODEL RULE 13 CONTESTED CASES, DISCOVERY (1) ~~Section 2-4-602, MCA requires each agency to provide in its rules for discovery prior to a contested case hearing.~~

~~(2) In all contested cases, discovery shall be available to the parties in accordance with Rules 26, 28 through 37 (except Rule 37(b)(1) and 37(b)(2)(d)) of the Montana Rules of Civil Procedure, in effect on the date of the adoption of this rule and any subsequent rule amendments thereto. However, Rule 27 and Rule 37(b)(1) and 37(b)(2)(D) shall not apply. Provided, however, all references to the "court" shall be considered to refer to the appropriate "agency"; all references to the use of the subpoena power shall be considered references to Model Rule 25 ARM 1.3.230; all references to "trial" shall be considered references to "hearing"; all references to "plaintiff" shall be considered references to "a party"; all references to "clerk of court" shall be considered references to the person designated by the department head to keep documents filed in a contested case.~~

~~(3) (2) If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the agency in which the action is pending, the refusal to obey such agency order shall be enforced as provided in Model Rule 25 ARM 1.3.230.~~

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

AUTH: 2-4-202, 2-4-203, MCA
IMP: 2-4-202, MCA

1.3.218 MODEL RULE 14 CONTESTED CASES, HEARING EXAMINERS

~~(1) Section 2-4-611, MCA allows the An agency to may appoint a hearing examiners for the to conduct of a hearings in a contested cases.~~

~~(2) The powers of the agency members or hearing examiners presiding over hearings are enumerated in 2-4-611(3), MCA. A hearing examiner appointed under this part may:~~

- ~~(a) administer oaths or affirmations;~~
- ~~(b) issue subpoenas;~~
- ~~(c) provide for the taking of testimony and deposition;~~

(d) set the time and place for hearing;
(e) set motion and briefing schedules; and
(f) by mutual consent of the parties, hold conferences to consider narrowing or simplifying the issues.

(3) If a defending party notifies the agency that he the party will appear at the hearing to contest the intended action, the agency must advise all parties of the appointment of either an agency member or a hearing examiner to manage the case, as illustrated by sample form 24 218a.

~~(4) Disqualification of a hearing examiner or agency member is provided for under~~ Pursuant to 2-4-611(4), MCA, an agency may disqualify a hearing examiner if the agency determines personal bias, lack of independence, disqualification by law, or other disqualification criteria exist. A motion to disqualify filed by a party must be supported by affidavit.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

~~1.3.219 MODEL RULE 15 CONTESTED CASES, HEARING~~ (1) The contested case hearing shall be conducted before the decision making authority of the agency or a hearing officer designated in accordance with Model Rule 14 ARM 1.3.218.

(2) The presiding officer must ensure that all parties are afforded the opportunity to respond and present evidence and argument on all issues involved.

(2) remains the same, but is renumbered (3).

(a) opening statements;

~~(b) statement and evidence of affected parties supporting agency action;~~

(a) (b) statement and evidence of agency in support of its action

presentation of evidence by the agency;

(c) cross examination by the challenging party;

~~(e) (d) statement and evidence of affected parties disputing agency action; and presentation of evidence by the challenging party;~~

(e) cross examination by agency; and

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

~~(3) The hearing may be continued with recesses as determined by the presiding officer. 2-4-611, MCA.~~

~~(4) The hearing shall proceed in compliance with 2-4-612(1), (4) and (5), MCA.~~ All testimony must be given under oath or affirmation.

~~(5) The presiding officer must ensure that all parties are afforded the opportunity to respond and present evidence and argument on all issues involved. 2-4-612(1), MCA.~~ Exhibits shall be marked and shall identify the person offering the exhibits. The exhibits shall be preserved by the agency as part of the record of the proceedings.

~~(6) Exhibits shall be marked and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by the agency as part of the record of the proceedings.~~ The presiding officer may hear closing arguments or order a briefing schedule for parties to submit proposed findings of fact and conclusions of law.

(7) The presiding officer may grant recesses or continue the hearing.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.220 MODEL RULE 16 CONTESTED CASES, RECORD (1) The record in a contested case shall include: ~~all items required by 2-4-614(1), MCA.~~

(a) all pleadings, motions, and rulings;

(b) all evidence, either written or oral, received, or considered by the presiding officer;

(c) a statement of matters officially noticed;

(d) questions and offers of proof, objections, and rulings on objections;

(e) proposed findings and exceptions; and

(f) any decision, opinion, or report by the presiding officer which must be in writing.

~~(2) The record shall be transcribed and the costs of transcription paid as provided in 2-4-614(2), MCA.~~ At the request of any party, the record must be transcribed. The cost of transcription will be the responsibility of the requesting party.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.221 MODEL RULE 17 CONTESTED CASES, EVIDENCE (1) ~~All~~ Unless otherwise provided by statute, all evidence introduced in a contested case hearing shall be received and evaluated in conformance with ~~2-4-612(2), (3), (6) and (7), MCA~~ common law and statutory rules of evidence.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.222 MODEL RULE 18 CONTESTED CASES, EX PARTE CONSULTATIONS COMMUNICATIONS (1) ~~Section Pursuant to 2-4-613, MCA, protects all parties in a contested case from informal conferences between the agency and one of the parties. Such conferences may only occur under the circumstances and requirements provided in that section.~~ ex parte communications with the presiding officer or any person authorized to participate in the decision of the contested case are prohibited unless otherwise authorized by law.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

1.3.223 MODEL RULE 19 CONTESTED CASES, PROPOSED ORDERS

(1) If a majority of the officials of the agency who are to render the final decision have not heard the case, ~~a proposed decision must be prepared and served pursuant to 2-4-621(1), (2) and (4), MCA.~~ a decision that is adverse to a party (other than the agency itself) may not be rendered until a proposed decision is

served upon the parties and the parties are given an opportunity to file exceptions and briefs, and present oral argument to the officials responsible for rendering a final decision.

~~(a) If the hearings officer becomes unavailable, proposed findings of fact may be prepared pursuant to 2-4-622, MCA.~~

~~(b) All parties shall be given equal opportunities to file exceptions and present briefs and oral argument.~~

~~(c) remains the same but is renumbered (2).~~

~~(2) remains the same but is renumbered (3).~~

~~(3) (4) The agency may adopt the proposed decision as the agency's final order, pursuant to 2-4-621(3), MCA.~~

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.224 MODEL RULE 20 CONTESTED CASES, FINAL ORDERS

~~(1) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record, and contain must include findings of fact and conclusions of law. These requirements shall all be fulfilled pursuant to 2-4-612(1) through (4), MCA.~~

~~(2) See sample form 23 224a.~~

~~(3) Parties and their attorneys shall be served with a copy of a final decision or order.~~

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.226 DECLARATORY RULINGS, INTRODUCTION ~~(1) A person taking or wishing to take a particular action may be unsure whether an agency regulation or a statute administered by an agency applies to that action. Section 2-4-501, MCA provides that a person may petition the agency for a declaratory ruling as to the applicability of a statute, regulation, or order, to his activity or proposed activity. A party may seek a declaratory ruling when doubt exists as to how a statute or rule administered by an agency affects the party's legal rights.~~

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.227 MODEL RULE 22 DECLARATORY RULINGS, CONTENT OF PETITION (1) and (2) remain the same.

(3) See sample form 23 227a.

(4) remains the same.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.229 MODEL RULE 24 DECLARATORY RULINGS, EFFECT

(1) remains the same.

(2) A declaratory ruling or notice of refusal to issue such a ruling is a final agency decision subject to judicial review in the same manner as decisions or orders in contested cases.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.230 MODEL RULE 25 GENERAL PROVISIONS, SUBPOENAS

(1) ~~Section 2-4-104, MCA provides broad authority to agencies to require~~ An agency conducting contested case or declaratory ruling proceedings may require the furnishing of information, attendance of witnesses, and production of evidence through subpoena and subpoena duces tecum.

(a) ~~Subpoenas shall be issued and served pursuant to 2-4-104(1), MCA. the rules of civil procedure. Except as provided by law, costs associated with the subpoena must be paid by the party who requested it.~~

(b) ~~In the case of disobedience, an agency may petition a district court to compel compliance with a subpoena pursuant to 2-4-104(2), MCA. or the giving of testimony.~~

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.231 MODEL RULE 26 GENERAL PROVISIONS, REPRESENTATION

(1) ~~Section 2-4-105, MCA affords any A~~ A person appearing before the agency has the right to be accompanied, represented, and advised by counsel. The agency should advise a party to a contested case of his right to counsel.

(2) A corporation appearing before the agency is considered a separate legal entity and may not appear on its own behalf through an agent other than an attorney.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.232 MODEL RULE 27 GENERAL PROVISIONS, SERVICE (1) ~~Unless otherwise provided by law, 2-4-106, MCA requires service on parties in accordance with requirements for service in civil actions.~~ Unless otherwise provided by law and these rules, all motions and pleadings will must be served in accordance with the Montana Rules of Civil Procedure.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.233 MODEL RULE 28 GENERAL PROVISIONS, PUBLIC INSPECTION OF ORDERS, AND DECISIONS (1) The agency must maintain an index of all final orders and decisions in contested cases and declaratory rulings. All final decisions and orders shall be available for public inspection on request. ~~2-4-623(6), MCA.~~

Copies of final decisions and orders must be given to the public on request after payment of the cost of duplication.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

4. The department proposes to repeal the following rule:

1.3.225 MODEL RULE 21 CONTESTED CASES, NOTICE OF FINAL DECISION, found at page 1-132 of the Administrative Rules of Montana.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

REASONABLE NECESSITY: Effective October 1, 2007, House Bill 70 transferred to the Secretary of State some model rules previously assigned to the Attorney General. The reassigned rules describe the organization of agencies and model rules of practice for agencies to use as a guide for the rulemaking process and in fulfilling the requirements of 2-4-201, MCA. The Attorney General's model rules were last revised in 1992. The proposed amendments are necessary to update the model rules, express the content of the model rules in plain language for a user who is unfamiliar with contested case proceedings, and minimize the need for users to look to multiple sources in order to understand the administrative hearing process. Users will be able to rely on a consistent product that will help them participate in state government.

5. The sample forms referred to above have been renumbered, and are being amended to conform to formatting requirements. The content remains the same. The changes are as follows:

Sample Form 18	now	Sample Form 212a
Sample Form 19	now	Sample Form 213a
Sample Form 20	now	Sample Form 214a
Sample Form 21	now	Sample Form 218a
Sample Form 22	now	Sample Form 224a
Sample Form 23	now	Sample Form 227a

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Ali Bovingdon, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail abovingdon@mt.gov, and must be received no later than 5:00 p.m. on June 19, 2008.

7. Janice Doggett, Secretary of State's Office, has been designated to preside over and conduct the hearing.

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

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above, or may be made by completing a request form at any rules hearing held by the department. A copy of the interested persons request form may be printed from the Department of Justice's web site at <http://doj.mt.gov/resources/administrativerules.asp>, and mailed to the rule reviewer.

10. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified on February 4, 2008, by regular mail.

By: /s/ Mike McGrath
MIKE McGRATH
Attorney General
Department of Justice

/s/ Ali Bovington
ALI BOVINGDON
Rule Reviewer

Certified to the Secretary of State on May 12, 2008.

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

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.165.404 licensure and) ON PROPOSED AMENDMENT
24.165.509 approved instruction)

TO: All Concerned Persons

1. On June 12, 2008, at 10:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Occupational Therapy Practice no later than 5:00 p.m., on June 6, 2008, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdotp@mt.gov.

24.165.404 APPLICATIONS FOR LICENSURE (1) and (2) remain the same.
~~(3) The board shall require the applicant to submit original or certified documents in support of the application. The board shall permit such documents to be withdrawn upon substitution of a true copy.~~

(4) through (8) remain the same but are renumbered (3) through (7).

AUTH: 37-1-131, 37-24-201, 37-24-202, MCA

IMP: 37-1-131, 37-24-302, MCA

REASON: The board is amending this rule to no longer require applicants to submit original documents that can later be substituted for copies. Because the Health Care Licensing Bureau requires shredding of all application files 30 days after being scanned and entered into the File Net database, there would be no documents to retrieve from a hard copy file and the requirement is unnecessary.

24.165.509 APPROVED INSTRUCTION (1) through (3) remain the same.

~~(4) The instructor must be preapproved by the board and shall To be approved by the board, the instructor must submit proof that the instructor:~~

(a) and (b) remain the same.

AUTH: 37-1-131, 37-24-201, 37-24-202, MCA

IMP: 37-24-105, 37-24-106, 37-24-107, MCA

REASON: In the final notice for MAR Notice No. 24-165-18 published on September 20, 2007, in the Montana Administrative Register issue no. 18, the board acknowledged a comment made that the rule was confusing. The board is now amending this rule to address the confusion in response to the previous comment.

3. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdotp@mt.gov, and must be received no later than 5:00 p.m., June 20, 2008.

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

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

6. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

7. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OCCUPATIONAL THERAPY
PRACTICE
LYNN YOCUM, OTR, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2008

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

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
37.12.401 pertaining to laboratory)	AMENDMENT
testing fees)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On August 1, 2008, the Department of Public Health and Human Services proposes to amend the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you need to request an accommodation, contact the department no later than 5:00 p.m. on June 9, 2008 to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951; telephone (406)444-9503; fax (406)444-9744; e-mail dphhslegal@mt.gov.

3. The rule as proposed to be amended provides as follows. New matter is underlined. Matter to be deleted is interlined.

37.12.401 LABORATORY FEES FOR ANALYSES (1) Fees for clinical and environmental analyses performed by the laboratory of the Department of Public Health and Human Services are set to reflect the actual costs of the tests and services provided.

(2) The Department of Public Health and Human Services shall maintain a list of all tests available from the lab and the price of each test. The department adopts and incorporates by reference the Laboratory Test Fee List effective ~~July 1, 2007~~ August 1, 2008, which shall be available on the web site of the Department of Public Health and Human Services at www.dphhs.mt.gov/forms/, and by mail upon request to the lab at the Department of Public Health and Human Services, Public Health and Safety Division, P.O. Box 6489, Helena, MT 59604-6489.

(3) The fee for a specific lab test will be lowered by the Department of Public Health and Human Services to a level not exceeding the cost to the department of the test in question whenever a change of analysis method warrants lower fees.

(4) Fees for analyses other than those listed will be established at the level of comparable analyses.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

4. This notice is being filed to replace MAR Notice No. 37-437 published at page 780 of the 2008 Montana Administrative Register, issue number 8. The department discovered that the proposed new fee list had not been available on the department web site for review and comment. Therefore the department elected to file a new notice to permit the public and interested parties sufficient time to review the proposed fee changes and submit comments.

ARM 37.12.401 provides information regarding the fees charged for biological and environmental tests performed by the Montana State Laboratory, in conformity with state statute. The Department of Public Health and Human Services (the department) proposes to modify the rules to reference the new version of the state laboratory fee list, which provides an average increase of 4% in the cost of lab services, though fee increases on a test-by-test basis vary. The revised fees are necessary to keep the fees charged for lab service in line with the actual current cost associated with providing that service.

The proposed fee increases will result in a cumulative increase in fees for all laboratory services of approximately \$125,000, affecting the approximately 1,000 annual customers of the state laboratory. The fee increases proposed represent the minimum increases necessary to maintain the state laboratory's current level of services, and are reasonably necessary to allow the state laboratory to fulfill its obligations as an adjunct to public health and health care functions in the state of Montana. The proposed fees account for the increased costs incurred by the laboratory since the last fee increase, including increased personnel costs, increased costs of supplies, and increased costs of new and replacement testing equipment.

The department considered not increasing its testing fees, but concluded that not doing so would result in the laboratory spending more to provide services than it would recover in service fees, and would result in the laboratory having to discontinue services.

The department will post the proposed revised fee list along with a copy of this notice in the rules notices section of the DPHHS web site at www.dphhs.mt.gov/legalresources/ruleproposals/index.shtml.

5. Interested persons may submit their data, views, or arguments concerning the proposed action in writing to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951, no later than 5:00 p.m. on June 19, 2008. Comments may also be faxed to (406)444-9744 or e-mailed to dphhslegal@mt.gov. The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. To be included on such a list, please notify this same person.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must

make written request for a public hearing and submit this request, along with any written comments to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951; by fax (406)444-9744; or by e-mail to dphslegal@mt.gov no later than 5:00 p.m. on June 19, 2008.

7. If the Department of Public Health and Human Services receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of those who are directly affected by the proposed action, from the administrative rule review committee of the Legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who are directly affected, a hearing will be held at a later date and a notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 100 based on the 1000 customers affected by rules covering state laboratory fees and services.

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

/s/ Shannon McDonald
Rule Reviewer

/s/ Joan Miles
Director, Public Health and
Human Services

Certified to the Secretary of State May 12, 2008.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING ON
amendment of ARM 1.3.101 and)	PROPOSED AMENDMENT,
1.3.102, the amendment and transfer of)	AMENDMENT AND TRANSFER,
ARM 1.3.203 through 1.3.210, and the)	AND ADOPTION
proposed adoption of New Rules I)	
through III pertaining to model rules)	

TO: All Concerned Persons

1. On June 11, 2008, a public hearing will be held at 10:30 a.m. in Room 455 of the State Capitol Building, Helena, Montana, to consider the proposed amendment, amendment and transfer, and adoption of the above-stated rules. This hearing is being held in conjunction with the Attorney General's Office public hearing on proposed changes to model rules regarding contested case hearings and declaratory rulings in this issue of the Montana Administrative Register in MAR Notice No. 23-20-192.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on June 4, 2008, to advise us of the nature of the accommodation that you need. Please contact Jean Branscum, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-5596; fax (406) 444-4263; e-mail jabranscum@mt.gov.

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

1.3.101 INTRODUCTION AND DEFINITIONS (1) Montana statutes are referred to collectively as the Montana Code Annotated (MCA). ~~The term "MCA" is the abbreviation for Montana Code Annotated.~~

(2) Section 2-3-103, MCA, directs each agency to adopt procedural rules to facilitate public participation in agency actions that are of significant interest to the public, with exceptions listed in 2-3-112, MCA.

(3) "Agency" is defined by 2-3-102, MCA. Note that exceptions to the term "agency" are fewer under this section than under the Montana Administrative Procedure Act, 2-4-102, MCA.

(4) "Agency action" is defined by 2-3-102, MCA, ~~with exceptions listed in 2-3-112, MCA.~~

(5) ~~The term "r~~Register" refers to the Montana Administrative Register.

(6) "Sample form" is defined as an Attorney General's Office reference guide that depicts standard boilerplate language and layout for ~~notices published in the register~~ contested cases and declaratory rulings. An appendix of Attorney General sample forms follows the text of the rules in subchapter 2.

(7) "Template" refers to the Secretary of State's online forms depicting standard boilerplate language and layout for rulemaking petitions and notices published in the register, and are available at www.armtemplates.com.

(a) The templates illustrate the Secretary of State's model rules in subchapter 3. The template number corresponds to the model rule number; for example, template 309b is connected to ARM 1.3.309.

(b) Hard copies of templates may be obtained from the Secretary of State's Office, Administrative Rules Services, P.O. Box 202801, Helena MT 59620-2801, telephone (406) 444-2055.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

1.3.102 MODEL RULE 4 NOTICE OF AGENCY ACTION THAT IS OF SIGNIFICANT INTEREST TO THE PUBLIC (1) In accordance with 2-3-102 through 2-3-114, MCA, prior to making a final decision that is of significant interest to the public, the agency shall afford reasonable opportunity for public participation. Public participation may be afforded by:

(a) any of the agency actions allowed pursuant to 2-3-104, MCA; or

(b) a notice of the proposed agency action published in the register in accordance with ~~sample form 4~~ template 102a (www.armtemplates.com). The agency may grant or deny an opportunity for hearing, except a hearing is required if the proposed action is the adoption of rules in an area of significant interest to the public.

(2) For purposes of (1)(b) only, significant interest to the public is defined at 2-4-102, MCA, as matters an agency knows to be of widespread citizen interest.

(3) Public comment on any public matter, as limited in 2-3-103(1)(b), MCA, that is within the jurisdiction of an agency must be allowed at any public meeting as defined by 2-3-202, MCA, and in accordance with 2-3-203, MCA. The opportunity for public comment must be reflected on the meeting agenda and incorporated into the official minutes of the meeting. For purposes of this rule and 2-3-103(1)(b), MCA, contested case is defined at 2-4-102(4), MCA.

AUTH: 2-4-202, MCA

IMP: 2-3-103, 2-4-202, 2-4-302, MCA

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

1.3.203 (1.3.305) ORGANIZATIONAL RULE (1) An agency need not comply with the Montana Administrative Procedure Act (MAPA) notice and hearing requirements when adopting an organizational rule, ~~per~~ per 2-4-201(1), MCA.

(2) The organizational rule must be reviewed biennially to determine whether it should be modified, ~~per~~ per 2-4-314, MCA.

(3) The organizational rule should contain the following as illustrated by ~~sample form 2~~ template 305a (www.armtemplates.com):

(a) the items required by 2-4-201(1), MCA;

(b) charts showing both the organization of the agency and the functions of each division, indicating those divisions without rulemaking authority; and

(c) ~~in the spirit of the rule,~~ a personnel roster of agency heads, division heads, and other key personnel should be ~~appended to~~ included in the rule.

AUTH: 2-4-202, MCA

IMP: 2-4-201, 2-4-202, 2-4-314, MCA

1.3.204 (1.3.307) RULEMAKING, INTRODUCTION (1) Title 2, chapter 4, part 3, MCA, prescribes procedures to be followed by agencies when adopting, amending, or repealing rules.

(2) See 2-4-102, MCA for the definition of "rule". Because of the difficulty in determining whether an agency action falls within the definition of rule, construe the exceptions narrowly and if in doubt, consult legal counsel. Interpretative rules are statements issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers. Interpretive rules may be made under the express or implied authority of a statute, but are advisory only and do not have force of law.

(a) Among other limitations in 2-4-102, MCA, "rule" does not include statements concerning only the internal management of an agency or state government and not affecting private rights or procedures available to the public, including rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide budgeting and accounting system.

(3) Substantive rules must implement either:

(a) a statute which clearly and specifically includes the subject matter of the rule as a subject upon which rules can be adopted;

(b) subject matter which is clearly and specifically included in a statute to which the agency's rulemaking authority extends; or

(c) an agency function which is clearly and specifically included in a statute to which the agency's rulemaking authority extends, per: 2-4-305(3), MCA.

(4) ~~Rulemaking checklist.~~ Rulemaking under the Administrative Procedure Act MAPA involves ~~three~~ four steps.

(a) Notice to the primary sponsor. When an agency begins to work on the substantive content and the wording of a proposal notice for a rule that initially implements legislation, the agency shall notify the legislator who was the primary sponsor of the legislation. See 2-4-302(2)(d)(i), MCA.

~~(a)~~ (b) Notice of proposed agency action. Model Rule-3 See ARM 1.3.309 regarding the following components:-

(i) notice in the register;

(ii) notice to sponsor as required;

(iii) notice to interested persons; and

(iv) statement of reasonable necessity for the proposed action.

~~(b)~~ (c) Opportunity to be heard.

(i) The agency shall allow at least 28 days from the publication of the original notice of proposed action for interested persons to submit comments in writing via regular mail, e-mail, or fax to the agency. The agency may extend the response time in the event an amended or supplemental notice is filed; .

(ii) The agency shall schedule an oral hearing at least 20 days from the publication of the notice of proposed action if the proposed rules affect matters which are of significant interest to the public as defined at 2-4-102(12), MCA; .

(iii) Except where the proposed rules affect matters which are of significant interest to the public or otherwise required by law, a public hearing must be held only if the agency's proposed action affects a substantive rule and a hearing is requested by either:

(A) 10% or 25, whichever is less, of the persons who will be directly affected by the proposed action;

(B) a governmental subdivision or agency;

(C) an association having not less than 25 members who will be directly affected; or

(D) the appropriate administrative rule review committee of the Legislature.

~~Model Rule 4~~ See ARM 1.3.311.

~~(e)~~ (d) Agency notice of final action. ~~Model Rule 5~~ See ARM 1.3.312.

(5) Pursuant to 2-4-302, MCA, the agency shall create and maintain a list of interested persons and the subject(s) of their interest. Persons submitting a written comment or attending a hearing must be informed by the agency of the list and be provided an opportunity to place their names on the list.

(6) In the event of imminent peril to the public health, safety, or welfare, temporary emergency rules may be adopted without prior notice or hearing or after abbreviated procedures. However, special notice must be given the appropriate administrative rule review committee. ~~Model Rule 6~~ See ARM 1.3.313.

(7) In the event a statute is effective prior to October 1 of the year of enactment, temporary rules may be adopted with abbreviated notice or hearing, but with at least 30 days notice, and are effective through October 1 of that year. ~~Model Rule 6~~ See ARM 1.3.313.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-302, 2-4-303, 2-4-305, MCA

1.3.205 (1.3.308) MODEL RULE 2 RULEMAKING, PETITION TO ADOPT, AMEND, OR REPEAL RULE (1) Section 2-4-315, MCA, authorizes an interested person or member of the Legislature acting on behalf of an interested person when the Legislature is not in session, to petition an agency to adopt, amend, or repeal a rule.

(a) The petition shall be in writing, signed by or on behalf of the petitioner and shall contain, as illustrated by ~~sample form 3~~ template 308a (www.armtemplates.com), a detailed statement of:

(i) the name and address of petitioner and of any other person known by petitioner to be interested in the rule sought to be adopted, amended, or repealed;

(ii) sufficient facts to show how petitioner will be affected by adoption, amendment, or repeal of the rule;

(iii) whether the rule petitioner requests the agency to adopt, amend, or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in the petition with proposed deletions interlined and proposed additions underlined; and

(iv) facts and propositions of law in sufficient detail to show the reasons for adoption, amendment, or repeal of the rule.

(b) Legislators may petition an agency on behalf of interested parties through an informal letter or memorandum. The petition should include the name of the person or a description of a class of persons on whose behalf the legislator acts. Petitions filed by the appropriate administrative rule review committee of the Legislature need not be brought on the behalf of any specifically interested party. Any petition from the Legislature or its members should comply with (1)(a)(iii) and (iv) of this rule.

(2) The petition shall be considered filed when received by the agency.

(3) Upon receipt of the petition, the agency:

(a) may, but is not required to, schedule a hearing or oral presentation of petitioner's or interested person's views to assist in developing the record;

(b) shall, within 60 days after date of submission of the petition, either:

(i) issue an order denying the petition; or

(ii) initiate rulemaking proceedings in accordance with ~~the Administrative Procedure Act~~ MAPA.

(4) A decision to deny a petition or to initiate rulemaking proceedings must:

(a) be in writing;

(b) be based on record evidence, including any information submitted by petitioner, the agency, and interested persons; and

(c) include the reasons for the decision.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-315, MCA

1.3.206 (1.3.309) MODEL RULE 3 RULEMAKING, PROPOSAL NOTICE

(1) How notice is given. 2-4-302, MCA. Per 2-4-302, MCA, a notice of proposed rulemaking involves the following:

(a) An agency shall notify the chief primary sponsor of any legislation when the agency begins work on the initial rule proposal implementing one or more sections of that legislation. If a proposed rule implements more than one bill, the chief primary sponsor of each bill must be notified. 2-4-302(2), MCA. If the legislation affected more than one program, notice must be given to the primary sponsor each time that a rule is being proposed to initially implement the legislation for a program, even if another agency has previously done rulemaking under that legislation.

(i) When the bill sponsor notice requirements apply, the proposal notice must state the date of primary sponsor notification, and the method of notification used, per 2-4-302(1)(b), MCA.

(b) An agency shall publish notice of intent to adopt, amend, or repeal a rule in accordance with 2-4-302(2) and (3), MCA.

(c) An agency shall post the notice on the state electronic bulletin board access system or other available electronic communications system available to the public. Posting on the agency's home page is adequate.

(d) Within 3 three days of publication pursuant to ARM 1.3.206(1)(b) this rule, an agency shall send copies of the notice to:

(i) ~~to~~ all interested persons; and
(ii) ~~to~~ the ~~chief~~ primary sponsor of the legislation being implemented, if the notice is the initial rule proposal regarding that legislation. ~~2-4-302(2), MCA.~~ If a proposed rule implements more than one bill, the ~~chief~~ primary sponsor of each bill must receive a copy of the notice.

(e) Former legislators who wish to receive notice of initial proposals must keep their name, address, e-mail address, and telephone number on file with the Secretary of State. Agencies proposing rules shall consult that listing. ~~2-4-302(8), MCA.~~

(f) An agency may send a copy of the notice to a statewide wire service and any other news media it considers appropriate, per 2-3-105, MCA.

(g) Whenever practicable and appropriate, the agency may send written notice to licensees of the agency, per 2-4-631(3), MCA.

(2) Notice of agency action must be published within six months of the date on which notice of the proposed action was published, per 2-4-305(7), MCA.

(3) The c~~C~~ontents of the notice shall include the following.

(a) The n~~N~~otice of public hearing, :

~~(i) As illustrated by sample form 4 template 309a (www.armtemplates.com),~~
the notice must include:

~~(A)~~ all notice items required by 2-4-302(1), MCA, summarized as follows:

~~(H)~~ (i) The agency may issue a single public notice that it intends to adopt, amend, and repeal several rules dealing with the same subject matter in a single proceeding.

~~(H)~~ (ii) Whenever possible the agency should include in the notice the full text of any rule proposed to be adopted, amended, or repealed. ~~Summaries and paraphrasing may only be used when it is not possible to include a copy of the proposed rule in the notice. Such summaries and paraphrasing must accurately reflect the substance of the proposed agency actions. Unchanged sections and subsections may be referred to by the earmark and summarized as "remains the same." Numbered tables may be referred to by the number and summarized as "remains the same."~~

~~(H)~~ (iii) The agency shall include in its notice an easily understood statement of reasonable necessity which contains the principal reasons and the rationale for each proposed rule. One statement may cover several proposed rules if appropriate, and if the language of the statement clearly indicates which rules it covers. An inadequate statement of reasonable necessity cannot be corrected in an adoption notice. The corrected statement of reasonable necessity must be included in a new notice or supplemental notice of proposed action.

(A) The statement of reasonable necessity must be more substantive than stating which statute authorized rulemaking. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule.

(B) When an agency proposes to change or introduce a monetary amount that a person shall pay or will receive, such as a fee, cost, or benefit, the statement of reasonable necessity must state an estimate of the number of persons affected and the cumulative amount of the change for all persons.

~~(IV)~~ (iv) The agency shall include in its notice information describing the interested persons list and explaining how persons may be placed on that list, per 2-4-302, MCA.

~~(V)~~ (v) An agency may adopt a rule which adopts by reference any model code, federal agency rule, rule of any agency of this state, or other similar publication if the publication of the model code, rule, or other publication would be unduly cumbersome, expensive, or otherwise inexpedient. The notice must contain a citation to the material adopted by reference, a statement of its general subject matter content, and must state where a copy of the material may be obtained. Amendments to incorporated material are not effective unless adopted pursuant to 2-4-307, MCA.

~~(B)~~ (vi) The agency shall include, at ~~At~~ the end of each rule noticed, a citation to the authority for the proposed rule, and citation to the MCA section or sections being implemented. When an amendment to a rule is proposed, the section(s) of the MCA that constitute authority for the amendment and sections implemented by the amendment must be underlined. If a proposed action implements a policy of a governing board or commission, the notice must include a citation to and description of the policy implemented.

~~(C)~~ (vii) The agency shall include a A designation of the officer or authority who will preside at and conduct the hearing.

(b) ~~Notice w~~When an agency does not plan to hold a public hearing,:

~~(i)~~ As illustrated by sample forms 5 through 8 template 309b (www.armtemplates.com), the notice must include:

~~(A)~~ (i) all notice items required by 2-4-302(1), MCA;

~~(B)~~ (ii) a statement that any interested person desiring to express or submit data, views, or arguments at a public hearing must request the opportunity to do so, and that if 10% or 25, whichever is less, of the persons directly affected; or a governmental subdivision or agency; or an association having not less than 25 members who will be directly affected; or the Legislature's appropriate administrative rule review committee request a hearing, a hearing will be held after appropriate notice is given. Reference to the appropriate administrative rule review committee is unnecessary if the full Legislature, by joint resolution, has ordered the repeal of a rule;

~~(C)~~ (iii) a statement of the number of persons which constitutes 10% of those directly affected;

~~(D)~~ (iv) the name and address of the person to whom request for public hearing must be submitted; and the date by which a request must be submitted; and

~~(E)~~ (v) at the end of each rule noticed, a citation to the authority for the rule and the code section or sections being implemented. When an amendment to a rule is proposed, the section(s) of the MCA that constitute authority for the amendment and the section(s) actually implemented by the amendment must be underlined.

~~(c) Notice of public hearing when a hearing has been properly requested.~~ When a hearing has been properly requested per 2-4-302, MCA, the agency shall ~~mail~~ send notice of the hearing to persons who have requested a public hearing. ~~2-4-302, MCA.~~ Also, notice must be published in the register, per 2-4-302(2), MCA.

(i) As illustrated by sample form 10 template 309c (www.armtemplates.com), the notice shall state that the hearing is being held upon request of the requisite

number of persons designated in the original notice, per 2-4-302(4), MCA₁, or the appropriate administrative rule review committee of the Legislature, 2-4-402(3)(1)(c), MCA₁ or a governmental agency or subdivision₁ or an association.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-302, 2-4-305, 2-4-307, MCA

1.3.207 (1.3.311) MODEL RULE 4 RULEMAKING, OPPORTUNITY TO BE HEARD (1) ~~Written comment.~~

~~(a)~~ When the subject matter of a proposed rule is not of significant interest to the public, or an agency is not otherwise required and does not wish to hold a public hearing, written comments must be permitted.

(a) The person designated in the notice to receive written comments from interested persons shall review all submissions within a reasonable time after the period for comment has ended. ~~2-4-305(1), MCA.~~ That person then shall prepare and submit a written summary of the comments to the rulemaker.

(b) The agency shall notify all persons who submit written comments that a list of interested persons exists and provide each commenter the opportunity to have their name added to that list.

~~(2) Public hearing.~~

~~(a)~~ Except as otherwise provided by statute, public hearings shall be conducted in the following manner:

~~(i)~~ (a) The hearing shall be conducted by and under the control of a presiding officer. The presiding officer shall be appointed by the rulemaker; that is, the department, board, or administrative officer authorized by law to make rules for the agency. The rulemaker retains the ultimate authority and responsibility to ensure that the hearing is conducted in accordance with MAPA.

~~(ii)~~ (b) At the commencement of the hearing, the presiding officer shall ask that any persons wishing to submit data, views₁ or arguments orally or in writing submit their name, address, affiliation, whether they favor or oppose the proposed action, and such other information as may be required by the presiding officer for the efficient conduct of the hearing. The presiding officer shall provide an appropriate form for submittal of this information. The presiding officer may allow telephonic testimony at the hearing.

~~(iii)~~ (c) At the opening of the hearing, the presiding officer shall:

~~(A)~~ (i) read or summarize the notice that has been given in accordance with ~~Model Rule 3~~ ARM 1.3.309;

~~(B)~~ (ii) read the "Notice of Function of Administrative Rule Review Committee" appearing in the register and on www.mtrules.org; and

~~(C)~~ (iii) inform persons at the hearing of the interested persons list and provide interested parties the opportunity to have their names placed on that list.

~~(iv)~~ (d) Subject to the discretion of the presiding officer, the order of presentation may be:

~~(A)~~ (i) statement of proponents;

~~(B)~~ (ii) statement of opponents;

~~(C)~~ (iii) statements of any other witnesses present and wishing to be heard.

~~(v)~~ (e) The presiding officer or rulemaker has the right to question or examine any witnesses making a statement at the hearing. The presiding officer may, in ~~his~~ the officer's discretion, permit other persons to examine witnesses.

~~(vi)~~ (f) There shall be no rebuttal or additional statements given by any witness unless requested by the presiding officer, or granted for good cause. If such statement is given, the presiding officer shall allow an equal opportunity for reply.

~~(vii)~~ (g) The hearing may be continued with recesses as determined by the presiding officer until all witnesses present and wishing to make a statement have had an opportunity to do so.

~~(viii)~~ (h) The presiding officer shall, where practicable, receive all relevant physical and documentary evidence presented by witnesses. Exhibits shall be marked and shall identify the witness offering the exhibits. In the discretion of the agency the exhibits may be preserved for one year after adoption of the rule or returned to the party submitting the exhibits, but in any event the agency shall preserve the exhibits until at least 30 days after the adoption of the rule.

~~(ix)~~ (i) The presiding officer may set reasonable time limits for oral presentation.

~~(x)~~ (j) A record must be made of all the proceedings, either in the form of minutes or a verbatim written or mechanical record.

~~(b)~~ (k) The presiding officer shall, within a reasonable time after the hearing, provide the rulemakers with a written summary of statements given and exhibits received and a report of ~~his~~ the officer's observations of physical experiments, demonstrations, and exhibits.

~~(3) Informal conferences or consultations.~~ In addition to the required rulemaking procedures, an agency may obtain viewpoints and advice concerning proposed rulemaking through informal conferences and consultations or by creating committees of experts or interested persons or representatives of the general public, ~~per~~ 2-4-304(2), MCA.

(a) An agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule if the agency director determines that the use of the negotiated rulemaking procedure is in the public interest, per 2-5-104, MCA.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-302, 2-4-305, MCA

1.3.208 (1.3.312) MODEL RULE 5 RULEMAKING, AGENCY ACTION

(1) Thirty days after publication of proposal notice and following receipt of the presiding officer's report, the rulemaker may adopt, amend, or repeal rules covered by the notice of intended action. ~~2-4-302(2), MCA.~~

(2) ~~Notice of rulemaking.~~ Upon adoption, amendment, or repeal of a rule, the agency shall file notice of its rulemaking action with the Secretary of State, ~~per~~ 2-4-306, MCA.

(a) As illustrated by ~~sample form 13~~ templates 312a, 312b, and 312c (www.armtemplates.com), the adoption notice must include:

(i) ~~either~~ the text of the rule adopted or amended, or reference to the notice of proposed agency action in which the text of the proposed rule or rule as proposed

to be amended was printed in full, ~~or reference to the page number of the Administrative Rules of Montana on which the rule appears;~~

(ii) if the rule adopts a model code, rule, or other publication by reference, a citation to the material adopted, its year, a statement of the general subject matter thereof, and where a copy of the material may be obtained. The material adopted by reference need not be published if publication would be unduly cumbersome, expensive, or otherwise inexpedient. Upon request of the Secretary of State, a copy of the omitted material must be filed with the Secretary of State, per- 2-4-307(2), MCA.:-

(A) State agencies shall retain copies of all versions of previously incorporated material, for research and reference purposes, pursuant to state of Montana records and information management requirements.

(iii) a statement of the principal reasons for and against the adoption, amendment, or repeal of a rule that was presented by interested persons. The statement also must include the agency's reasons for overruling the considerations urged against the agency action. If substantial differences exist between the rule as proposed and as adopted, and the differences have not been described or set forth in the adopted rule, the differences must be described in the statement of reasons for and against the agency action. The statement may be omitted if no written or oral submissions were presented, per- 2-4-305(1), MCA. See Patterson v. Montana Department of Revenue, 557 P.2d 798 (1976).:-

(iv) an accompanying Administrative Order. See ARM 1.2.404 and template 312g (www.armtemplates.com).

(3) Objection by an administrative rule review committee made pursuant to 2-4-305(9), 2-4-306(4), or 2-4-406(1), MCA.

(a) If the appropriate administrative rule review committee objects to a proposed notice of adoption, the proposed rules cannot be adopted until either:

- (i) notification of withdrawal of the objection; or
- (ii) publication of the last issue of the register before expiration of the ~~6~~ six-month period during which the adoption notice must be published.

(b) If the agency adopts the rule to which the appropriate administrative rule review committee objects, the adopted rule cannot become effective until either:

- (i) withdrawal of the objection;
- (ii) amendment of the rule to meet the concerns of the committee; or
- (iii) the day after final adjournment of the regular session of the Legislature that begins after the notice proposing the rule was published.

(4) ~~Effective Date.~~ Absent an objection of the type referred to in (3) by an administrative rule review committee, the agency action is effective on the day following publication of the notice in the register, unless a later date is required by statute or specified in the notice.

(5) If an agency decides not to adopt, amend, or repeal the rules covered by the notice of intended action, the agency can publish a notice of agency decision stating why the action will not be adopted at this time, and whether the agency intends to repropose the changes in a subsequent rulemaking cycle. See template 312d (www.armtemplates.com).

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-305, MCA

1.3.209 (1.3.313) MODEL RULE 6 RULEMAKING, TEMPORARY EMERGENCY RULES AND TEMPORARY RULES (1) ~~Temporary Emergency Rules.~~

(a) If an agency finds that circumstances exist that truly and clearly constitute an imminent peril to the public health, safety, or welfare, that the circumstances cannot be averted or remedied by any other administrative act, and that the circumstances require a rulemaking action upon fewer than 30 days notice, it may adopt a temporary emergency rule without prior notice or hearing or, as illustrated by ~~sample form 14~~ template 313a (www.armtemplates.com), upon any abbreviated notice and hearing that it finds practicable, ~~per.~~ 2-4-303(1), MCA.

~~(b)~~ (a) To adopt an emergency rule the agency must:

(i) file with the Secretary of State a copy of the emergency rule containing a statement in writing of its reasons for finding that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 30 days notice, ~~per.~~ 2-4-306(4), MCA;

(ii) provide special notice of its intent to the appropriate administrative rule review committee which is normally accomplished by the Secretary of State's office providing a copy to the Legislative Services Division;

(iii) take appropriate and extraordinary measures to make emergency rules known to persons who may be affected by them, 2-4-306(4), MCA, including delivery of copies of the rule to a state wire service and to any other news media the agency considers appropriate. Extraordinary measures include, but are not limited to, immediate personal delivery of copies of the rule to affected parties, and immediate delivery of copies of the rule to associations whose members are affected, ~~per.~~ 2-3-105, MCA.

~~(c)~~ (b) An agency's reasons for adopting a temporary emergency rule are subject to judicial review. In order to pass judicial review, the notice of adoption shall, standing on its own, provide compelling reasons for the emergency rule.

~~(d)~~ (c) A temporary emergency rule becomes effective immediately upon filing a copy with the Secretary of State or on a stated date following publication in the register, ~~per.~~ 2-4-306(4), MCA.

~~(e)~~ (d) An emergency rule may be effective for a period not longer than 120 days, and may not be renewed. The agency may, however, adopt an identical, permanent rule after notice and hearing in accordance with ~~Model Rules 2 through 5~~ ARM 1.3.308, 1.3.309, 1.3.311, and 1.3.312, ~~per.~~ 2-4-303(1), MCA.

(e) If no longer necessary, an emergency rule may be repealed before the end of the 120 day effectiveness period. See template 313b (www.armtemplates.com).

(2) ~~Temporary Rules.~~

(a) Temporary rules implementing a statute which becomes effective prior to October 1 of the year of enactment may be adopted through abbreviated procedures determined practicable by the agency as illustrated by templates 313c and 313d (www.armtemplates.com).

~~(b)~~ (a) The temporary rules cannot become effective until at least 30 days after the notice of proposal to adopt is published.

- (e) (b) The temporary rules expire October 1 of the year adopted.
- (d) (c) Permanent rules can be adopted during the period that the temporary rules are effective.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-303, 2-4-306, MCA

1.3.210 (1.3.304) MODEL RULE 7 RULEMAKING, BIENNIAL REVIEW

(1) Each agency shall at least biennially review its rules to determine whether any rule should be adopted or any existing rule should be modified or repealed, per 2-4-314, MCA.

AUTH: 2-4-202, MCA

IMP: 2-4-202, MCA

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

NEW RULE I INTRODUCTION AND DEFINITIONS (1) Montana statutes are referred to collectively as the Montana Code Annotated (MCA).

(2) The Montana Administrative Procedure Act is referred to as "MAPA" and includes 2-4-101 through 2-4-711, MCA. MAPA outlines procedures that agencies must follow when:

- (a) adopting, amending, or repealing agency rules;
- (b) hearing contested cases; or
- (c) issuing declaratory rulings.

(3) Each agency subject to MAPA must adopt rules describing its organization and procedures, per 2-4-201, MCA. Section 2-4-202, MCA directs the Secretary of State to prepare a model form for a rule describing the organization of agencies and model rules of practice for agency guidance in fulfilling these requirements. The model rules have been adopted for that purpose. The model rules may be incorporated by reference to the model rules. Subsequent amendments may be adopted only by following the rulemaking procedure of MAPA. See 2-4-307, MCA.

(4) "Register" refers to the Montana Administrative Register.

(5) "Template" refers to the Secretary of State's online forms depicting standard boilerplate language and layout for rulemaking petitions and notices published in the register, and are available at www.armtemplates.com. The templates illustrate the Secretary of State's model rules in this subchapter.

(a) The template number corresponds to the model rule number; for example, template 309b is connected to ARM 1.3.309.

(b) Hard copies of templates may be obtained from the Secretary of State's Office, Administrative Rules Services, P.O. Box 202801, Helena MT 59620-2801, telephone (406) 444-2055.

AUTH: 2-4-202, MCA

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

NEW RULE II APPLICATION OF MONTANA ADMINISTRATIVE PROCEDURE ACT (1) MAPA applies to all state agencies as defined in 2-4-102(2), MCA. Note that the state Board of Pardons and Parole is subject to only the sections enumerated in 2-4-103, 2-4-201, 2-4-202, and 2-4-306, MCA, and the requirement that its rules be published.

AUTH: 2-4-202, MCA
IMP: 2-4-102, 2-4-202, MCA

NEW RULE III MODEL RULES AND REQUIREMENTS FOR THE ADMINISTRATIVE RULES OF MONTANA (1) Rules relating to the fees, schedules, general provisions, and basic formatting requirements of the Montana Administrative Register and the Administrative Rules of Montana are located in ARM Title 1, chapter 2.

(2) Model rules relating to rulemaking are located in ARM Title 1, chapter 3, subchapter 3.

(a) The Secretary of State's online template forms depicting the model rules' standard boilerplate language and layout for rulemaking petitions and notices published in the register are available at www.armtemplates.com.

AUTH: 2-4-202, MCA
IMP: 2-4-202, MCA

6. STATEMENT OF REASONABLE NECESSITY: Effective October 1, 2007, House Bill 70 transferred to the Secretary of State some model rules previously assigned to the Attorney General. The reassigned rules describe the organization of agencies and model rules of practice for agencies to use as a guide for the rulemaking process and in fulfilling the requirements of 2-4-201, MCA. These rules are proposed for amendment, amendment and transfer, and adoption to:

a. separate the Secretary of State's model rules from the Attorney General's model rules. The Attorney General's model rules (ARM 1.3.211 through 1.3.233) pertaining to contested cases and declaratory rulings will remain in ARM Title 1, chapter 3, subchapter 2. The Secretary of State's model rules (ARM 1.3.203 through 1.3.210) pertaining to rulemaking will be transferred to a new subchapter 3. Proposed New Rules I and II will be placed in new subchapter 3, and proposed New Rule III will be placed in ARM Title 44;

b. define new terms;

c. allow for use of flexible online template forms in place of static sample forms. Sample Forms 1 through 17 in ARM Title 1, chapter 3 APPENDIX OF SAMPLE FORMS on pages 1-141 through 1-182 will be replaced by these online templates; and

d. update the model rules to conform to current user needs.

It is reasonable and necessary to reorganize the rules and illustrate standard language and formatting. These model rule changes will help integrate multiple agency notices into a cohesive, uniform publication. Up-to-date templates and standardization will aid agency staff in rulemaking. Register users will be able to rely

on a consistent product that will help them participate in state government. Changes are also being made to update rule language with language used in statute.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jean Branscum, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jabranscum@mt.gov, and must be received no later than 5:00 p.m., June 19, 2008.

8. Janice Doggett, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

9. 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 shall make a written request which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. 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 Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, e-mailed to jabranscum@mt.gov, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems. If persons are unable to access the templates online, contact Jean Branscum, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-5596; fax (406) 444-4263; e-mail jabranscum@mt.gov.

11. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified February 4, 2008, via U.S. Mail.

/s/ Brad Johnson
BRAD JOHNSON
Secretary of State

/s/ Janice Doggett
JANICE DOGGETT
Rule Reviewer

Dated this 12th day of May 2008.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 2.43.304 pertaining to actuarial) NOTICE OF AMENDMENT
rates and assumptions)

TO: All Concerned Persons

1. On March 13, 2008, the Montana Public Employees' Retirement Board published MAR Notice No. 2-43-398 pertaining to the public hearing on the proposed amendment to the above-stated rule at page 430 of the 2008 Montana Administrative Register, Issue Number 5.

2. A public hearing was held on April 9, 2008, to consider the proposed amendment. No comments or testimony were received.

3. Therefore, the board amends the rule as proposed.

4. An electronic copy of this Adoption Notice is available through the Montana Public Employee Retirement Administration web site at <http://mpera.mt.gov/rules.asp>. The Montana Public Employee Retirement Administration strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Montana Public Employee Retirement Administration works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

/s/ Melanie Symons
Melanie Symons, Legal Counsel and
Rule Reviewer

/s/ Jay Klawon
Jay Klawon, President
Public Employees' Retirement Board

/s/ Denise Pizzini
Denise Pizzini
Legal Counsel and Rule Reviewer

Certified to the Secretary of State May 12, 2008.

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

In the matter of the adoption of NEW)
RULE I pertaining to a no wake zone) NOTICE OF ADOPTION
on Echo Lake)

To: All Concerned Persons

1. On January 31, 2008, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-339 on the proposed adoption of the above-stated rule at page 85 of the 2008 Montana Administrative Register, Issue No. 2.

2. The commission has adopted New Rule I (ARM 12.11.2204) as proposed.

3. The following comments were received and appear with the commission's responses:

Comment 1: A majority of the comments received were in favor of this rule because it would enable motorboat operators to pull a skier or wake boarder through the corridors and past the islands providing a continuous route to the main body of water and relieving the concentration of boats in Blackies and Causeway Bays.

Response 1: The commission agrees that removing the 200-foot no wake zone will provide a continuous route to the main body of water and relieve the concentration of boats in Blackies and Causeway Bays.

Comment 2: The commission received several comments endorsing this rule because it would restore the rights and historical use of boaters to use the lake as they had prior to August 2006.

Response 2: ARM 12.11.115 was in effect May 15, 2001. It was not strictly enforced until August of 2006 but it was still in effect and boaters are trusted to follow laws and regulations even when enforcement cannot be present.

Comment 3: The commission received several comments stating that this rule will make the lake more dangerous for nonmotorized boat operators and families enjoying their docks and swimming areas.

Response 3: This rule will be a supplement to other existing rules and regulations. Vessels must be 75 feet from a fisherman or waterfowl hunter pursuant to other rules in effect. Personal Watercraft still must maintain a 200-foot no wake from any dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel. Vessels cannot make a reckless approach to, departure from, or passage by a dock, ramp,

diving board, or float. Violation of any of these rules can result in a citation even where this rule is in effect.

Comment 4: The commission received several comments stating that this rule will be unsafe because it is not safe to enter the corridors at a high rate of speed because visibility is very restricted from various approach angles.

Response 4: Causeway Bay has a straight line of site unless entering from right angles to the bay. Blackies Bay has a corner in the corridor and visibility is limited. The area around the three islands is wider and has clear visibility. Boaters must obey other more restrictive boating laws including reckless boat operation and personal watercraft operation and they are responsible for safely operating boats regardless of the rules.

Comment 5: The commission received a few comments stating that the proposed rule will not compromise safety when traveling through the corridors or around the islands.

Response 5: Causeway Bay has a straight line of site unless entering from right angles to the bay. Blackies Bay has a corner in the corridor and visibility is limited. The area around the three islands is wider and has clear visibility. Boaters must obey other more restrictive boating laws including reckless boat operation and personal watercraft operation and they are responsible for safely operating boats regardless of the rules.

Comment 6: The commission received a few comments stating the existing 200-foot no wake zone, ARM 12.11.115, retains the qualities of the lake that attract so many different types of recreationists.

Response 6: This rule allows for multiple recreational uses, but restricts wake speeds within 200 feet of shorelines. This rule allows wake speeds through the channels of Causeway Bay, Blackies Bay and around the three islands in the southwest corner of section 5. The public can fish, hunt, motor boat, water ski, canoe, kayak, and use personal watercraft on the lake.

Comment 7: The commission received a couple of comments stating the existing 200-foot no wake zone, ARM 12.11.115, treats Echo Lake just like every other lake in the western fishing district and due to its unique shoreline and geography it should not be lumped into the same rule as other lakes.

Response 7: After two years of citizen's advisory committee meetings and hundreds of comments, the commission adopted the existing 200-foot no wake zone, ARM 12.11.115, on all western lakes including Echo Lake effective May 15, 2001 in response to requests by homeowners and recreationists for uniform boating regulations.

Comment 8: The commission received a few comments stating ARM 12.11.115 is an unreasonable and arbitrary limitation of the property rights of property owners on Echo Lake, particularly those with property in the Bays.

Response 8: Echo Lake is a public resource that belongs to everyone and the rules restricting motorboat use on that public resource do not affect private property rights.

Comment 9: The commission received one comment stating this rule will create a liability issue for the commission.

Response 9: Determining liability is dependent upon the facts of each and every situation in a court of law.

Comment 10: The commission received a few comments stating ARM 12.11.115 decreases their property values.

Response 10: Echo Lake is a public resource that belongs to everyone and the rules restricting motorboat use on that public resource do not affect private property rights or values.

Comment 11: The commission received a couple of comments stating this rule would foster those who have a disregard for the rules of the lake and for the safety of others.

Response 11: Fish, Wildlife and Parks enforces all rules equally to everyone.

Comment 12: The commission received one comment stating this rule allows for greater flexibility and encourages better cooperation between boaters and swimmers.

Response 12: The commission appreciates the support and encourages cooperation between all recreationists at all times.

Comment 13: One person asked why ARM 12.11.115 isn't effective statewide if it such a good rule.

Response 13: The commission adopted ARM 12.11.115 in response to the request of homeowners and recreationists in response to over 500 comments on a proposed management plan for the Thompson Chain of Lakes. It was evident that recreationists and homeowners alike saw a need for more uniform boating regulations and new boating regulations. Of these comments, 75% favored new regulations on public waters in the western fishing district.

Comment 14: The commission received a few comments from the property owners on or near the corridors stating this rule will cause wakes destroying their private property.

Response 14: The commission believes this rule will distribute the concentration of boats out of the bays and through the whole lake, which may eliminate damage from wakes to private property.

Comment 15: The commission received several comments requesting this rule be adopted for Echo Lake as a whole.

Response 15: Using the individual petition procedures outlined in ARM 12.11.117, four petitions were submitted to the commission by landowners on the lake. The commission reviewed all four of the petitions and compromised the petitions into one rule proposal. The commission did not have information on suggestions to extend this rule to all of the lake.

Comment 16: The commission received several comments stating ARM 12.11.115 should be applied instead of this rule when water levels are high.

Response 16: The water levels of Echo Lake fluctuate and the rules need to remain consistent in order to make compliance with and enforcement of the rules easier.

Comment 17: The commission received several comments stating the existing 200-foot no wake zone, ARM 12.11.115, creates a safer and less disturbing environment for the wildlife and people that live in the area.

Response 17: Rules and regulations exist that address safety of the land and those remain in effect. A person may not operate a vessel within 75 feet of a fisherman unless unavoidable. If unavoidable, the vessel must be operated at no greater than no wake speed. Personal watercraft still must maintain a 200-foot no wake from any dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel. The final rule does not supersede other more restrictive laws.

Comment 18: The commission received one comment stating the existing 200-foot no wake zone, ARM 12.11.115, costs too much money to enforce.

Response 18: ARM 12.11.115 will still be effective in Echo Lake with the exception of the corridors in and out of Blackies Bay and Causeway Bay and the three islands in section 5. Fish, Wildlife and Parks provides enforcement of recreational laws and fishing regulations on all waters of the state and will continue to do so.

Comment 19: The commission received a few comments stating that any erosion that has taken place has been during high water mark years and is not caused by historical use of Echo Lake.

Response 19: Erosion from wave action occurs at all water levels. Erosion is more pronounced and results in more damage during high water levels.

/s/ M. Jeff Hagener
M. Jeff Hagener, Secretary
Fish, Wildlife and Parks Commission

/s/ Rebecca J. Dockter
Rebecca J. Dockter
Rule Reviewer

Certified to the Secretary of State May 12, 2008.

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

In the matter of the adoption of NEW)
RULE I pertaining to a no wake zone) NOTICE OF ADOPTION
on Swan Lake)

To: All Concerned Persons

1. On January 31, 2008, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-340 on the proposed adoption of the above-stated rule at page 87 of the 2008 Montana Administrative Register, Issue No. 2.

2. The commission has adopted New Rule I (ARM 12.11.3106) as proposed but with the following changes from the original proposal, matter to be stricken interlined, new matter underlined:

NEW RULE I (12.11.3106) SWAN LAKE (1) Swan Lake is located in Flathead Lake County.
(2) remains as proposed.

3. The following comments were received and appear with the commission's responses:

Comment 1: One person was not in favor of this rule stating there isn't a wake problem at the north end of the lake as long as ARM 12.11.115 is honored.

Response 1: Citizens petitioned the commission using the procedures outlined in ARM 12.11.117 stating safety concerns. The north end of Swan Lake is narrow, shallow, and rocky and the numbers of vessels recreating on Swan Lake is increasing. The increased use has the potential for safety issues warranting extension of the no wake zone.

Comment 2: The commission received several comments supporting this rule stating the clearly marked extension of the no wake zone would benefit public safety because islands and shoreline protrusions restrict visibility and because people unfamiliar with the area are unaware of the shallow and rocky area.

Response 2: The north end of Swan Lake is narrow, shallow, and rocky with changing water levels throughout the year. Historically people have run their boats on top of shoals and rocks causing significant damage to their vessels. The no wake zone requires people to travel at slow speed and should allow ample opportunity for people to see and avoid hazards of navigation including other recreationists.

Comment 3: One person stated opposition to this rule if the primary concern is the Kootenai Lodge.

Response 3: The development of the Kootenai Lodge could result in increased boat use in the area, but it is not the primary concern for implementing the rule change. There is continued use and development of Swan Lake bringing increased numbers of boaters to the area. The rule provides a means to mitigate safety concerns in the narrow, shallow, and rocky north portion of Swan Lake generated by congestion and increased boat use.

Comment 4: The commission received several comments stating this rule would provide a reduction of noise benefiting people and wildlife.

Response 4: Boats traveling at a no wake speed generally are quieter and will produce less sound to disturb people and wildlife.

Comment 5: The commission received a few comments stating they were in favor of this rule because of the benefit of water quality.

Response 5: This rule should reduce shoreline erosion on the north of Swan Lake due to boat wakes and as a result reduce the sediments deposited in that portion of the lake.

Comment 6: The commission received several comments in support of the proposed rule, stating that boats and docks are being damaged; boats are being slammed into docks because of wakes and have to be removed from the water.

Response 6: Boats traveling at speeds that cause a wake cause more potential for wave action on shores than those traveling at speeds that cause no wake as required by this rule. This rule should eliminate wakes, thus eliminating damage to docks as a result of wave action caused by motorized boats traveling above a wake speed.

Comment 7: One person supported this rule but asked to extend it down the lake to a boat launch.

Response 7: The proposed rule uses a natural landmark that is clearly definable. It provides the public with a clear delineation that is easily understood and enforceable. Defining the boundary at the southern tip of the southern most island approximately 3/4 of a mile from the outlet was a compromise to the originally proposed 1-mile-long no wake zone.

Comment 8: The commission received a comment in favor of the proposed rule, stating that wake-producing watercraft needs to yield to nonmotorized users just as cars yield to pedestrians.

Response 8: This rule will be a supplement to other existing rules and regulations including boating laws that state all vessels must be 75 feet from a fisherman or waterfowl hunter and personal watercraft still must maintain a 200-foot no wake zone from any dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel. Vessels cannot make a reckless approach to, departure from, or passage by a dock, ramp, diving board, or float.

/s/ M. Jeff Hagener

M. Jeff Hagener, Secretary
Fish, Wildlife and Parks Commission

/s/ Rebecca J. Dockter

Rebecca J. Dockter
Rule Reviewer

Certified to the Secretary of State May 12, 2008.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules I through III pertaining to definitions, certification of energy production, transportation, and research facilities for tax abatement and classification) NOTICE OF ADOPTION

TO: All Concerned Persons

1. On December 20, 2007, the Department of Environmental Quality published MAR Notice No. 17-267 regarding a notice of public hearing on the proposed adoption of the above-stated rules at page 2046, 2007 Montana Administrative Register, issue number 24.

2. The department has adopted New Rules I and II (17.80.201 and 17.80.202) exactly as proposed, and has adopted New Rule III (17.80.203) as proposed, but with the following changes, new matter underlined, stricken matter interlined:

NEW RULE III (17.80.203) APPLICATION REQUIREMENTS AND DECISION CRITERIA: ALTERNATING CURRENT POWER TRANSMISSION LINES UNDER 15-6-157(1)(q), MCA (1) A person who wishes to obtain a certification of the qualified portion of an alternating current ~~power~~ transmission line pursuant to 15-6-157(1)(q), MCA, shall file an application on a form provided by the department pursuant to ARM 17.80.201. The application must contain the following information:

- (a) remains as proposed.
- (b) a description of the line for which certification is sought, including its associated equipment and structures, including interconnections;
 - (i) for lines still under construction at the end of a tax year, this would be a general description of the complete line, with a more detailed description of that portion for which certification is sought;
- (c) a listing of all wage rates paid for construction of the ~~power~~ transmission line in Montana, including its associated equipment and structures, including interconnections;
- (d) the date construction of the ~~power~~ transmission line, as defined in 15-24-3102, MCA, was commenced in Montana;
- (e) the total transfer capability of the ~~power~~ transmission line established through the Western Electricity Coordinating Council (WECC) path rating process, or for transmission lines which are not covered by the WECC path rating process, by the capability determined by the balancing authority under whose jurisdiction the line is;
- (f) a list of the Montana electricity generating facilities that are, or will be, class fourteen property under 15-6-157, MCA, for which a firm contract for

transmission capacity for ten years or more service, available throughout each year of the contract, has been obtained, including:

- (i) the location, or proposed location, of each generating facility;
- (ii) the period for which each facility has secured firm contract for transmission capacity service throughout each year;
- (iii) documentation of the amount of firm transmission on the ~~power~~ line that has been secured for each generating facility throughout each year. If this amount is not the same throughout the year, the applicant shall describe the different amounts and the length of periods during which those amounts apply; and
- (iv) remains as proposed.

(2) The qualified portion of a transmission line will be based on the contracts for firm transmission in place at the time of application for the initial ten years of commercial operation, according to the following criteria:

(2) (a) The qualified portion of a ~~power~~ line for which the amount of rated transfer capacity under firm contracted power from contract for electricity generated at class fourteen generating facilities is constant throughout the year is that amount divided by the total transfer capability of the that line established through the Western Electricity Coordination Council applicable path rating process conducted either by WECC or the balancing authority;

(b) The qualified portion ~~for~~ of a line for which the amount of ~~firm contracted power from~~ rated transfer capacity under firm contract for electricity generated at class fourteen generating facilities varies throughout the year is the weighted average determined according to the following formula: (amount for first period x number of days in period + amount for next period x number of days in period . . .)/365;

(c) For deliveries to load on the line using firm transmission contracts for a blend of power from multiple generating facilities, the amount that is deemed to come from class fourteen facilities is the percentage of a delivery equaling the percentage of the annual energy portfolio of the commodity provider that is generated from class fourteen facilities located in Montana;

(d) For lines with a mix of contracts of different length, the qualified portion is the average rated transfer capacity under firm contract determined by the following formula: (annual amount for first contract x contract length during averaging period + annual amount of next contract x contract length during averaging period . . .)/length of averaging period. The averaging period for the initial certification will be the ten years following start of commercial operation.

(3) remains as proposed.

~~(4) A person who has received a certification pursuant to this rule may at any time apply for a certification of a different qualified portion of a power line. An application for a new certification shall contain the information required for an initial certification required pursuant to (1).~~

~~(5)~~ (4) Ten years after a ~~power~~ transmission line becomes commercially operational, the taxpayer shall submit to the department an update of the information required in (1)(e) and (f). Based on this information and any other credible information available to the department, the department shall determine the current qualified portion of the ~~power~~ transmission line and reissue a certificate at that percentage.

(5) If the ~~current qualified portion of the power transmission line is less than the last certified qualified portion of the power line~~ no longer has contracts for firm transmission of electricity operated at class fourteen facilities, the department shall revoke the certification.

3. The following comments were received and appear with the department's responses:

COMMENT NO. 1: Few intrastate power lines in Montana meet WECC path rating criteria. For those lines that do not, the path rating function is performed by the connecting public utility. New Rule III(1)(e) and (2) should be modified to allow those lines to be rated by the public utility.

RESPONSE: The department agrees. The rule has been modified accordingly.

COMMENT NO. 2: Because New Rule I(1) requires that an application for Class Fourteen certification may occur only after project construction has been commenced or completed, it violates 15-24-3111(7), MCA, which provides that the "qualifying period" for certification includes the construction period.

RESPONSE: Section 15-24-3111(7), MCA, defines the term "qualifying period" and indicates that it applies to tax abatements authorized under 15-24-3111, MCA. Certification of a "qualified portion" of a transmission line as Class Fourteen property is governed by 15-6-157(1)(q), MCA, which provides that Class Fourteen property includes the qualified portion of a transmission line that "has commenced construction" after June 1, 2007. The department has therefore not made the suggested change.

COMMENT NO. 3: New Rule III(2) should be modified to provide a Class Fourteen certification for contracted capacity rather than for green energy actually transmitted.

RESPONSE: The department agrees. Section 15-6-157(2)(a), MCA, provides that the qualified portion of a transmission line is based on contracted transfer capacity. The rule has been modified accordingly. In addition, the term "power line" has been changed to "transmission line" throughout the rules to more closely reflect the statutory language.

COMMENT NO. 4: The provision in New Rule III(1)(f) that the facility have firm contracts for transmission capacity "for ten years or more" is not in accordance with 15-6-157(1)(q) and (2)(a), MCA. Those provisions contain no such requirement.

RESPONSE: The department agrees. The rule has been modified accordingly.

COMMENT NO. 5: New Rule III(5) requires that the department revoke a certification ten years after the line becomes operational if the department finds at that time that the qualified portion is less than the portion originally certified. The rule should be modified to provide for certification of the lesser portion. There is

nothing in 15-6-157, MCA, to indicate that the Legislature intended for a revocation to occur if a portion of the line remains qualified because some contracted transfer capacity is dedicated to green energy.

RESPONSE: The department agrees. The proposed rule has been modified to provide for a recertification if a portion of the transfer capacity of a line is contracted for green energy. The rule also has been modified to provide for revocation only if there is no qualified portion at the ten-year mark. Also, the department has eliminated the process for recertification before the ten-year point. That process had been included to allow a transmission line owner to recertify in order to avoid revocation. The changes made in response to the comment eliminate the need for the mid-term recertification.

Reviewed by: DEPARTMENT OF ENVIRONMENTAL
QUALITY

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

By: /s/ Richard H. Opper
RICHARD H. OPPER, DIRECTOR

Certified to the Secretary of State, April 28, 2008.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
AND THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT
RESIDENTIAL OR OUTDOOR PROGRAMS
STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
24.101.413 renewal, 24.181.401) AND ADOPTION
registration fee schedule, and adoption of)
NEW RULE I fee abatement, NEW RULE)
II licensing fee schedule, and NEW RULE)
III renewals)

TO: All Concerned Persons

1. On March 13, 2008, the Department of Labor and Industry (department) and the Board of Private Alternative Adolescent Residential or Outdoor Programs (board) published MAR Notice No. 24-181-2 regarding the amendment and adoption of the above-stated rules, at page 451 of the 2008 Montana Administrative Register, issue no. 5.

2. On April 7, 2008, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the April 15, 2008, deadline.

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

COMMENT 1: Three commenters opposed the proposed fee schedule stating that the fees are punitive, extreme, will place a hardship on current programs and parents of youth in need, and will deter development of new programs. In addition, it was suggested that the board reconsider the revenue needed to fund a fiscally responsible budget and revise the fees to a level providing the needed oversight at a reasonable cost.

RESPONSE 1: The board is statutorily required to set and maintain fees that are commensurate with the program costs needed to adequately fund the licensure and regulation of private alternative adolescent residential or outdoor programs. The proposed fees resulted from an evaluation of current and projected program costs and revenue. The board and department will continuously monitor program expenses and will make adjustments based on the budget authorized by the Legislature and the number of licensees to ensure fiscal responsibility. The board understands the concerns about the fees, but notes that the fee increases are necessary for the board to comply with the statutory obligations.

COMMENT 2: One commenter suggested the board defer action and move the process back to the Legislature for clarification of interpretation and intent of the 2007 legislation.

RESPONSE 2: The Legislature enacted legislation requiring the board to license and regulate private alternative adolescent residential or outdoor programs. The board is adjusting the fees and adopting additional rules at this time to follow the directive of the Legislature and comply with the statutory mandate.

COMMENT 3: A commenter suggested the board allow for fee reduction as more programs are registered or licensed and annually refund all overages.

RESPONSE 3: The board and department will continuously monitor program expenses and make adjustments based on the budget authorized by the Legislature and the number of licensees to ensure fiscal responsibility. As a state agency, the board may not maintain a cash balance greater than twice the board's appropriation or spending authority, as established by the Legislature. Further, the board is adopting New Rule I to facilitate the prompt elimination of excess cash accumulation as appropriate and when needed through fee abatement.

4. The department has amended ARM 24.101.413 exactly as proposed.
5. The board has amended ARM 24.181.401 exactly as proposed.
6. The board has adopted NEW RULE I (24.181.403), NEW RULE II (24.181.402), and NEW RULE III (24.181.2101), exactly as proposed.

BOARD OF PRIVATE ALTERNATIVE
ADOLESCENT RESIDENTIAL OR
OUTDOOR PROGRAMS
MICHELLE MANNING, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2008

BEFORE THE ALTERNATIVE HEALTH CARE BOARD
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.111.407 nonroutine applications,)
24.111.502 licensing by examination,)
24.111.503 licensing by endorsement,)
24.111.511 natural substance formulary,)
24.111.602 apprenticeship requirements,)
and 24.111.604 licensing by examination)

TO: All Concerned Persons

1. On February 28, 2008, the Alternative Health Care Board (board) published MAR Notice No. 24-111-21 regarding the amendment of the above-stated rules, at page 358 of the 2008 Montana Administrative Register, issue no. 4.

2. On March 26, 2008, a public hearing was held on the proposed amendment of the above-stated rules in Helena. One comment was received by the April 3, 2008, deadline.

3. The board has thoroughly considered the comment received. A summary of the comment and the board's response is as follows:

COMMENT 1: One commenter supported the amendments to ARM 24.111.511.

RESPONSE 1: The board acknowledges the comment.

4. The board has amended ARM 24.111.407, 24.111.502, 24.111.503, 24.111.511, 24.111.602, and 24.111.604 exactly as proposed.

ALTERNATIVE HEALTH CARE BOARD
MARGARET BEESON, N.D., CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2008

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION
New Rule I pertaining to limitations on)
individual and political party)
contributions)

TO: All Concerned Persons

1. On March 13, 2008 the Commissioner of Political Practices published MAR Notice No. 44-2-142 pertaining to the proposed adoption of the above-stated rule at page 471 of the 2008 Montana Administrative Register, Issue Number 5.

2. The department has adopted the above-stated rule as proposed: New Rule I (44.10.338).

3. No comments or testimony were received.

/s/ Jim Scheier
Jim Scheier
Rule Reviewer

/s/ Dennis Unsworth
Dennis Unsworth
Commissioner of
Political Practices

Certified to the Secretary of State May 12, 2008.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife, and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

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

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

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

Use of the Administrative Rules of Montana (ARM):

- | | |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2008. This table includes those rules adopted during the period April 1, 2008, through June 30, 2008, and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2008, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2007 and 2008 Montana Administrative Register.

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

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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in April 2008 appear. Vacancies scheduled to appear from June 1, 2008, through August 31, 2008, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of May 1, 2008.

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

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Nursing (Labor and Industry)			
Ms. Laura Weiss Great Falls Qualifications (if required): registered nurse	Governor	Lanfear	4/28/2008 7/1/2011
Board of Respiratory Care Practitioners (Labor and Industry)			
Mr. Thomas Fallang Butte Qualifications (if required): respiratory care practitioner	Governor	Kirtley	4/21/2008 1/1/2011
Dr. Carl Hallenborg Helena Qualifications (if required): doctor of medicine	Governor	Strong	4/21/2008 1/1/2011
Board of Speech-Language Pathologists and Audiologists (Labor and Industry)			
Ms. Sharon Dinstel Colstrip Qualifications (if required): speech-language pathologist	Governor	reappointed	4/21/2008 12/31/2010
Ms. Cheri Fjare Big Timber Qualifications (if required): speech-language pathologist	Governor	Micken	4/21/2008 12/31/2010
Mr. James L. Sias Ronan Qualifications (if required): consumer representative	Governor	reappointed	4/21/2008 12/31/2010

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Capital Finance Advisory Council (Administration)			
Mr. Fred Flanders Helena	Governor	not listed	4/3/2008 11/22/2009
Qualifications (if required): representative of the Montana Higher Educational Student Assistance Corporation			
Family Support Services Advisory Council (Public Health and Human Services)			
Ms. Diana Colsgrove Eureka	Governor	not listed	4/9/2008 4/9/2010
Qualifications (if required): parent representative			
Ms. Sylvia Danforth Miles City	Governor	not listed	4/9/2008 4/9/2010
Qualifications (if required): provider representative			
Ms. Michelle Danielson Helena	Governor	not listed	4/9/2008 4/9/2010
Qualifications (if required): health care representative			
Ms. Laurie Frank Simms	Governor	not listed	4/9/2008 4/9/2010
Qualifications (if required): parent representative			
Ms. April Ganser Bozeman	Governor	not listed	4/9/2008 4/9/2010
Qualifications (if required): parent representative			

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Support Services Advisory Council (Public Health and Human Services) cont.			
Rep. George Groesbeck Butte Qualifications (if required): legislator	Governor	not listed	4/9/2008 4/9/2010
Ms. Priscilla Halcro Great Falls Qualifications (if required): family support specialist	Governor	not listed	4/9/2008 4/9/2010
Ms. Lucy Hart-Paulson Missoula Qualifications (if required): language therapist	Governor	not listed	4/9/2008 4/9/2010
Mr. Ronald Herman Helena Qualifications (if required): agency representative	Governor	not listed	4/9/2008 4/9/2010
Ms. Mary Huston Richland Qualifications (if required): parent representative	Governor	not listed	4/9/2008 4/9/2010
Mr. Ted Maloney Missoula Qualifications (if required): personnel preparation representative	Governor	not listed	4/9/2008 4/9/2010
Ms. Sandi Marisdotter Helena Qualifications (if required): provider representative	Governor	not listed	4/9/2008 4/9/2010

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Support Services Advisory Council (Public Health and Human Services) cont.			
Ms. Novelene Martin Miles City Qualifications (if required): parent representative	Governor	not listed	4/9/2008 4/9/2010
Mr. Dan McCarthy Helena Qualifications (if required): agency representative	Governor	not listed	4/9/2008 4/9/2010
Ms. Sandy McGennis Great Falls Qualifications (if required): representative of the School for the Deaf and Blind	Governor	not listed	4/9/2008 4/9/2010
Sen. Gerald Pease Lodge Grass Qualifications (if required): parent representative	Governor	not listed	4/9/2008 4/9/2010
Ms. Mary Runkel Helena Qualifications (if required): agency representative	Governor	not listed	4/9/2008 4/9/2010
Ms. Paula Sherwood Missoula Qualifications (if required): quality improvement specialist	Governor	not listed	4/9/2008 4/9/2010
Ms. Cindy Sinclair Havre Qualifications (if required): early Head Start representative	Governor	not listed	4/9/2008 4/9/2010

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Support Services Advisory Council (Public Health and Human Services) cont.			
Ms. Barbara Stefanic	Governor	not listed	4/9/2008
Billings			4/9/2010
Qualifications (if required): special education representative			
Ms. Cristin Volinkaty	Governor	not listed	4/9/2008
Missoula			4/9/2010
Qualifications (if required): provider representative			
Interagency Disabilities Advisory Council (Administration)			
Ms. Martha Carstensen	Governor	not listed	4/25/2008
Billings			4/25/2010
Qualifications (if required): disabilities community representative			
Ms. Margaret Elson	Governor	not listed	4/25/2008
Bozeman			4/25/2010
Qualifications (if required): disabilities community representative			
Mr. Terry Galle	Governor	not listed	4/25/2008
Deer Lodge			4/25/2010
Qualifications (if required): public representative			
Ms. Bryher Herak	Governor	not listed	4/25/2008
Basin			4/25/2010
Qualifications (if required): disabilities community representative			

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Interagency Disabilities Advisory Council (Administration) cont.			
Ms. June Hermanson Billings Qualifications (if required): disabilities community representative	Governor	not listed	4/25/2008 4/25/2010
Ms. Susie McIntyre Great Falls Qualifications (if required): disabilities community representative	Governor	not listed	4/25/2008 4/25/2010
Mr. William Neisess Helena Qualifications (if required): disabilities community representative	Governor	not listed	4/25/2008 4/25/2010
Ms. Marie Pierce Sidney Qualifications (if required): disabilities community representative	Governor	not listed	4/25/2008 4/25/2010
Mr. John Pipe Wolf Point Qualifications (if required): disabilities community representative	Governor	not listed	4/25/2008 4/25/2010
Mr. Brian Roat Red Lodge Qualifications (if required): public representative	Governor	not listed	4/25/2008 4/25/2010
Ms. Patti Scruggs Whitefish Qualifications (if required): public representative	Governor	not listed	4/25/2008 4/25/2010

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Judicial Nomination Commission (Justice)			
Ms. Mona Charles Kalispell	Governor	Ostermiller	4/28/2008 1/1/2012
Qualifications (if required): public representative			
Livestock Loss Reduction and Mitigation Board (Livestock)			
Mr. James Cross Kalispell	Governor	Olson	4/25/2008 1/1/2009
Qualifications (if required): wildlife conservation representative			
Montana Election and Technology Advisory Council (Secretary of State)			
Ms. Sandi Boardman Chinook	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Blaine County Election Administrator			
Ms. Jeri Custer Forsyth	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Rosebud County Election Administrator			
Ms. Janice Hoppes Conrad	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Pondera County Election Administrator			
Ms. JoAnn Johnson Fort Benton	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Chouteau County Election Administrator			

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Election and Technology Advisory Council (Secretary of State) cont.			
Ms. Penni Lewis Sidney	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Richland County Election Administrator			
Ms. Kathy Newgard Polson	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Lake County Election Administrator			
Ms. Bonnie Ramey Boulder	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Jefferson County Election Administrator			
Mr. Duane Winslow Billings	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Yellowstone County Election Administrator			
Ms. Vickie Zeier Missoula	Secretary of State	not listed	4/9/2008 4/9/2010
Qualifications (if required): Missoula County Election Administrator			
Montana-Canadian Provinces Relations Advisory Council (Commerce)			
Lt. Governor John Bohlinger Helena	Governor	reappointed	4/9/2008 4/9/2010
Qualifications (if required): Lieutenant Governor			

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana-Canadian Provinces Relations Advisory Council (Commerce) cont.			
Rep. Hal Jacobson Helena Qualifications (if required): Legislative representative	Governor	reappointed	4/9/2008 4/9/2010
Sen. Trudi Schmidt Great Falls Qualifications (if required): Legislative representative	Governor	reappointed	4/9/2008 4/9/2010
Rep. Wayne Stahl Saco Qualifications (if required): Legislative representative	Governor	reappointed	4/9/2008 4/9/2010
Rep. Kendall Van Dyk Billings Qualifications (if required): Legislative representative	Governor	Musgrove	4/9/2008 4/9/2010
Noxious Weed Summit Advisory Council (Agriculture)			
Ms. Celestine Duncan Helena Qualifications (if required): Crop Protection Product Industry representative	Governor	Birch	4/25/2008 7/26/2009
Mr. Doug Dupuis Pablo Qualifications (if required): Tribal representative	Governor	Corcoran	4/25/2008 7/26/2009

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Public Employees' Retirement Board (Administration)			
Ms. Darcy Halpin Belgrade Qualifications (if required): retired public employee	Governor	McGee	4/21/2008 4/1/2013
Ms. Dianna Porter Butte Qualifications (if required): public representative	Governor	Griffith	4/8/2008 4/1/2013
Rail Service Competition Council (Transportation)			
Ms. Carla Allen Denton Qualifications (if required): knowledgeable of class II railroads	Governor	reappointed	4/21/2008 1/1/2011
Mayor Larry J. Bonderud Shelby Qualifications (if required): knowledgeable of the trucking industry	Governor	reappointed	4/21/2008 1/1/2011
Mr. John DeMichiei Billings Qualifications (if required): knowledgeable of transportation for the coal industry	Governor	not listed	4/21/2008 1/1/2009
Mr. William Fogarty Anaconda Qualifications (if required): knowledgeable of class I railroads	Governor	reappointed	4/21/2008 1/1/2009

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Rail Service Competition Council (Transportation) cont.			
Mr. Russell Hobbs Columbia Falls	Governor	reappointed	4/21/2008 1/1/2011
Qualifications (if required): knowledgeable of transportation for the wood products industry			
Mr. Doug Miller Troy	Governor	reappointed	4/21/2008 1/1/2009
Qualifications (if required): knowledgeable of transportation for the mineral industry			
Mr. Michael O'Hara Fort Benton	Governor	reappointed	4/21/2008 1/1/2009
Qualifications (if required): farm commodity producer			
Rangeland Resources Committee (Natural Resources and Conservation)			
Mr. Noel Keogh Nye	Governor	Lane	4/25/2008 0/0/0
Qualifications (if required): rancher from Southern Montana			
State-Tribal Economic Development Commission (Commerce)			
Mr. Bud Moran Pablo	Governor	Irvine	4/25/2008 6/30/2008
Qualifications (if required): representative of the Confederated Salish and Kootenai Tribes			
Trauma Care Committee (Public Health and Human Services)			
Ms. Pauline Linnell Bigfork	Governor	Moore	4/25/2008 11/2/2011
Qualifications (if required): representative of the Montana Emergency Medical Services Association			

BOARD AND COUNCIL APPOINTEES FROM APRIL 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Trauma Care Committee (Public Health and Human Services) cont.			
Ms. Kristen Lowery Deer Lodge	Governor	Bleichler	4/25/2008 11/2/2011
Qualifications (if required): representative of the Montana Trauma Coordinators			
Dr. Dennis Maier Billings	Governor	reappointed	4/25/2008 11/2/2011
Qualifications (if required): representative of the Montana Committee on Trauma/ACS			
Ms. Elaine Schuchard Glasgow	Governor	Taylor	4/25/2008 11/2/2011
Qualifications (if required): representative of the Emergency Nurses Association			
Mr. Tim Sinton Choteau	Governor	reappointed	4/25/2008 11/2/2011
Qualifications (if required): representative of the Central Region Trauma Advisory Council			
Ms. Linda Sund Thompson Falls	Governor	Moore	4/25/2008 11/2/2011
Qualifications (if required): representative of the Western Region Trauma Advisory Council			
Water Pollution Control Advisory Council (Environmental Quality)			
Mr. Trevor Selch Helena	Governor	Skaar	4/9/2008 0/0/0
Qualifications (if required): fisheries biologist			

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Ageing Advisory Council (Public Health and Human Services) Rep. Antoinette R. Hagener, Havre Qualifications (if required): Public Representative	Governor	7/18/2008
Rep. Beverly Barnhart, Bozeman Qualifications (if required): Public Representative	Governor	7/18/2008
Ageing Advisory Council (Governor) Mr. Jessie James-Hawley, Harlem Qualifications (if required): public representative	Governor	7/18/2008
Ms. Lauren Lynch, Butte Qualifications (if required): public representative	Governor	7/18/2008
Agriculture Development Council (Agriculture) Mr. Bill Koenig, Kalispell Qualifications (if required): agriculture producer	Governor	7/1/2008
Ms. Patricia Quisno, Harlem Qualifications (if required): actively engaged in agriculture	Governor	7/1/2008
Mr. Verges Aageson, Guildford Qualifications (if required): actively engaged in agriculture	Governor	7/1/2008
Mr. David Tyler, Belgrade Qualifications (if required): actively engaged in agriculture	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Banking (Administration) Mr. John King, Kalispell Qualifications (if required): state bank officer of a small size bank</p>	Governor	7/1/2008
<p>Ms. Carolyn Colman, West Yellowstone Qualifications (if required): public representative</p>	Governor	7/1/2008
<p>Board of Funeral Service (Labor and Industry) Mr. Douglas D. Lowry, Big Timber Qualifications (if required): mortician</p>	Governor	7/1/2008
<p>Board of Hearing Aid Dispensers (Labor and Industry) Ms. Lee Frantz Oines, Missoula Qualifications (if required): Dispenser with a Master's Degree and National Certification</p>	Governor	7/1/2008
<p>Mr. Herbert Winsor, Helena Qualifications (if required): Public Representative with Hearing Aid</p>	Governor	7/1/2008
<p>Board of Pharmacy (Labor and Industry) Ms. Colette Bernica, Great Falls Qualifications (if required): public member</p>	Governor	7/1/2008
<p>Mr. Jim Cloud, Stevensville Qualifications (if required): registered pharmacy technician</p>	Governor	7/1/2008
<p>Board of Physical Therapy Examiners (Labor and Industry) Mr. Richard Smith, Missoula Qualifications (if required): physical therapist</p>	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Public Accountants (Labor and Industry) Mr. Thomas Shea, Bozeman Qualifications (if required): certified public accountant</p>	Governor	7/1/2008
<p>Board of Radiologic Technologists (Labor and Industry) Ms. Anna L. Hazen, Fort Benton Qualifications (if required): permit holder</p>	Governor	7/1/2008
<p>Ms. Charlotte M. Kelley, Helena Qualifications (if required): public representative</p>	Governor	7/1/2008
<p>Mr. Charles McCubbins, Columbia Falls Qualifications (if required): radiologic technician</p>	Governor	7/1/2008
<p>Mr. Ronald Darby, Billings Qualifications (if required): doctor of medicine who employs radiologic technicians</p>	Governor	7/1/2008
<p>Dr. Hugh B. Cecil, Kalispell Qualifications (if required): radiologist</p>	Governor	7/1/2008
<p>Board of Regents (Higher Education) Ms. Kerra Melvin, Butte Qualifications (if required): student</p>	Governor	6/30/2008
<p>Board of Sanitarians (Labor and Industry) Ms. Kathleen Driscoll, Hamilton Qualifications (if required): public representative</p>	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Sanitarians (Labor and Industry) cont. Mayor Gene Townsend, Three Forks Qualifications (if required): public representative	Governor	7/1/2008
Mr. Gerald Cormier, Billings Qualifications (if required): sanitarian	Governor	7/1/2008
Board of Veterans' Affairs (Military Affairs) Mr. Mike Waite, Helena Qualifications (if required): nonvoting member and a representative of Congressman Dennis Rehberg	Governor	8/1/2008
Mr. Don Slavens, Billings Qualifications (if required): nonvoting member and a representative of Senator Max Baucus	Governor	8/1/2008
Mr. Bill Lombardi, Helena Qualifications (if required): nonvoting member and a representative of Senator Jon Tester	Governor	8/1/2008
Board of Veterinary Medicine (Labor and Industry) Dr. Jean Lindley, Miles City Qualifications (if required): veterinarian	Governor	7/31/2008
Burial Preservation Board (Administration) Mr. Mickey Nelson, Helena Qualifications (if required): representative of the Coroner's Association	Governor	8/22/2008
Mr. Loren Stiffarm, Harlem Qualifications (if required): representative of the Fort Belknap Indian Community	Governor	8/22/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Burial Preservation Board (Administration) cont. Mr. George Reed Sr., Crow Agency Qualifications (if required): representative of the Crow Tribe	Governor	8/22/2008
Ms. Sherri Deaver, Billings Qualifications (if required): representative of the archaeological association	Governor	8/22/2008
Ms. Katherine Rink, East Glacier Qualifications (if required): representative of the Blackfeet Tribe	Governor	8/22/2008
Mr. Ed Lavenger, Havre Qualifications (if required): representative of the Little Shell Tribe	Governor	8/22/2008
Mr. Rufus Spear, Lame Deer Qualifications (if required): representative of the Northern Cheyenne Tribe	Governor	8/22/2008
Community Service Commission (Labor and Industry) Rep. Sheila Rice, Great Falls Qualifications (if required): representative of volunteer agencies	Governor	7/1/2008
Mr. Bob Maffit, Helena Qualifications (if required): representative of the disabilities community	Governor	7/1/2008
Mr. Robert E. Harris, Great Falls Qualifications (if required): public member	Governor	7/1/2008
Ms. Pat Murphy, Hamilton Qualifications (if required): representative of youth services	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Community Service Commission (Labor and Industry) cont. Mr. James B. Corson, Billings Qualifications (if required): public representative</p>	Governor	7/1/2008
<p>District Court Council (Justice) Judge John C. McKeon, Malta Qualifications (if required): none specified</p>	District Court Council	6/30/2008
<p>Judge Katherine "Kitty" Curtis, Columbia Falls Qualifications (if required): none specified</p>	District Court Council	6/30/2008
<p>Economic Development Advisory Council (Commerce) Ms. Sheila Hogan, Butte Qualifications (if required): public representative</p>	Governor	7/23/2008
<p>Ms. Kathie Bailey, Lewistown Qualifications (if required): public representative</p>	Governor	7/23/2008
<p>Ms. Linda Twitchell, Wolf Point Qualifications (if required): public representative</p>	Governor	7/23/2008
<p>Ms. Estelle Tafoya, Red Lodge Qualifications (if required): public representative</p>	Governor	7/23/2008
<p>Family Education Savings Program Oversight Committee (Commissioner of Higher Education) Mr. Ed Jasmin, Bigfork Qualifications (if required): public member</p>	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Managers Advisory Council (Administration)		
Mr. Barney Benkelman, Helena Qualifications (if required): none specified	Director	7/1/2008
Mr. Art Pembroke, Helena Qualifications (if required): none specified	Director	7/1/2008
Ms. Tammy Peterson, Helena Qualifications (if required): none specified	Director	7/1/2008
Mr. Mike Jacobson, Helena Qualifications (if required): none specified	Director	7/1/2008
Mr. Dick Clark, Helena Qualifications (if required): none specified	Director	7/1/2008
Mr. John Daugherty, Helena Qualifications (if required): none specified	Director	7/1/2008
Mr. Rick Bush, Helena Qualifications (if required): none specified	Director	7/1/2008
Mr. Mike Bousliman, Helena Qualifications (if required): none specified	Director	7/1/2008
Interagency Coordinating Council for State Prevention Programs (Public Health and Human Services)		
Ms. Tootie Welker, Thompson Falls Qualifications (if required): prevention programs/services representative	Governor	6/16/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Interagency Coordinating Council for State Prevention Programs (Public Health and Human Services) cont. Ms. Diane Cashell, Bozeman Qualifications (if required): prevention programs/services representative	Governor	6/16/2008
Kindergarten to College Work Group (Governor) Director Keith Kelly, Helena Qualifications (if required): Commissioner of Labor and Industry	Governor	7/13/2008
Rep. David Ewer, Helena Qualifications (if required): Budget Director	Governor	7/13/2008
Superintendent Linda McCulloch, Helena Qualifications (if required): Superintendent of Public Instruction	Governor	7/13/2008
Director Joan Miles, Helena Qualifications (if required): Director of the Department of Public Health and Human Services	Governor	7/13/2008
Rep. Jonathan Windy Boy, Box Elder Qualifications (if required): governor's representative	Governor	7/13/2008
Mr. Evan Barrett, Butte Qualifications (if required): Chief Business Development Officer	Governor	7/13/2008
Ms. Sheila Stearns, Helena Qualifications (if required): Commissioner of Higher Education	Governor	7/13/2008
Mr. Dick Clark, Helena Qualifications (if required): Chief Information Officer	Governor	7/13/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Kindergarten to College Work Group (Governor) cont. Director Tony Preite, Helena Qualifications (if required): Director of the Department of Commerce</p>	Governor	7/13/2008
<p>Ms. Janine Pease, Billings Qualifications (if required): Board of Regents representative</p>	Governor	7/13/2008
<p>Ms. Erin Williams, Missoula Qualifications (if required): parent representative</p>	Governor	7/13/2008
<p>Mr. Steve Meloy, Helena Qualifications (if required): Board of Public Education representative</p>	Governor	7/13/2008
<p>Mr. James Stipcich, Helena Qualifications (if required): Student Assistance Foundation representative</p>	Governor	7/13/2008
<p>Mr. Steve Gettel, Great Falls Qualifications (if required): School for Deaf and Blind representative</p>	Governor	7/13/2008
<p>Ms. Rachel Grosvold, Butte Qualifications (if required): student representative</p>	Governor	7/13/2008
<p>Mental Disabilities Board of Visitors (Governor) Ms. Joan Nell Macfadden, Great Falls Qualifications (if required): experience with emotionally disturbed children</p>	Governor	7/1/2008
<p>Mr. Graydon Davies Moll, Polson Qualifications (if required): experience with developmentally disabled adults</p>	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Mental Disabilities Board of Visitors (Governor) cont. Ms. Sandra Mihelish, Helena Qualifications (if required): experience with welfare of mentally ill individuals</p>	Governor	7/1/2008
<p>Montana Historical Society Board of Trustees (Historical Society) Dr. Thomas A. Foor, Missoula Qualifications (if required): archeologist</p>	Governor	7/1/2008
<p>Mr. William M. Holt, Lolo Qualifications (if required): public member</p>	Governor	7/1/2008
<p>Ms. Sharon Lincoln, Billings Qualifications (if required): public member</p>	Governor	7/1/2008
<p>Montana Noxious Weed Management Advisory Council (Agriculture) Sen. Mack Cole, Forsyth Qualifications (if required): at-large member from the agricultural community</p>	Director	6/30/2008
<p>Mr. Bob Bushnell, Qualifications (if required): representative of a recreationist/wildlife group</p>	Director	6/30/2008
<p>Mr. Dan Jackson, Pablo Qualifications (if required): representative of livestock production</p>	Director	6/30/2008
<p>Montana Organic Commodity Council (Agriculture) Mr. Andy Sponseller, Missoula Qualifications (if required): organic producer</p>	Director	8/19/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Organic Commodity Council (Agriculture) cont. Mr. Robert Forstenzer, Livingston Qualifications (if required): organic producer	Director	8/19/2008
Ms. Jill Owen, Choteau Qualifications (if required): consumer from the public at large	Director	8/19/2008
Mr. Jonathon Mysse, Ingomar Qualifications (if required): organic producer	Director	8/19/2008
Montana Wheat and Barley Committee (Agriculture) Ms. DeAnna Burgmaier, Power Qualifications (if required): producer residing in District 4	Governor	8/20/2008
Mr. Frank Schoonover, Dutton Qualifications (if required): resident of District 4	Governor	8/20/2008
Mr. Don H. Chaffee, Wibaux Qualifications (if required): resident of District 7	Governor	8/20/2008
Petroleum Tank Release Compensation Board (Environmental Quality) Ms. Theresa Blazicevich, Stevensville Qualifications (if required): member with environmental regulatory experience	Governor	6/30/2008
Mr. Andrew J. King, Kalispell Qualifications (if required): banker	Governor	6/30/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Postsecondary Scholarship Advisory Council (Higher Education)		
Ms. Margaret Bird, Browning Qualifications (if required): having experience in financial aid at a postsecondary institution	Governor	6/20/2008
Private Security Patrol Officers and Investigators (Labor and Industry)		
Mr. Raymond Murray, Missoula Qualifications (if required): Post Representative	Governor	8/1/2008
Ms. Holly Dershem-Bruce, Glendive Qualifications (if required): Public Representative	Governor	8/1/2008
Public Defender Commission (Administration)		
Mr. Daniel Donovan, Great Falls Qualifications (if required): attorney nominated by the Montana Supreme Court	Governor	7/1/2008
Mr. James Park Taylor, Pablo Qualifications (if required): attorney nominated by the Montana State Bar	Governor	7/1/2008
Ms. Caroline Fleming, Miles City Qualifications (if required): public representative nominated by the House Speaker	Governor	7/1/2008
Ms. Jennifer L. Hensley, Butte Qualifications (if required): member of an organization advocating on behalf of people with mental illness	Governor	7/1/2008
Research and Commercialization Technology Board (Commerce)		
Mr. Michael Dolson, Hot Springs Qualifications (if required): Native American	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State-Tribal Economic Development Commission (Governor)		
Mr. L. Jace Killsback, Lame Deer Qualifications (if required): representative of the Northern Cheyenne Tribe	Governor	6/30/2008
Mr. Joseph Durglo, Pablo Qualifications (if required): representative of the Confederated Salish & Kootenai Tribes	Governor	6/30/2008
Mr. Richard Sangrey, Box Elder Qualifications (if required): representative of the Chippewa Cree Tribe of the Rocky Boy's Reservation	Governor	6/30/2008
Mr. Bud Moran, Pablo Qualifications (if required): representative of the Confederated Salish and Kootenai Tribes	Governor	6/30/2008
Teachers' Retirement Board (Administration)		
Mr. Scott A. Dubbs, Lewistown Qualifications (if required): teaching profession and a member of the retirement system	Governor	7/1/2008
Telecommunications Advisory Council Services for Persons with Disabilities (Public Health and Human Services)		
Ms. Char Harasymczuk, Billings Qualifications (if required): hearing disabled	Governor	7/1/2008
Ms. Colette Custer, Plentywood Qualifications (if required): independent local exchange company representative	Governor	7/1/2008
Ms. Kristen Bruner-Kober, Billings Qualifications (if required): audiologist	Governor	7/1/2008

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2008 through AUGUST 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Telecommunications Advisory Council Services for Persons with Disabilities (Public Health and Human Services) cont. Mr. Charles Charette, Lame Deer Qualifications (if required): hearing disabled	Governor	7/1/2008
Tourism Advisory Council (Commerce) Ms. Ramona Holt, Lolo Qualifications (if required): public member from Glacier Country	Governor	7/1/2008
Mr. Michael Scholz, Big Sky Qualifications (if required): public member from Yellowstone Country	Governor	7/1/2008
Mr. Ed DesRosier, East Glacier Park Qualifications (if required): public member from Glacier Country	Governor	7/1/2008
Commissioner Dolores Plumage, Chinook Qualifications (if required): public member from Russell Country	Governor	7/1/2008
Mr. Jonathan Stoltz, Pendroy Qualifications (if required): public member from Russell Country	Governor	7/1/2008
Ms. Sandra Cahill, Livingston Qualifications (if required): resident of Yellowstone Country	Governor	7/1/2008