

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 11

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM)	AMENDED NOTICE AND
2.21.215, 2.21.216, 2.21.217,	)	EXTENSION OF COMMENT
2.21.221, 2.21.222, 2.21.223,	)	PERIOD ON PROPOSED REPEAL
2.21.224, 2.21.226, 2.21.227,)	
2.21.228, 2.21.229, 2.21.230,)	
2.21.232, 2.21.234, and 2.21.241)	
pertaining to annual leave policy)	

TO: All Concerned Persons

1. On April 15, 2010, the Department of Administration published MAR Notice No. 2-21-428 regarding the proposed repeal of the above-stated rules at page 804 of the 2010 Montana Administrative Register, Issue Number 7. On May 14, 2010, at 11:00 a.m., the Department of Administration held a public hearing to consider the proposed repeal of the above-stated rules. The department received written comments regarding the sufficiency of the statement of reasonable necessity. As a result, the statement of reasonable necessity is amended and the comment period is extended.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on June 17, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

STATEMENT OF REASONABLE NECESSITY: The rules proposed to be repealed concern only the internal management of state government and do not affect the public. Therefore, the rules are not appropriately included in ARM, according to the definition of "rule" in 2-4-102(11)(b)(i), MCA. The annual leave policy rules, which include all of the rules proposed to be repealed by this notice, concern only the internal management of state government because the policy affects state employees' annual leave and not the private rights or procedures available to the public. The DOA has determined that the annual leave policy is consistent with the type of information not included within the definition of rules as defined in the Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from Administrative Rules of Montana (ARM) as part of its review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised annual leave policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcpx>. When this policy is amended in the future, notice will be posted on the MINE web page, an internal site for state employees.

3. Concerned persons may submit their data, views, or arguments in writing to Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., June 25, 2010.

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) AMENDED NOTICE AND
2.21.305, 2.21.306, 2.21.307,) EXTENSION OF COMMENT
2.21.308, 2.21.309, 2.21.310,) PERIOD ON PROPOSED REPEAL
2.21.311, and 2.21.312 pertaining to)
disaster and emergency leave policy)

TO: All Concerned Persons

1. On April 15, 2010, the Department of Administration published MAR Notice No. 2-21-429 regarding the proposed repeal of the above-stated rules at page 808 of the 2010 Montana Administrative Register, Issue Number 7. On May 14, 2010, at 10:30 a.m., the Department of Administration held a public hearing to consider the proposed repeal of the above-stated rules. The department has determined that the sufficiency of the statement of reasonable necessity is questionable. As a result, the statement of reasonable necessity is amended and the comment period is extended.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on June 17, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

STATEMENT OF REASONABLE NECESSITY: The rules proposed to be repealed concern only the internal management of state government and do not affect the public. Therefore, the rules are not appropriately included in ARM, according to the definition of "rule" in 2-4-102(11)(b)(i), MCA. The disaster and emergency leave policy rules, which include all of the rules proposed to be repealed by this notice, concern only the internal management of state government because the policy affects state employees' leave and not the private rights or procedures available to the public. The DOA has determined that the disaster and emergency leave policy is consistent with the type of information not included within the definition of rules as defined in Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resources system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from the Administrative Rules of Montana (ARM) as part of its review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised disaster and emergency leave policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcp>. When this policy is amended in the future, notice will be posted on the MINE web page, an internal site for state employees.

3. Concerned persons may submit their data, views, or arguments in writing to Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., June 25, 2010.

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM	)	AMENDED NOTICE AND
2.21.1801, 2.21.1802, 2.21.1803,	)	EXTENSION OF COMMENT
2.21.1811, 2.21.1812, and 2.21.1831	)	PERIOD ON PROPOSED REPEAL
pertaining to exempt compensatory)	
time policy)	

TO: All Concerned Persons

1. On April 15, 2010, the Department of Administration published MAR Notice No. 2-21-430 regarding the proposed repeal of the above-stated rules at page 811 of the 2010 Montana Administrative Register, Issue Number 7. On May 14, 2010, at 11:30 a.m., the Department of Administration held a public hearing to consider the proposed repeal of the above-stated rules. The department received written comments regarding the sufficiency of the statement of reasonable necessity. As a result, the statement of reasonable necessity is amended and the comment period is extended.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on June 17, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

STATEMENT OF REASONABLE NECESSITY: The rules proposed to be repealed concern only the internal management of state government and do not affect the public. Therefore, the rules are not appropriately included in ARM, according to the definition of "rule" in 2-4-102(11)(b)(i), MCA. The exempt compensatory time policy rules, which include all of the rules proposed to be repealed by this notice, concern only the internal management of state government because the policy affects state employees and not the private rights or procedures available to the public. The DOA has determined that the exempt compensatory time policy is consistent with the type of information not included within the definition of rules as defined in Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from the Administrative Rules of Montana (ARM) as part of its review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised exempt compensatory time policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcp>. When this policy is amended in the future, notice will be posted on the MINE web page, an internal site for state employees.

3. Concerned persons may submit their data, views, or arguments in writing to: Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., June 25, 2010.

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF PUBLIC HEARING ON
2.21.501, 2.21.502, 2.21.503,) PROPOSED REPEAL
2.21.504, 2.21.505, 2.21.506, and)
2.21.507 pertaining to jury duty and)
witness leave policy)

TO: All Concerned Persons

1. On July 8, 2010, at 1:30 p.m., the Department of Administration will hold a public hearing in Room 136 of the Mitchell Building, at 125 N. Roberts, Helena, Montana, to consider the proposed repeal of the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on July 1, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

3. The department proposes to repeal the following rules:

2.21.501 INTRODUCTION found at page 2-659 of the Administrative Rules of Montana (ARM).

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

2.21.502 DEFINITIONS found at ARM page 2-659.

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

2.21.503 RATE OF COMPENSATION found at ARM page 2-659.

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

2.21.504 BENEFITS ACCRUAL found at ARM page 2-659.

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

2.21.505 ABSENCES found at ARM page 2-659.

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

2.21.506 REQUEST TO BE EXCUSED FROM JURY DUTY found at ARM page 2-660.

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

2.21.507 CLOSING found at ARM page 2-660.

AUTH: 2-18-102, 2-18-604, MCA
IMP: 2-18-619, MCA

STATEMENT OF REASONABLE NECESSITY: The jury duty and witness leave policy rules, which include all of the above-stated rules proposed to be repealed, concern only the internal management of state government because the policy affects state employees' jury duty and witness leave and not the private rights or procedures available to the public. The DOA has determined that the jury duty and witness leave policy is consistent with the type of information not included within the definition of rules as defined in the Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from the Administrative Rules of Montana as part of its policy review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised jury duty and witness leave policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcp> and employees may comment on the proposed jury duty and witness leave policy found at <http://hr.mt.gov/hrpp/policyproposals.mcp>. A notice of this policy review is also posted on the MINE web page, an internal site for state employees. Future proposed revisions will be posted on MINE as well.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., July 12, 2010.

5. Marjorie Thomas, an attorney with the Department of Administration, has been designated to preside over and conduct this hearing.

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

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

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF PUBLIC HEARING ON
2.21.1701, 2.21.1702, 2.21.1703,) PROPOSED REPEAL
2.21.1711, 2.21.1712, 2.21.1713, and)
2.21.1731 pertaining to overtime and)
nonexempt compensatory time)

TO: All Concerned Persons

1. On July 8, 2010, at 2:00 p.m., the Department of Administration will hold a public hearing in Room 136 of the Mitchell Building, at 125 N. Roberts, Helena, Montana, to consider the proposed repeal of the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on July 1, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

3. The department proposes to repeal the following rules:

2.21.1701 SHORT TITLE found at page 2-813 of the Administrative Rules of Montana (ARM).

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

2.21.1702 POLICY AND OBJECTIVES found at ARM page 2-813.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

2.21.1703 DEFINITIONS found at ARM page 2-813.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

2.21.1711 ADMINISTRATION OF OVERTIME COMPENSATION AND NONEXEMPT COMPENSATORY TIME found at ARM page 2-814.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

2.21.1712 OVERTIME COMPENSATION found at ARM page 2-815.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

2.21.1713 NONEXEMPT COMPENSATORY TIME found at ARM page 2-815.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

2.21.1731 CLOSING found at ARM page 2-816.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The overtime and nonexempt compensatory time policy rules, which include all of the above-stated rules proposed to be repealed, concern only the internal management of state government because the policy affects state employees' overtime and nonexempt compensatory time and not private rights or procedures available to the public. The DOA has determined that the overtime and nonexempt compensatory time policy is consistent with the type of information not included within the definition of rules as defined in the Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resources system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from the Administrative Rules of Montana as part of its policy review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised overtime and nonexempt compensatory time policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcp>x and employees may comment on the proposed overtime and nonexempt compensatory time policy found on <http://hr.mt.gov/hrpp/policyproposals.mcp>x. A notice of this policy review is also posted on the MINE web page, an internal site for state employees. Future proposed revisions will be posted on MINE as well.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., July 12, 2010.

5. Marjorie Thomas, an attorney with the Department of Administration, has been designated to preside over and conduct this hearing.

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

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

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rule I, the amendment of ARM	)	PROPOSED ADOPTION,
2.21.3702, 2.21.3703, 2.21.3707,	)	AMENDMENT, AMENDMENT AND
2.21.3708, 2.21.3709, 2.21.3719,	)	TRANSFER, AND REPEAL
2.21.3720, 2.21.3721, 2.21.3723,)	
2.21.3724, 2.21.3726, 2.21.3728,)	
2.21.3735, the amendment and)	
transfer of ARM 2.21.3705, and the)	
repeal of ARM 2.21.3704 and)	
2.21.3715 pertaining to recruitment and)	
selection)	

TO: All Concerned Persons

1. On July 12, 2010, at 1:30 p.m., the Department of Administration will hold a public hearing in Room 136 of the Mitchell Building, at 125 N. Roberts, Helena, Montana, to consider the proposed adoption, amendment, amendment and transfer, and repeal of the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Administration no later than 5:00 p.m. on July 7, 2010, to advise us of the nature of the accommodation that you need. Please contact Linda Davis, Department of Administration, PO Box 200127, Helena, Montana 59620; telephone (406) 444-3796; fax (406) 444-0703; Montana Relay Service 711; or e-mail ldavis@mt.gov.

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

NEW RULE I COMPLIANCE WITH MILITARY SELECTIVE SERVICE ACT

(1) Agencies shall verify that every male person hired on a full-time or part-time basis in permanent or temporary positions has registered in compliance with the federal Military Selective Service Act, except those excluded in (2) of this rule. If an individual has reached his 18th birthday and is under the age of 26, agencies shall require documentation showing he has registered with Selective Service or is exempt from registration. If an individual is age 26 or older and was required to register but has not done so, the individual shall prove to the agency job representative his failure to register was neither known nor willful.

(2) Agencies may exclude certain individuals from their verification procedures who:

(a) were born on or before December 31, 1959;

(b) have been continuously employed in state government without a five-day break in service before July 1, 2001;

- (c) are transferring without a five-day break in service to another position in an agency or in state government;
- (d) have already provided information confirming selective service status; or
- (e) are hired as independent contractors or as employees of temporary service contractors.

(3) Agency managers may determine the types of documentation an individual shall provide showing compliance with the federal Military Selective Service Act. At a minimum, agencies shall require a written statement of selective service status.

(4) Agencies shall request the documentation described in this rule at the time they make an employment offer. Agencies may adopt reasonable timelines for individuals to provide the documentation. The Department of Administration has published the Montana Selective Service Compliance Guide to assist agencies in complying with this rule and the Military Selective Service Act. The guide provides examples of adequate documentation and information about who must register with selective service. If an individual does not provide documentation as required, agencies shall:

- (a) rescind an employment offer; or
- (b) terminate the individual's employment.

(5) Agency managers shall file the Statement of Selective Service Status Form in the employee's permanent personnel file.

AUTH: 2-15-130, MCA

IMP: 2-15-130, MCA

STATEMENT OF REASONABLE NECESSITY: Section 2-15-130, MCA, addressing compliance with the federal Military Selective Service Act, requires that the Department of Administration adopt rules to implement its provisions. New Rule I is proposed to meet this requirement. New Rule I provides guidance to agencies on how to verify all males hired on a full-time or part-time basis have registered in compliance with the federal Military Selective Service Act. The department is proposing the exceptions to help agencies determine state employees who do not have to confirm selective service status and who have an exemption in the statute. The department is proposing to allow agency managers to determine the types of documentation they will accept.

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

2.21.3702 POLICY AND OBJECTIVES ~~(1) It is the policy of the state of Montana to:~~

~~(a) recruit and select employees on the basis of merit and job-related qualifications without consideration of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, national origin as provided in 49-3-201, MCA, or sexual orientation as provided in the Nondiscrimination-Equal Employment Opportunity (EEO) policy, ARM 2.21.4001, et seq.;~~

~~(b) provide qualified applicants with a reasonable opportunity to learn about, apply for, and be considered for positions when external recruitment is conducted.~~

~~(2) Agencies may use a bona fide occupational qualification (BFOQ) where the reasonable demands of a position require such distinction. To establish a BFOQ for a position, an agency must demonstrate that the distinction is reasonably necessary to the normal operations of the agency's business or that the differentiation is based on reasonable factors as provided in 49-3-103, MCA. This means the agency must present evidence that a definable group of employees would be unable to perform the job safely and efficiently or that it would be impossible or highly impractical to consider the qualifications of each such employee and that the BFOQ is reasonably necessary to the operation of the agency.~~

~~(3) An agency may not select an individual for permanent status employment without a competitive recruitment process except as allowed in ARM 2.21.3705.~~

~~(4) It is the objective of this policy to establish minimum standards for fair and consistent treatment of applicants and employees in recruitment and selection that comply with relevant state and federal laws, regulations, and rules.~~

~~(5) Nothing in this policy is intended to preclude the use of recruitment and selection procedures that assist in the achievement of affirmative action objectives. Compliance with these rules does not relieve an agency of any obligations they may have to undertake affirmative action to assure equal employment opportunity.~~

(1) This policy, consistent with applicable state and federal laws, establishes minimum standards for equitable and consistent treatment of applicants and employees in recruitment and selection for state jobs.

(2) Montana state government is committed to:

(a) attracting and retaining a highly qualified workforce based on competencies and job-related qualifications;

(b) providing applicants with a reasonable opportunity to learn about, and apply and be considered for positions when external recruitment is conducted; and

(c) using a competitive recruitment process to select individuals for permanent status employment.

(3) This policy covers all agencies in Montana's executive branch except the Montana University System, the Montana State Fund, elected officials, personal appointed staff of elected officials, and any other position specifically excluded under 2-18-103 and 2-18-104, MCA.

AUTH: 2-18-102, MCA

IMP: 2-18-102, 49-3-103, 49-3-204, MCA

2.21.3703 DEFINITIONS For purposes of this subchapter, the following definitions apply:

~~(1) "Adverse impact" means that members of a group identified and protected from discrimination such as sex, race, or ethnicity who experience a substantially lower rate of selection in hiring, promotion, pay rates, and other benefits of employment. "Applicant" means an individual who satisfies the following three criteria:~~

(a) the individual has indicated an interest in the particular position;

(b) the agency considers the individual for employment in particular position;
and

(c) the individual has followed the agency's standard procedures for submitting applications, resumes, or both.

~~(2) "Agency" means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget, as provided in 2-18-101, MCA, unless excepted in 2-18-103 or 2-18-104, MCA.~~

~~(3) "Bona fide occupational qualification (BFOQ)" means a legal exception to an otherwise discriminatory hiring practice that is allowed where the reasonable demands of a position require an age, physical or mental disability, marital status, sex, religion, or national origin distinction. "Reasonable demands" is to be strictly construed, as provided in 49-2-402, MCA, and the burden rests with the department to demonstrate that the exemption should be granted.~~

~~(4) and (5) remain the same, but are renumbered (2) and (3).~~

~~(6)(4) "Internal recruitment" means the open, competitive solicitation of applications that, at the agency's discretion of the agency, is limited to:~~

~~(a) current employees of the agency, the division, or other appropriate internal unit; or~~

~~(b) employees in a reduction-in-force pool who have been laid off from the agency or participating in the job registry. ; or~~

~~(c) job registry participants.~~

~~(7) "Internet applicant" means an individual who satisfies the following three criteria:~~

~~(a) the agency has acted to fill a particular position;~~

~~(b) the individual has followed the agency's standard procedures for submitting applications; and~~

~~(c) the individual has indicated an interest in the particular position.~~

~~(8)(5) "Job analysis" means the process of gathering, analyzing, and creating information about a position in order to identify the essential duties, functions, roles, and competencies required to perform the work of the position, and the written documentation of the results of the analysis.~~

~~(9) "Job expert" means a person who is knowledgeable about the position being filled or a person who has expertise in the recruitment and selection process.~~

~~(10)(6) "Job-related" means criteria shown by a job analysis to be directly related to specific duties in a job or to be directly related to a qualification or competency a necessary to perform a job qualification or competency.~~

~~(11)(7) "Qualifications" means the minimum competencies needed to perform the job and the education and experience associated with successful job performance requirements needed to perform the job on the first day of employment and the education, experience, and competencies associated with successful job performance.~~

~~(12) "Reasonable accommodation" means:~~

~~(a) a change in the work environment or in the way work is accomplished that enables an individual with a disability to enjoy equal employment opportunities; or~~

~~(b) adjustments to work schedules to accommodate an individual's religious beliefs or practices. (Types of reasonable accommodations and the criteria for evaluating undue hardship can be found in the reasonable accommodation guide~~

and the Nondiscrimination-Equal Employment Opportunity Guide available from the State Personnel Division, Department of Administration web site:
<http://hr.mt.gov/HRServices/policiesguides.asp>.)

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3707 INTERNAL RECRUITMENT (1) ~~An agency may limit internal recruitment to:~~

~~(a) current employees, as defined in 2-18-101, MCA, of the agency, the division, or other appropriate internal unit; or~~

~~(b) current agency employees and employees who have been laid off from the agency within one year of the effective date of layoff.~~

~~(2) An agency may recruit from the job registry before soliciting from the general public.~~

~~(3) An agency may recruit internally to the agency and to the job registry simultaneously unless this practice conflicts with agency policy or the provisions of a collective bargaining agreement.~~

~~(4) Internal vacancy announcements must be posted according to agency policy. The internal vacancy announcements should contain information similar to that required in ARM 2.21.3709.~~

(1) Agency managers shall use a competitive process when recruiting internally to fill permanent positions.

(2) Agency managers may:

(a) limit the internal competitive recruitment process to:

(i) current employees of the agency, division, or other appropriate internal unit; or

(ii) current employees and employees who have been laid off from the agency within one year of the effective date of layoff. Reinstated employees are not required to participate in a competitive process to be rehired as provided in Implementing a Reduction In Force, MOM Policy 3-0155;

(b) limit recruitment to laid-off employees participating in the job registry as provided in Implementing a Reduction In Force, MOM Policy 3-0155. Agency managers are encouraged, but not required, to consider applicants included in the job registry before recruiting from the general public; or

(c) recruit internally to the agency, division, or other appropriate internal unit and to the job registry simultaneously unless this practice conflicts with agency policy or the provisions of a collective bargaining agreement.

(3) Agency managers may consider temporary employees in an internal recruitment; however, student interns and short-term workers are not eligible to compete.

(4) Agency managers may reassign current employees to temporary assignments not exceeding two years without a competitive process. Agency managers shall use a competitive process when filling the position on a permanent basis.

(5) Agency managers shall post internal vacancy announcements according to agency policy. The internal vacancy announcements should contain information similar to that required in ARM 2.21.3709, Vacancy Announcements.

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

~~2.21.3708 EXTERNAL RECRUITMENT (1) An agency must use an external recruitment process unless the agency:~~

~~(a) fills a position through internal recruitment;~~
~~(b) fills a position with an applicant participating in the job registry;~~
~~(c) fills a position with a participant in on-the-job training, work experience, or other programs conducted under the Workforce Investment Act such as dislocated worker programs, adult and youth programs, welfare-to-work programs, Native American programs, and school-to-work programs;~~

~~(d) recalls a seasonal employee, as defined in 2-18-101, MCA, who was selected using a competitive process;~~

~~(e) selects a short-term worker or student intern as defined in 2-18-101, MCA. A short term worker or student intern may be selected without going through a competitive recruitment process; or~~

~~(f) the agency fills a position with a retiree in accordance with ARM 2.21.3705.~~

~~(2) A vacancy announcement for all positions open to external recruitment must be posted with the State of Montana Employment Information website: <http://mt.gov/statejobs/statejobs.asp> for at least five working days. The State of Montana Employment Information website is maintained by the State Personnel Division, Department of Administration.~~

~~(3) Each agency must post vacancy announcements for temporary employment, as defined in 2-18-101, MCA, or for permanent positions being filled on a temporary basis with the State of Montana Employment Information website: <http://mt.gov/statejobs/statejobs.asp> unless the agency decides, on a case-by-case basis, that the position must be filled immediately or other conditions exist that make it impractical to do so.~~

~~(4) An agency may distribute vacancy announcements to appropriate recruitment sources in an endeavor to achieve a diverse workforce from all segments of society.~~

~~(5) An agency may limit external recruitment advertising to a geographic area; however, all properly completed applications received by the closing date must be considered, regardless of whether the applicant resides within that geographic area.~~

~~(6) An agency may use an applicant search service or an Internet recruitment service to accept applicants including Internet applicants for vacant positions that are opened to external recruitment.~~

(1) Agency managers shall use an external competitive recruitment process unless the agency:

(a) fills a position through internal recruitment, as provided in ARM 2.21.3707, Internal Recruitment;

(b) fills a position with a participant in on-the-job training, work experience, or other programs such as those conducted under the federal Workforce Investment Act. Examples include:

- (i) dislocated worker programs;
- (ii) adult and youth programs;
- (iii) welfare-to-work programs;
- (iv) Native American programs;
- (v) veterans' employment and disabled veterans outreach programs;
- (vi) programs authorized under Title I, parts A and B of the federal

Rehabilitation Act; and

- (vii) school-to-work programs;

(c) recalls a seasonal employee, as defined in 2-18-101, MCA, who was originally selected using a competitive process;

(d) selects a short-term worker or student intern as defined in 2-18-101, MCA; or

(e) fills a position with a retiree consistent with ARM 2.21.3705 (2.21.3710), Limited Reemployment for Retirees.

(2) Agency managers shall post a vacancy announcement for all positions open to external recruitment on the State of Montana Employment Information web site for at least five working days. The State Human Resources Division, Department of Administration, maintains the State of Montana Employment Information web site <http://mt.gov/statejobs/statejobs.asp>.

(3) Agency managers shall post vacancy announcements for temporary employment, as defined in 2-18-101, MCA, or for permanent positions being filled on a temporary basis with the State of Montana Employment Information web site, unless the agency director or designee decides the position must be filled immediately or other conditions exist that make it impractical to follow procedures outlined in this policy.

(4) Agency managers may do, but are not limited to, the following:

(a) distribute vacancy announcements to appropriate recruitment sources in an effort to achieve a diverse workforce;

(b) limit external recruitment advertising to a geographic area. However, all properly completed applications received by the closing date must be considered, regardless of whether the applicant resides within that geographic area; and

(c) seek applicants for vacant positions using an applicant search service.

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

~~2.21.3709 EXTERNAL VACANCY ANNOUNCEMENTS (1) External vacancy announcements must contain all the information required by the state's guidelines for preparing a vacancy announcement.~~

~~(2) The guidelines are incorporated by reference and available from the State Personnel Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, telephone (406) 444-3871, or on the State Personnel Division web site: <http://hr.mt.gov/HRServices/policiesguides.asp>.~~

(1) Vacancy announcements must be clear, concise, and well-organized. At a minimum, they should contain all the information provided in the state's Guidelines for Preparing Vacancy Announcements found at the State Human Resources web site: <http://hr.mt.gov/hrpp/guides.mcpx> and also available from the State Human Resource Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, telephone (406) 444-3871.

AUTH: 2-18-102, MCA
IMP: 2-18-102, ~~49-3-204~~, MCA

2.21.3719 DEVELOPMENT OF SELECTION PROCEDURES ~~(1) Selection procedures must be developed in advance of any review of applicant qualifications by job experts familiar with the position.~~

~~(2) Each selection procedure must include job-related criteria obtained from a job analysis.~~

~~(a) An agency should review the written position description or job profile to be sure that it accurately describes the current job duties, competencies, and qualifications.~~

~~(b) An agency should review and follow the procedures in the "Recruitment and Selection Manual" published by the State Personnel Division, Department of Administration, which is available on the State Personnel Division website: <http://hr.mt.gov/HRServices/policiesguides.asp>.~~

~~(3) Selection procedures must have written criteria against which applicant qualifications can be evaluated, such as suggested responses and a rating scale.~~

~~(4) An agency may use any selection procedure or combination of procedures that best assess the job qualifications. Provision shall be made for periodic update and review of selection procedures.~~

(1) Individuals familiar with the position shall develop selection procedures before any review of applicant qualifications.

(2) Each selection procedure must be job-related and based on a current job analysis.

(a) Agency managers shall review the written position description or job profile to ensure it accurately describes the current job duties, competencies, education, and experience to perform the job.

(b) For further guidance, agency managers may refer to the Recruitment and Selection Manual found at the State Human Resources Division web site: <http://hr.mt.gov/hrpp/guides.mcpx> and also available from the State Human Resources Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, or telephone (406) 444-3871.

(3) Selection procedures must include defined processes measuring the applicant's suitability for a particular position based on job requirements and ability to integrate successfully into the work unit and agency's culture.

(4) Agency managers may use any selection procedure or combination of procedures that best assess the applicant against the job qualifications. Agencies shall annually review and update their selection procedures.

AUTH: 2-18-102, MCA
IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3720 ADMINISTRATION OF SELECTION PROCEDURES (1) ~~All applicants remaining at each step in the selection process shall be treated consistently with regard to~~ During each step in the selection processes, agency managers shall consistently apply selection procedures regarding:

(a) content of the procedure applied;
(b) sequence of procedures;
(c) persons involved in administering the process; and
(d) the maximum amount of time allotted wherever timed procedures are used.

(2) Consistent treatment does not mean identical treatment.

AUTH: 2-18-102, MCA
IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3721 EVALUATION OF QUALIFICATIONS (1) ~~An agency will determine whether an applicant meets the job qualifications. Persons involved in evaluating applicant qualifications must be job experts.~~

(2) ~~Job experts shall use job-related criteria, such as education and experience, suggested responses to questions, and rating scales to evaluate applicant qualifications against job qualifications.~~

(3) ~~Evaluation techniques should permit an applicant to be compared against the job qualifications as well as to others in the applicant pool.~~

(1) Agency managers and individuals involved in the selection shall use job-related processes to evaluate the applicant's qualifications against the job requirements and ability to integrate successfully into the agency's culture.

(2) Agency managers and individuals involved in the selection process shall recognize the unique backgrounds and experiences of each applicant. Selection procedures must be flexible enough to elicit information about the applicant's qualifications and potential contributions to the work unit. Agency managers shall compare applicants to the job qualifications and others in the applicant pool to select the best applicant for the job and work unit.

(4)(3) A selection may be made Agency managers may select from any of the most qualified group of applicants. The public employment hiring preferences must be applied as provided in Vveterans' Employment Preference, MOM Policy 3-0172, revised October 3, 2003; Persons with Disabilities Employment Preference, MOM Policy 3-0171, revised February 11, 2000; and as provided in 2-18-111, MCA, Hiring preference for residents of Indian reservations for state jobs within reservation. These policies are incorporated by reference and are also available from the State Personnel Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, or telephone (406) 444-3871.

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3723 INTENTIONAL MISREPRESENTATION (1) ~~Agencies~~ Agency managers may exclude an applicant from further consideration for employment or discharge an employee if it they learns ~~that~~ an applicant intentionally misrepresented facts about ~~his or her~~ their qualifications or job history during the recruitment and selection process.

(2) ~~Applicants shall be notified that willful misstatements of qualifications may exclude them from further consideration for the position or may result in discharge from employment.~~ The state employment process (online and traditional application) includes a verification notice. The information applicants provide is subject to verification. Willful misstatements of qualifications may exclude an applicant from further consideration for the position or may result in discharge from employment.

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3724 NOTIFICATION OF APPLICANTS (1) Agency managers shall notify all applicants of their status in the selection process.

(2) As provided in ARM 2.21.1428, Hiring Decision (Persons with Disabilities Employment Preference policy) and 2.21.3617, Hiring Decision (Veterans' Employment Preference policy), when an applicant claims ~~for an applicant claiming~~ an employment preference, agencies agency managers must shall:

- (a) provide the applicant a written notice of the hiring decision; and
- (b) maintain a record of the notification and date sent. ~~of which applicants were notified; and~~
- (c) ~~record the date the notification was sent.~~

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3726 DOCUMENTATION (1) ~~The following documentation must be included~~ Agency managers shall document the following in the recruitment and selection process:

- (a) job information;
 - (b) screening information; and
 - (c) applicant information.
- (2) For the purposes of this subchapter, "job information" ~~means~~ includes but is not limited to:
- (a) a description of the current duties of the job;
 - (b) a copy of the vacancy announcement;
 - (c) a copy of newspaper or journal advertising, if any;
 - (d) ~~and~~ a list of all recruitment sources used; and
 - (~~d~~) (e) a copy of Internet posting, if any.
- (3) For the purposes of this subchapter, "screening information" ~~means~~ includes but is not limited to:

(a) a copy of all selection procedures and any criteria used to evaluate qualifications ~~such as suggested responses and rating scales; and~~

(b) the names and titles of any persons who participated in the design or administration of the selection procedures; and

(c) a statement of why and how the hiring decision was made.

(4) For the purposes of this subchapter, "applicant information" ~~means~~ includes, but is not limited to:

(a) all applications, supplemental question responses, scoring evaluation notes, reference checks, and any other application materials received;

(b) ~~records or other information necessary for the applicant flow survey applicants' demographic information from the applicant survey page;~~ and

(c) correspondence with applicants.

(5) ~~The items listed in this rule must be maintained for a period of time consistent with the employee record keeping policy, MOM Policy 3-0110, revised June 12, 1992. This policy is incorporated by reference and available from the State Personnel Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, telephone (406) 444-3871, or on the State Personnel Division web site:~~

<http://hr.mt.gov/HRServices/policiesguides.asp>. Agencies shall maintain items listed in this rule for a period of time consistent with the General Records Retention Schedule found at http://sos.mt.gov/Records/State_Forms.asp and also available from Records and Information Management, Montana Secretary of State, 130 Bozeman Street, P.O. Box 202801, Helena, MT 59620, telephone (406) 444-9000.

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3728 ACCESS TO DOCUMENTATION AND CONFIDENTIALITY

(1) Job information as described in ARM 2.21.3726~~(2)~~ is public information.

(2) Screening information as described in ARM 2.21.3726~~(3)~~ is public information; however, an agency may maintain the confidentiality of selection procedures and criteria ~~as set forth in ARM 2.21.3726~~ if:

(a) the agency can establish a legitimate business need to reuse the procedures and criteria; or

(b) ~~the agency managers~~ determines public disclosure of the information would jeopardize the agency's ability to select the best-qualified candidate for the position.

(3) Applicant information ~~as~~ described in ARM 2.21.3726~~(4)~~ is confidential pursuant to Montana's constitutional guarantee of privacy; however, an agency may release applicant information to third parties if the agency:

(a) receives a ~~properly executed~~ court order;

(b) receives a ~~properly executed~~ release from the applicant; or

(c) notifies applicants, as part of the application or selection process, ~~notifies applicants~~ that upon weighing the merits of public disclosure against an applicant's individual privacy interests, the agency has determined ~~that~~ continued consideration for the position was contingent upon the applicant providing authorization for release of specified applicant information.

(4) ~~Release of Agency managers shall release~~ applicant information under (3) ~~will be made in accordance~~ consistent with the terms of the court order or release.

AUTH: 2-18-102, MCA
IMP: 2-18-102, ~~49-3-201~~, MCA

2.21.3735 CLOSING (1) ~~Provisions of this policy not required by statute shall be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable~~ This subchapter must be followed unless it conflicts with negotiated labor agreements or specific statutes, which govern to the extent applicable.

AUTH: 2-18-102, MCA
IMP: 2-18-102, ~~49-3-201~~, MCA

STATEMENT OF REASONABLE NECESSITY: Following its required biennial review of rules, the Department of Administration proposes to amend 2.21.3702, 2.21.3703, 2.21.3707, 2.21.3708, 2.21.3709, 2.21.3719, 2.21.3720, 2.21.3721, 2.21.3723, 2.21.3724, 2.21.3726, 2.21.3728, and 2.21.3735 of the Recruitment and Selection policy to increase flexibility in the designing recruitment processes, emphasizing job requirements and the candidate's appropriate fit, to improve writing style and clarity, and to remove definitions that are not pertinent to or mentioned in the policy. In addition, the policy no longer references 49-3-201, MCA, which addressed nondiscrimination. Prohibition of illegal discrimination is included in the Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention, MOM Policy 3-0630.

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

2.21.3705 (2.21.3710) LIMITED REEMPLOYMENT FOR RETIREES (1) ~~An agency may reemploy an employee who previously retired from the agency without a competitive hiring process if~~ Agency managers may reemploy, without a competitive hiring process, an employee who previously retired from the agency if:

(a) through (c) remain the same.

(2) ~~An agency must~~ Agency managers shall document the reasons for reemployment and why it was ~~determined to be~~ in the agency's best interests. The documents must be kept in employee's permanent personnel file.

(3) ~~Reemployment under this rule is subject to the hour and wage limitations set forth for retirees in 19-3-1106 and 19-20-731, MCA.~~ The hour and wage limitations set forth for retirees in 19-3-1106 and 19-20-731, MCA, apply to retiree reemployment. Questions concerning hour and wage limitations should be directed to the Montana Public Employee Retirement Administration or Montana Teachers' Retirement System.

AUTH: 2-18-102, MCA

IMP: 2-18-102, ~~49-3-201~~, MCA

STATEMENT OF REASONABLE NECESSITY: Following its required biennial review of rules, the Department of Administration proposes to amend ARM 2.21.3705 of the Recruitment and Selection policy to improve writing style and clarity. Transferring this rule places the internal recruitment and external recruitment rules more commonly used before this rule.

6. The department proposes to repeal the rules as follows:

2.21.3704 JOB REGISTRY PROGRAM AND REEMPLOYMENT FOLLOWING LAY-OFF found on page 2-1105 of the Administrative Rules of Montana.

AUTH: 2-18-102, MCA

IMP: 2-18-102, 2-18-1201, 2-18-1202, 2-18-1203, 2-18-1204, 2-18-1205, 2-18-1206, 49-3-201, MCA

2.21.3715 EQUAL EMPLOYMENT OPPORTUNITIES found on page 2-1113 of the Administrative Rules of Montana.

AUTH: 2-18-102, MCA

IMP: 2-18-102, 49-3-201, MCA

STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration proposes the repeal of ARM 2.21.3704 and 2.21.3715 because the text of these rules will now appear as part of the proposed Implementing a Reduction in Force Policy, MOM Policy 03-0155, and Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention Policy, MOM Policy 3-0630.

7. 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 Linda Davis, Department of Administration, PO Box 200127, Helena, Montana 59620; telephone (406) 444-3796; fax (406) 444-0703; or e-mail ldavis@mt.gov, and must be received no later than 5:00 p.m., July 12, 2010.

8. Linda Davis, Department of Administration, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this department. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding employee personnel management rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or

delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

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

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF PUBLIC HEARING ON
2.21.3801, 2.21.3802, 2.21.3803,) PROPOSED REPEAL
2.21.3807, 2.21.3808, 2.21.3809,)
2.21.3810, 2.21.3811, and 2.21.3822)
pertaining to probation)

TO: All Concerned Persons

1. On July 8, 2010, at 2:30 p.m., the Department of Administration will hold a public hearing in Room 136 of the Mitchell Building, at 125 N. Roberts, Helena, Montana, to consider the proposed repeal of the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on July 1, 2010, to advise us of the nature of the accommodation needed. Please contact Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; Montana Relay Service/TDD 711; or e-mail mthomas2@mt.gov.

3. The department proposes to repeal the following rules:

2.21.3801 SHORT TITLE found at page 2-1131 of the Administrative Rules of Montana (ARM).

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3802 POLICY AND OBJECTIVES found at ARM page 2-1131.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3803 DEFINITIONS found at ARM page 2-1131.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3807 PERMANENT STATUS found at ARM page 2-1137.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3808 PROBATIONARY PERIOD found at ARM page 2-1137.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3809 EXTENSION OF PROBATIONARY PERIOD found at ARM page 2-1138.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3810 DISCHARGE OF A PROBATIONARY EMPLOYEE found at ARM page 2-1138.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3811 PROMOTED OR REASSIGNED EMPLOYEES found at ARM page 2-1138.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

2.21.3822 CLOSING found at ARM page 2-1145.

AUTH: 2-18-102, MCA
IMP: 2-18-101, 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The probation policy rules, which include all of the above-stated rules proposed to be repealed, concern only the internal management of state government because the policy affects state employees' probation and not private rights or procedures available to the public. The DOA has determined that the probation policy is consistent with the type of information not included within the definition of rules as defined in the Montana Administrative Procedure Act. According to the definition of "rule" in 2-4-102(11)(a) and (b), MCA, rules do not include "rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resources system." This language was included in statute in 2003, and the State Human Resources Division has been removing its internal administrative policies from the Administrative Rules of Montana as part of its policy review process.

Repealing these rules from ARM does not mean that the policy is no longer effective. Agencies are still bound to follow the policy. A revised probation policy for state employees will be included instead in the Montana Operations Manual (MOM), a document that addresses the internal management of state government. MOM policies may be found at <http://hr.mt.gov/hrpp/policies.mcp> and employees may comment on the proposed probation policy found on

<http://hr.mt.gov/hrpp/policyproposals.mcp>. A notice of this policy review is also posted on the MINE web page, an internal site for state employees. Future proposed revisions will be posted on MINE as well.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Marjorie Thomas, Department of Administration, P.O. Box 200127, 125 N. Roberts, Helena, Montana 59620; telephone (406) 444-3982; fax (406) 444-0703; or e-mail mthomas2@mt.gov, and must be received no later than 5:00 p.m., July 12, 2010.

5. Marjorie Thomas, an attorney with the Department of Administration, has been designated to preside over and conduct this hearing.

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

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

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State June 1, 2010.

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

In the matter of the amendment of ARM)	NOTICE OF EXTENSION OF
17.30.502, 17.30.619, 17.30.702,)	COMMENT PERIOD ON
17.30.1001, 17.36.345, 17.55.102,)	PROPOSED AMENDMENT
17.56.507, and 17.56.608 pertaining to)	
Department Circular DEQ-7)	(WATER QUALITY)
)	(SUBDIVISIONS)
)	(CECRA)
)	(UNDERGROUND STORAGE
)	TANKS)

TO: All Concerned Persons

1. On April 15, 2010, the Board of Environmental Review and the Department of Environmental Quality published MAR Notice No. 17-303 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 818, 2010 Montana Administrative Register, issue number 7. The notice provided for public comment on the rule amendments. In addition, the notice solicited comments on any aspect of Montana's water quality standards that the commentor believes should be considered for potential revision. The board and department are publishing this amended notice to extend the public comment period on both these matters as provided in the next paragraph because a representative of a nongovernmental organization requested additional time to comment.

2. Written data, views, or arguments regarding the rule amendments and changes to Department Circular DEQ-7 may be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., June 16, 2010. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

Comments regarding the triennial review of water quality standards should be submitted in writing to Rod McNeil, Planning, Prevention and Assistance Division, Water Quality Standards Section, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-6836; or e-mailed to rmcneil@mt.gov, no later than 5:00 p.m., June 16, 2010.

3. The board and department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking action or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., June 14, 2010, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

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

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

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

BY: /s/ Joseph W. Russell
JOSEPH W. RUSSELL, M.P.H.,
Chairman

DEPARTMENT OF ENVIRONMENTAL
QUALITY

BY: /s/ Richard H. Oppen
RICHARD H. OPPER, Director

Certified to the Secretary of State, June 1, 2010.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PROPOSED
Rules I through VI and the	)	ADOPTION AND AMENDMENT
amendment of ARM 18.2.101)	
pertaining to incorporation of model	)	NO PUBLIC HEARING
rules and contested case procedures	)	CONTEMPLATED

TO: All Concerned Persons

1. On July 11, 2010, the Department of Transportation proposes to adopt and amend the above-stated rules.

2. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Transportation no later than 5:00 p.m. on July 1, 2010, to advise us of the nature of the accommodation that you need. Please contact Renee Wuertley, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-9455; fax (406) 444-7206; TDD/Montana Relay Service (406) 444-7696; or e-mail rwuertley@mt.gov.

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

NEW RULE I 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 ARM 1.3.218.

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

(3) The hearing must be recorded on an electronic sound recorder (tape recorder, digital sound recorder, or other electronic sound recorder) unless either party demands a stenographic record. The cost of a stenographic record must be paid by the requesting party.

(4) Absent a determination by the presiding officer that the interests of justice require otherwise, the order of hearing is as follows:

(a) any opening statements requested or allowed by the presiding officer;

(b) presentation of evidence by the party asserting a claim for relief (the challenging party);

(c) cross examination by the opposing party;

(d) presentation of evidence by the opposing party;

(e) cross examination by the challenging party; and

(f) rebuttal testimony.

(5) Exhibits must be marked and must identify the person offering the exhibits. The exhibits shall be preserved by the agency as part of the record of the proceedings.

(6) The presiding officer may hear closing arguments, request supporting briefs, and/or order a schedule for parties to submit proposed findings of fact and conclusions of law.

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

(8) The party challenging the agency action bears the burden of proof.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

REASON: The proposed adoption of New Rule I is necessary to add two subsections that do not appear in the Attorney General's model rules, for use by the department in contested case hearings. The department's proposed rule adds (2) as a requirement that recording of the hearing occur via tape recorder, digital sound recorder or other sound recorder, as opposed to a stenographic recording. This requirement will clarify how the hearing is to be recorded in all cases. The department's proposed rule also adds (8) on burden of proof. As per Montana Environmental Fund v. DEQ, 2005 MT 96, 326 Mont. 502, 112 P.3d 964, the Montana Supreme Court clarified the party challenging the agency's decision bears the burden of proof in an administrative proceeding. Proposed (8) will clarify the effect of that court decision in the administrative rule for all parties appearing before the department.

NEW RULE II CONTESTED CASES, RECORD (1) The record in a contested case must include:

- (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 of fact and conclusions of law, supporting briefs and exceptions; and
- (f) any decision, opinion, or report by the presiding officer which must be in writing.

(2) At the request of any party, the record must be transcribed. The cost of transcription is the responsibility of the requesting party.

(3) If a party seeks judicial review of a final agency decision, the hearing record (if any) must be transcribed. The cost of transcription is the responsibility of the party appealing the final agency decision.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

REASON: The proposed adoption of New Rule II is necessary to expand (1)(e) and add (3) beyond the language contained in the Attorney General's Model Rule at ARM 1.3.220. Proposed (1)(e) will include findings of fact, conclusions of law, supporting briefs and exceptions as part of the record, to clarify for parties appearing before the department that these documents are also part of the contested case

record. Proposed (3) will add language on the requirement for a transcription to be made of any hearing which was held, in the event of an appeal. The language will clarify both the requirement itself and the responsibility for the costs of transcription for parties appearing before the department in a contested case proceeding.

NEW RULE III GENERAL RULES, REPRESENTATION (1) A person appearing before the agency has the right to be accompanied, represented, and advised by a licensed attorney. The agency shall advise a party to a contested case of the right to legal counsel.

(2) A corporation, partnership, limited liability company, limited liability partnership, cooperative, unincorporated association, estate, or trust appearing before an agency is considered a separate legal entity and may not appear on its own behalf through an agent other than a licensed attorney.

(3) A person appearing before an agency may proceed pro se, but may not appear through an agent other than a licensed attorney.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

REASON: The proposed adoption of New Rule III is necessary to add additional language to (2) on entity forms which require representation by a licensed attorney. The Attorney General's Model Rule ARM 1.3.231 lists only "corporation" as requiring attorney representation. The department's proposed rule will clarify that any of the business forms listed require representation by a licensed attorney in a contested case matter. Proposed (3) will clarify a person may represent himself/herself, but cannot be represented by another person unless that person is a licensed attorney. This will address lingering questions whether a person may be represented by an accountant or other agent, by clearly stating a person may only be represented by a licensed attorney when appearing before the department.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

NEW RULE IV MOTIONS FOR SUMMARY JUDGMENT (1) Any party may move, with or without supporting affidavits, for summary judgment in the party's favor upon all or some of the contested issues in any proceeding that comes before the department. A motion for summary judgment may be granted if the motion, affidavits, and other documentation show that there is no genuine issue as to any material fact and one party is entitled to a favorable decision as a matter of law.

(2) A party is entitled to a hearing on a motion for summary judgment.

AUTH: 2-4-201, MCA

IMP: 2-4-201, MCA

REASON: The proposed adoption of New Rule IV is necessary to clarify the ability of any party to move for and be granted summary judgment when appearing before the department. The Montana Supreme Court held in *Matter of Peila*, 249 Mont.

272, 815 P.2d 139 (1991) that disposition of a contested case was proper by way of summary judgment and that the hearing on a motion for summary judgment was sufficient to satisfy 2-4-601, MCA. The Attorney General's Model Rules do not address summary judgment, so the department will clarify via New Rule IV that summary judgment has been found by the court to be proper and may be used when appearing before the department.

NEW RULE V TIME COMPUTATION (1) Time computation shall be governed by Rule 6(a) and 6(e), Mont. R. Civ. P.

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

REASON: The proposed adoption of New Rule V is necessary to provide some timelines for conduct of a contested case matter before the department. The Attorney General's Model Rules do not contain any timeline designations, thus the department clarifies via New Rule V that all time frames for filing of documents and for other matters will be identical to time frames used in the Montana Rules of Civil Procedure in all district courts in this state for parties appearing in a matter before the department.

NEW RULE VI INFORMAL DISPOSITION OBJECTIONS, PETITION FOR JUDICIAL REVIEW (1) A party to an informal proceeding who is dissatisfied with a proposed decision may file written objections but is not entitled to oral argument before the agency decision maker. Written objections must be filed within ten days of receipt of the proposed decision.

(2) A party who is dissatisfied with an informal agency decision may petition the district court as provided in 2-4-701, et seq., MCA.

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

REASON: The proposed adoption of New Rule VI is necessary to add language on filing of objections and petitioning for judicial review of information dispositions when appearing before the department. The Attorney General's Model Rules do not contain any language on these processes, thus New Rule VI is necessary to clarify the procedures for parties appearing before the department.

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

18.2.101 MODEL PROCEDURAL RULES (1) ~~Unless otherwise provided by law, the~~ The ~~Department of~~ Department of ~~Transportation herein~~ adopts and incorporates by reference the Attorney General's right of participation procedural rules ARM 1.3.101 through 1.3.233, which set forth the attorney general's model rules for all matters which are within the scope of the Montana Administrative Procedure Act, 2-4-101 through 2-4-711, MCA. A copy of the model procedural rules may be obtained from

the Department of Transportation, P.O. Box 201001, Helena, MT 59620-1001. and 1.3.102; the Attorney General's organizational and procedural rules ARM 1.3.201 through 1.3.233; and the Secretary of State's organizational and procedural rules ARM 1.3.301 through 1.3.313 with the exceptions contained in this subchapter.

(2) A copy of the model procedural rules may be obtained from the Department of Transportation, P.O. Box 201001, Helena, MT 59620-1001.

AUTH: 2-4-201, ~~2-4-202~~, MCA

IMP: 2-4-201, MCA

REASON: The proposed amendment to ARM 18.2.101 is necessary to correct the reference to the model rules which were amended and transferred by the Attorney General's Office and the Secretary of State in 2008. The amendment will contain the correct references to model rules on public participation, contested case procedures, declaratory rulings, and rulemaking, all as required by the Montana Administrative Procedures Act. The proposed amendment will also clarify that the department proposes to adopt some exceptions and additions to the Attorney General's Model Rules on contested case proceedings.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Renee Wuertley, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-9455; fax (406) 444-7206; or e-mail rwuertley@mt.gov, and must be received no later than 5:00 p.m., July 8, 2010.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Renee Wuertley at the above address no later than 5:00 p.m., July 8, 2010.

7. If the agency receives requests for a public hearing on the proposed action from either ten percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 4 persons based on an average of 40 contested cases before the department annually.

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

delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

9. 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 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 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.

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

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

/s/ Jim Lynch
Jim Lynch
Director
Department of Transportation

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING
23.16.116 and 23.16.122 concerning) ON PROPOSED AMENDMENT
transfer of interest among licensees and)
loan evaluation)

TO: All Concerned Persons

1. On July 1, 2010, at 9:00 a.m., the Montana Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on June 28, 2010, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

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

23.16.116 TRANSFER OF INTEREST AMONG LICENSEES (1) Except as provided in ~~(8)(9)~~, an ownership interest may not be transferred among existing owners without submitting an amended gambling license application to the department and obtaining department approval prior to the transfer.

(2) through (3)(c) remain the same.

(d) if the transferring spouse will no longer be a licensee, copies of letters or other documents from lenders, landlords, or other parties to whom the licensee is obligated, which release the spouse from primary responsibility for the obligation, although the transferring spouse may still guarantee the obligation; ~~and~~

(e) if the transferring spouse is no longer a licensee, an updated bank signature card; and

(f) if the licensed entity is a corporation, copies of the cancelled and newly issued stock certificates.

(4) remains the same.

(a) gifting statement which provides the names of the parties, the intent of the parties, and the percentage ownership to be transferred through the gift; ~~and~~

(b) copy of the licensee's most recent financial statements or tax return; and

(c) if the licensed entity is a corporation, copies of the cancelled and newly issued stock certificates.

(5) Gambling activities may continue pending the outcome of a license investigation for a proposed transfer of ownership in a licensed operation from a sale and purchase among owners of that license. This type of transfer must be reported on a Form 37 along with the following documents:

(a) transfer documents that include all terms of sale/transfer;

(b) if the licensed entity is a corporation, copies of the cancelled and newly issued stock certificates;

(c) source of funding documents for the purchase, e.g., bank statements supporting cash payments, loan and security agreements, installment payment agreements, etc.;

(d) copy of licensee's most recent financial statements or tax return;

(e) if the seller/transferor will no longer be a licensee, copies of letters or other documents from lenders, landlords, or other parties to agreements with which the licensee is obligated, which release the seller from primary responsibility for the obligation, although the seller/transferor may still guarantee the obligation; and

(f) if the seller is no longer on the license, an updated bank signature card.

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

AUTH: 23-5-115, MCA

IMP: 23-5-115, 23-5-118, 23-5-176, MCA

RATIONALE AND JUSTIFICATION: This rule amendment is reasonable and necessary to implement, as recommended by the Gaming Advisory Council, additional streamlined processes for licensees to report changes in ownership under limited circumstances. The council had previously recommended, and the department adopted, similar rule changes designed to create a streamlined process for notice to the department for changes in license ownership where there would be a change among owners only, and no new party was to be added to the license. As a result, the department created a new application form (Form 37) in order to reduce the paperwork to be filed with the department for certain changes in ownership among licensees. Similarly, these rule changes reflect the council's subsequent recommendation to extend these paperwork reduction processes to the reporting of ownership changes for the sale of interests among licensees, because a complete combined application, and its associated documents, is not required by the department when the resulting ownership will include no party who is not already an owner of the license.

These rule amendments establish the use of Form 37 to report these limited ownership changes, and identify for licensees the documents required to be filed with the department in order to establish the proposed ownership changes. These amendments also clarify that gambling activities may continue pending department approval of the ownership changes submitted on Form 37.

23.16.122 LOAN EVALUATION - INSTITUTIONAL LENDER SECURITY INTERESTS – GUARANTOR PAYMENTS (1) The department will evaluate a transaction to determine if it is a loan using standards in the Uniform Commercial Code, the Internal Revenue Code, and generally accepted commercial lending practices. Loans will also be evaluated in the context of overall financing of the

business to determine that a loan rather than an ownership interest exists and that the contract does not grant the lender control of the licensed operation.

(2) Institutional lenders may secure loans made to a license applicant or licensee with security interests on assets belonging to the applicant or licensee. In securing the assets of a license applicant or licensee, an institutional lender may limit the movement of the assets, including a liquor license.

(3) For loans made to a license applicant or licensee, an institutional lender may require loan guarantees and may secure guarantee agreements with assets of the guarantor.

(4) An institutional lender may require payment from loan guarantors without initially exhausting all remedies against the borrower under the following conditions:

(a) if the guarantor is an owner of the applicant/licensee, i.e., partner, shareholder, member, and payment is made with the owner/guarantor's own funds or funds borrowed from an institutional source;

(b) if the guarantor is not an owner, payment may only be made as a loan to the owners or licensed borrower/entity. Funds used to loan the money for the payment under the guarantee, must be the guarantor's own funds or funds borrowed from an institutional source. The guarantor must also be found suitable as a source of credit as part of the application or loan approval process by submitting a personal history statement (Form 10) and a complete set of fingerprints (Form FD-258).

(5) A loan guarantor must annually elect to treat payments made under a loan guarantee agreement as loans, paid in capital, or other equity contributions, as required by the Internal Revenue Code.

(a) If the guarantor elects to treat the payments as loans to the licensee, the licensee must follow requirements for disclosing noninstitutional lenders found in ARM 23.16.120(7).

(b) If the guarantor elects to treat payments as an equity contribution, and such election changes the percentage of ownership in the license, an amended license application must be filed with the department at the time of the election to disclose the change.

AUTH: 23-5-115, MCA

IMP: 16-4-801, 23-5-115, 23-5-118, 23-5-176, MCA

RATIONALE AND JUSTIFICATION: A person must receive both an on-premises alcoholic beverage license (from the Department of Revenue) and a gambling operator license (from the Department of Justice) in order to offer video gambling machines and live poker tables to the public. As a result, the Legislature has created a single, combined application process with nearly the same suitability standards for licensure. These standards include disclosure requirements and standards of review for suitability for ownership, as well as review and approval for financial arrangements incidental to the license application.

The 2009 Legislature, in HB94, amended 16-4-801, MCA, to declare that a regulated lender can use standard loan documents to obtain a security interest in a liquor license, and that use of those standard loan documents does not constitute unauthorized control over the licensed business. This rule amendment is

reasonable and necessary because it reflects this same legislative intent in the department's evaluation of institutional loans for gambling licensees.

This rule amendment also recognizes current banking practices that may require guarantee agreements with third parties when it makes loans to gambling licensees. As the department is directed to adopt rules to implement the gambling statutes, and strictly control ownership of gambling businesses, this rule amendment is necessary to establish limits on, and requirements for, third party guarantors in order to prohibit unauthorized control over gambling licenses or licensees.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; fax (406) 444-9157; or e-mail rask@mt.gov, and must be received no later than July 8, 2010.

5. An electronic copy of this Notice of Proposed Amendment is available through the Department of Justice's web site at <http://doj.mt.gov/resources/administrativerules.asp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that 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 of Justice 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.

6. The Department of Justice maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Consumer Protection Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to Rick Ask, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; fax (406) 444-9157; or e-mail rask@mt.gov, or may be made by completing a request form at any rules hearing held by the Department of Justice. A copy of the interested persons request form may be printed from the Department of Justice's web site at <http://www.doj.mt.gov/resources/forms/interestedperson.pdf>, and mailed to the rule reviewer.

7. Cregg Coughlin, Assistant Attorney General, Gambling Control Division, has been designated to preside over and conduct the hearing.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on May 21, 2010 by e-mail.

By: /s/ Steve Bullock
STEVE BULLOCK
Attorney General, Department of Justice

/s/ J. Stuart Segrest
J. STUART SEGREST
Rule Reviewer

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC
42.2.325 relating to Confidentiality of Tax) HEARING ON PROPOSED
Records) AMENDMENT

TO: All Concerned Persons

1. On July 8, 2010, at 9:00 a.m., a public hearing will be held in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the amendment of the above-stated rule.

Individuals planning to attend the hearing shall enter the building through the east doors of the Sam W. Mitchell Building, 125 North Roberts, Helena, Montana.

2. The Department of Revenue 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 of Revenue no later than 5:00 p.m., June 30, 2010, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-4375; or e-mail canderson@mt.gov.

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

42.2.325 ACCESS TO INFORMATION (1) The department files, other than those files required by law to be closed, are open to public inspection in accordance with established department policy. These files are located at various department offices in Montana. Copies of specific documents are available in accordance with department policy entitled, "Agency Documents - Access and Photocopying," 2.1.4, dated ~~January 15, 1999~~ June 3, 2003.

(2) All requests for confidential tax returns or tax return information must be made to the department in writing directed to:

Department of Revenue
Legal Services Disclosure Office
P.O. Box 7701
Helena, MT 59604-7701.

(3) A taxpayer may authorize a representative to obtain the taxpayer's confidential tax information by completing and submitting the department's Power of Attorney form, form POA. The downloadable form is located on the department's web site at <http://revenue.mt.gov> under "forms and resources" "downloadable forms".

(4) Except as provided in (5), when the department receives a written request

for confidential tax return information from someone who is not statutorily authorized to receive it, the department will respond in writing refusing the request.

(5) The department complies with the State Tax Appeals Board's order to provide relevant confidential realty transfer certificate information to requesting taxpayers who are appealing the department's valuation of their property for comparable sales that the department used in valuing the taxpayer's property. Confidential realty transfer certificate information is available in accordance with the department procedure entitled, "Taxpayer/Agent Review of Confidential Information," 2-4-003, dated August 12, 2003, last revised May 19, 2009.

(6) When the department is served with an administrative summons, judicial summons, or subpoena demanding confidential tax return information on behalf of someone who is not statutorily authorized to receive it, the department will oppose the request by filing a motion to quash with the judicial body that issued it or under whose authority it was issued, and will appeal any adverse ruling that implicates the department's view of proper tax administration. The department will not disobey an order to provide the information according to a final judicial order.

AUTH: 15-1-201, 15-7-306, 15-30-2620, 15-31-501, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: Montana constitution, Art. II, sections 8, 9, and 10, Title 2, chapter 3, part 1, 2-6-102, 2-6-109, 2-6-110, 2-6-202, 15-1-106, 15-1-521, 15-30-2618, 15-31-511, 15-38-109; 15-68-815, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.2.325 to provide taxpayers and the public with a more complete description of how the department handles requests for department files and confidential tax information.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-4375; or e-mail canderson@mt.gov and must be received no later than July 16, 2010.

5. Cleo Anderson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods,

due to system maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. 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 person in 4 above or faxed to the office at (406) 444-4375, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State June 1, 2010

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
23.12.204, concerning juvenile records)

TO: All Concerned Persons

1. On April 29, 2010, the Department of Justice published MAR Notice No. 23-12-215 pertaining to the proposed amendment of the above-stated rule at page 972 of the 2010 Montana Administrative Register, Issue Number 8.

2. The department has amended the following rule as proposed: ARM 23.12.204.

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

COMMENT #1: Why does the Department of Justice feel this change is necessary.

RESPONSE #1: As explained in the notice, this change is necessary to reflect current statutory requirement concerning sealing youth court records. Prior to 2005, the statute read that youth court records must be sealed "3 years after supervision for an offense ends." See 41-5-216(1), MCA (2003). In 2005, it was amended to require that youth court records be sealed "on the youth's 18th birthday" (unless certain exceptions are met), not three years after supervision ends. See current 41-5-216(1), MCA. At present, ARM 23.12.204 uses the outdated 2003 language requiring records be sealed three years after supervision, instead of the current statutory requirement of sealing records when a youth turns 18. This amendment is therefore necessary so the "juvenile records" administrative rule follows current statutory language as amended. Also, we added the caveat "in accordance with the procedure and exceptions listed at 41-5-216, MCA" to ensure that the exceptions to sealing a record provided by the statute were considered before a record is sealed.

COMMENT #2: Does this rule refer to formal or informal records?

RESPONSE #2: The rule applies to "formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) of 41-5-216, MCA."

By: /s/ Steve Bullock
STEVE BULLOCK
Attorney General
Department of Justice

/s/ J. Stuart Segrest
J. STUART SEGREST
Rule Reviewer

Certified to the Secretary of State on June 1, 2010.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.121.301 definitions,)	
24.121.603 out-of-state applicants,)	
24.121.801 inspections, 24.121.803)	
school requirements, 24.121.805)	
school standards, 24.121.807)	
curricula, 24.121.1509 implements)	
and equipment, 24.121.1511)	
sanitizing equipment, 24.121.1517)	
salon preparation, and 24.121.2301)	
unprofessional conduct)	

TO: All Concerned Persons

1. On February 11, 2010, the Board of Barbers and Cosmetologists (board) published MAR notice no. 24-121-6 regarding the public hearing on the proposed amendment of the above-stated rules, at page 271 of the 2010 Montana Administrative Register, issue no. 3.

2. On March 8, 2010, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the March 16, 2010, deadline.

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

COMMENT 1: In reference to ARM 24.121.301(7), one commenter stated that textbooks teach clipper cuts using three different types of clippers. By restricting the definition of clipper cuts to only electro-magnetic clippers, the board is dictating the clipper type that must be included in student kits and taught by barbering courses. The commenter asserted that students become more proficient with the type of clippers they are most comfortable using on a regular basis, and that the definition of clipper cut should not be confined to one type of clipper.

RESPONSE 1: The board agrees that it is important to ensure that the rules reference current textbook practice. The board is therefore amending the definition to not limit instruction to a single type of clipper.

COMMENT 2: In reference to ARM 24.121.301(18)(a), a commenter stated that using the terms "toe" and "middle" in the definition of free-hand methods for clipper cuts is inappropriate and would cause confusion, as there is no mention of either term in the textbook section on clipper cutting.

RESPONSE 2: The board agrees with the commenter and is amending the definition to better reflect current barbering textbooks.

COMMENT 3: In reference to ARM 24.121.301(18)(b), one commenter stated that arching is a technique used by barbers, but noted that rule does not define or determine the correct method for performing this technique.

RESPONSE 3: Following discussion and a review of current barbering textbooks, the board is amending this subsection exactly as proposed.

COMMENT 4: In reference to ARM 24.121.803, a commenter asserted that schools should provide protective coverings to all students, not just barber and cosmetology students.

RESPONSE 4: The board agrees with the comment and is amending (9) to require a protective covering for electrology students to be consistent with barber and cosmetology students at (7) and (8). The board notes that it cannot add such a requirement for esthetics and manicuring students in this final notice and such a change will be considered in future rulemaking projects.

4. The board has amended ARM 24.121.603, 24.121.801, 24.121.805, 24.121.807, 24.121.1509, 24.121.1511, 24.121.1517, and 24.121.2301 exactly as proposed.

5. The board has amended ARM 24.121.301 and 24.121.803 with the following changes, stricken matter interlined, new matter underlined:

24.121.301 DEFINITIONS (1) through (6) remain as proposed.

(7) "Clipper cuts" for barbering education are haircuts performed using the free-hand method with a ~~universal electro-magnetic clipper~~ consistent with what is being taught in the industry.

(8) through (18) remain as proposed.

(a) toe (teeth), middle, heel;

(b) through (31) remain as proposed.

24.121.803 SCHOOL REQUIREMENTS (1) through (9)(d) remain as proposed.

(e) stainless steel and gold needles of various sizes per student; ~~and~~

(f) one current board law and rule book per student- and

(g) one protective covering per student.

(10) through (12) remain as proposed.

BOARD OF BARBERS AND
COSMETOLOGISTS
WENDELL PETERSEN, 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 June 1, 2010

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

In the matter of the amendment of)
ARM 24.168.401 fee schedule,) NOTICE OF AMENDMENT AND
24.168.402 licensure requirements,) REPEAL
24.168.2101 continuing education,)
and the repeal of ARM 24.168.408)
licensure by endorsement)

TO: All Concerned Persons

1. On February 11, 2010, the Board of Optometry (board) published MAR notice no. 24-168-39 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 298 of the 2010 Montana Administrative Register, issue no. 3.
2. On March 4, 2010, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. No comments were received by the March 12, 2010 comment deadline.
3. The board has amended ARM 24.168.401, 24.168.402, and 24.168.2101 exactly as proposed.
4. The board has repealed ARM 24.168.408 exactly as proposed.

BOARD OF OPTOMETRY
ROCK SVENNUNGSSEN, O.D., PRESIDENT

/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 June 1, 2010

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New)
Rule I (42.4.209) and amendment of)
ARM 42.4.201, 42.4.203, 42.4.204,)
42.4.205, 42.4.206, and 42.4.207,)
relating to energy conservation credit)

NOTICE OF ADOPTION AND
AMENDMENT

TO: All Concerned Persons

1. On April 15, 2010, the department published MAR Notice No. 42-2-826 regarding the proposed adoption and amendment of the above-stated rules at page 878 of the 2010 Montana Administrative Register, issue no. 7.

2. A public hearing was held on May 10, 2010, to consider the proposed adoption and amendment. No one appeared at the hearing to testify and no written comments were received.

3. The department adopts New Rule I (ARM 42.4.209) and amends ARM 42.4.201, 42.4.203, 42.4.204, 42.4.205, 42.4.206, and 42.4.207 as proposed.

4. An electronic copy of this adoption notice is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this adoption 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.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Alan Peura
ALAN PEURA
Deputy Director of Revenue

Certified to Secretary of State June 1, 2010

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rule I (ARM 42.4.121), amendment of	)	AMENDMENT, AND REPEAL
ARM 42.4.104, 42.4.105, 42.4.110,)	
42.4.118, 42.4.4101, 42.4.4105,)	
42.4.4106, 42.4.4107, 42.4.4108,)	
42.4.4109, 42.4.4112, 42.4.4114, and)	
42.4.4115, and repeal of ARM)	
42.4.106, 42.4.4102, 42.4.4103,)	
42.4.4104, 42.4.4111, and 42.4.4113,)	
relating to individual energy tax credits)	

TO: All Concerned Persons

1. On April 15, 2010, the department published MAR Notice No. 42-2-827 regarding the proposed adoption, amendment, and repeal of the above-stated rules at page 887 of the 2010 Montana Administrative Register, issue no. 7.

2. A public hearing was held on May 10, 2010, to consider the proposed adoption, amendment, and repeal. No one appeared at the hearing to testify and no written comments were received.

3. The department adopts New Rule I (ARM 42.4.121), amends ARM 42.4.104, 42.4.105, 42.4.110, 42.4.118, 42.4.4101, 42.4.4105, 42.4.4106, 42.4.4107, 42.4.4108, 42.4.4109, 42.4.4112, 42.4.4114, and 42.4.4115, and repeals ARM 42.4.106, 42.4.4102, 42.4.4103, 42.4.4104, 42.4.4111, and 42.4.4113 as proposed.

4. An electronic copy of this adoption notice is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this adoption 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.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State June 1, 2010

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I (ARM 42.20.607) relating to)
value before reappraisal for 2009)
agricultural land)

TO: All Concerned Persons

1. On April 15, 2010, the department published MAR Notice No. 42-2-828 regarding the proposed adoption of the above-stated rule at page 903 of the 2010 Montana Administrative Register, issue no. 7.

2. A public hearing was held on May 10, 2010, to consider the proposed adoption. Oral and written testimony was received at the hearing and is summarized as follows along with the response of the department:

COMMENT NO. 1: Mr. Harold Blattie, Executive Director, Montana Association of Counties thanked the department for developing the rule and that it was very helpful but he did not think that the rule went far enough to addressing the issue.

Mr. Blattie also provided a spreadsheet that he developed showing the difference between the existing practice and if the rule were effective. The spreadsheet identifies two taxpayers, "Taxpayer A" who filed a timely AB-26, CTAB (county tax appeal board) appeal, or a district court appeal and "Taxpayer B" who did not file any of those items. The spreadsheet shows the VBR (value before reappraisal) amount for each of the six years in the appraisal cycle as well as other values, but in the example both of the taxpayer's taxable value is the same amount in year 6 of the appraisal cycle.

The values used in this spreadsheet represent real information from a parcel of his own property. He indicated that in the column heading 2009 Year One, without the proposed rule the value is \$11,927, which is the value that is in the department's system and is what the most recent appraisal notification shows. With the proposed rule, that number will change to \$6,668 and that is the reappraisal value for 2008 representing the full phase-in value. Without the proposed rule that amount is being fully phased in during the first year and with the rule, that amount is being phased in over the remaining five years of the phase-in process.

He stated that he believes that the proposed rule accurately provides direction in the application of the phase-in values on properties that saw no change other than the productivity change. However, the rule should also include properties where there were acreage changes that in fact were not acreage changes. For example, on the same assessment sheet as this particular piece of property, also lies an additional 320 acres that prior to this year was shown as 320 acres, but is now 320.23 acres, although the ownership did not change. The change is simply due to the digital mapping system which allows for a more accurate measurement of the land. He stated the rule should also apply to those type of changes.

Mr. Blattie further stated in the case where a parcel of land had a change of use to a portion of it, this should also be allowed. For example, 320 acres of native range land that had 40 acres broken out and the use was changed to crop land. The proposed rule should also be applied to the remaining 280 acres that were not changed.

RESPONSE NO. 1: The department appreciates Mr. Blattie's support of this rule, that will correct the agricultural value before reappraisal for productivity-only lands, together with the detailed analysis that Mr. Blattie presented that indicated the rule treats both groups of taxpayers fairly and accurately.

Regarding Mr. Blattie's comments on phase-in for properties that experience even small acreage changes, the proposed rule will not apply to those properties with an acreage change or a classification change, because doing so would violate ARM 42.20.605.

Addressing the specifics, in the first example of the more accurate acreages presents an interesting circumstance for both the landowner and the department. In the past when landowners discovered that the department was assessing the lands in roads, ditches, etc., the same as the surrounding farm land, the landowner asked the department to remove it from the assessment or at the very least, to assess it as some low-valued grazing land. The department began using the geographic information system (GIS) on a consistent basis. The landowner is requesting the department to consider the land as similar land contained within a delineated field.

The department began the process of delineating field boundaries based on Farm Service Administration (FSA) maps. The FSA maps identified the different fields based on their (FSA) standards and in most cases, the department's delineation of the fields closely approximates information obtained from the FSA data. FSA data represents the amount of farmed acres for cropped fields. One distinct difference between department land information and the FSA information is the department's requirement to identify the legally described acres for a parcel. The FSA has no such requirement.

For the second example where there was a land use change, there are multiple steps that were considered by the department before taking any action.

(1) The 2003 value associated with the 320 acres of range land is a total value for that particular land classification. The 2009 reappraisal values are the total value of 280 acres of range land and 40 acres of crop land.

(2) The 2003 classification and productivity information is not available on the new 40 acres of crop land so a value must be calculated. To calculate the value, the department has to rely on the information it has on hand, namely the new classification and productivity information. By using the income inputs from the 2003 reappraisal (commodity price and crop share arrangement) and the new classification and productivity inputs from the 2009 reappraisal, a value before reappraisal (VBR) can be determined for the 40 acres.

(3) For the remaining 280 acres of range land, the department needed to consider:

(a) The 2003 reappraisal information is tabular information only. The provenance of the 2003 acreage information is only largely unknown because:

(i) The tabular information was acquired using a land measurement

technique based on a "dot grid." A dot grid is a simple measurement tool comprised of a clear plastic sheet containing numerous evenly spaced dots. Each dot represents an acre and the dot grid is based on a map scale of 1 inch to the 1/4 mile, or 4 inches per mile or typical section of land. The dot grid is placed on whatever available appropriately scaled map or aerial photograph and dots are counted to determine the acreage within a field by land use classification.

(ii) The hard copy maps initially used in conjunction with the dot grid have not been maintained in a comprehensive fashion and are either completely or partially missing, or are outdated in most locations.

(iii) The available hard copy maps are in a wide variety of formats and map scales including black and white aerial photos from the 1960s or 1970s; hand drawn mylar maps; and/or hand drawn paper maps. The most recent updates or maintenance of these maps/photos is unknown but is assumed to be in the early 1980s. The final potential source of the acreage information could come from "commissioners' books" which also have an unknown maintenance date, however, the last maintenance is assumed to be in the late 1960s or early 1970s.

(iv) If the department were to use the hard copy maps, manual intervention and review of the maps would be required on a parcel by parcel basis. A dot grid would have to be used to try and identify the associated acres reflected in the tabular data. Matching the acreages as shown on the 2003 appraisal record with the acreage determined through the use of a dot grid would require multiple attempts to match the acreage exactly. Without this manual intervention there is no other way to determine which of the prior acres associated with the grazing land were converted to the crop land use.

(b) The time and effort associated with manual intervention is not cost-effective.

(c) The 2003 range land productivity information is a broad indication of the overall carrying capacity of the land. The 2009 productivity is a specific soil by soil determination of the carrying capacity.

(d) Determining which of the remaining 280 acres contained in the 2003 information corresponds to the 2009 soil specific acres requires manual intervention outlined above.

(e) Determination of the correct value before reappraisal for these 280 acres would require a manual calculation using the 2003 valuation inputs. The current Property Valuation Assessment System (PVAS, commonly known as Orion) does not contain a program for calculating these values and the calculation of the value of the 280 acres would have to be done manually and external to the Orion computer system.

(f) The calculated value associated with the new 2003 acres (280 acres) would not correspond to prior assessment notice valuation information received by the landowner.

COMMENT NO. 2: Mr. Dale Hawks, Chester, Montana testified that he does not believe the rule is necessary at this time, due to the fact that there are already administrative rules in place to deal with increases in valuation from prior reappraisal cycles.

Mr. Hawks further stated if the department feels they must move forward with

this action, he feels that the rule is incomplete because it only takes into account "productivity-only changes" as it relates to correction of the VBR. He stated that there is a broader picture to consider. If the proposed rule is left as is, it will remove a vast majority of parcels of agricultural land from any meaningful phase-in of their increase in value.

Mr. Hawks stated that if the department continues forward with the position that any "change in use: or "change in size" would require a recalculated VBR for phase-in purposes, the those parcels of land that in reality didn't have either size or use changes, would be removed from any meaningful phase-in of increased valuation.

The instances of actually having a change in use or change in size are addressed in current law. The problem with the latest reappraisal cycle is that the process used with the mapping system of the parcels of land is flawed. This cycle delineated county roads out of parcels and changed them from tillable land to grazing land (change in use). This in itself then changed the acres of tillable land from the last cycle to this cycle (change in size). Also along these lines, the mapping system also considered a change in size. The reality is, nothing has changed on the ground in real life, only the reappraisal process making, supposedly, more accurate acreage changes.

Mr. Hawks questioned whether it is the department's intent to close taxpayers out of any meaningful phase-in, when a great number of these changes in size and changes in use are not real, just appearing to be real by looking at a map.

He further stated that not even the FSA maps and the department's reappraisal maps have the same acres on a parcel of ground.

Mr. Hawks requested the department to not adopt this rule, but instead find a way to address the issue of VBR without adding more administrative rules.

RESPONSE NO. 2: As mentioned in Response No. 1, the proposed rule is necessary to correctly phase in productivity-only lands. The department correctly phased in lands with acreage changes and classification changes in accordance with ARM 42.20.605. Furthermore, the proposed rule does not apply to county roads. This question poses an interesting circumstance for the department. In addition to the response in Comment No. 1, a consideration of the number of changed acres must be discussed. Or to be more specific, how many acres are required before a classification change is considered to have taken place?

As noted in the response to Comment No.1, the department has no means to accurately and efficiently compare the changes that occurred between the appraisal cycles by using prior maps. As a result, the department would have to rely on some electronic means of comparing the acreage change between appraisal cycles. While the math to make the comparison seems straightforward, the results can cause significant differences.

Early on in the reappraisal process, the department considered different scenarios. The first scenario included a determination of a percentage of changed acres on a parcel. If some fixed percentage of acres has changed between appraisal cycles, then a classification change would be deemed to have taken place. If an acreage change has occurred that is less than the established fixed percentage, then a classification change would not be deemed to have taken place.

The determination of the fixed percentage is highly speculative and results in an uneven application of the standard. For example, if the fixed percentage is deemed to be 1%, then a 640-acre parcel of grazing land would need to exhibit a change of 6.4 acres or more before being considered as having undergone a classification change.

A roadway is typically 60 feet wide. If half of the roadway is 30 feet wide and is deducted from the full mile length associated with the above section of land (on one side only) then 3.6 acres would be separately identified ($5,280 \times 30' = 158,400$ square feet; $158,400 \div 43,560$ square feet per acre = 3.6 acres). In this example the land would not be considered to have undergone a reclassification since less than 6.4 acres were changed. If there is a road on two sides of the section then the land would have been considered to have undergone a classification change as 7.2 acres would have been changed.

But, consider a smaller tract of land of 40 acres. For a quarter-quarter section a change of .4 acres or more would be considered a reclassification. A quarter-quarter section is 1/4 of a mile long. Following the same calculation but using 1,320 feet for road deduction, the affected acreage is .91 acres ($1,320 \times 30 = 39,600$; $39,600 \div 43,560 = .909$ acres). Since anything larger than a .4-acre change would be considered a classification change, this 40-acre parcel would be considered to have been reclassified.

As can be seen, a fixed percentage change does not treat all landowners equally. If the fixed percentage of change is higher or lower than the example, the same results occur. Which leads to the second concern - "why choose one percentage over any other?" If the fixed percentage is 1%, why wouldn't 1.25% be better, or 1.5%, or 1.75%? Any determination of a fixed percentage change is arbitrary and is not a defensible mechanism for recognizing classification changes.

Consideration must also be given to legitimate classification changes. For example, many nonirrigated hay fields are small and can easily be less than 6 acres in size. For the section of land identified above, a 6-acre hay field would have to be physically identified and excluded from the provisions of classification changes. A simple math equation would either not work or would improperly identify the parcel as having no change in classification.

A third consideration was to establish a fixed acreage change which has the same arbitrary effect based on parcel size. For example, 6.4 acres is 1% of a normal section of land but is 16% of a 40-acre parcel of land. Again an inequity of the application of a fixed acreage causes concern and the decision on the fixed acreage amount becomes arbitrary.

The department conducts appraisal on a statewide basis and all potential circumstances must be reflected in any decision to accommodate classification changes. Creating a means to identify parcels that have or have not had classification changes is a slippery slope and one that would need much more detailed investigation. The department determined that a reappraisal, as mandated by 15-7-111, MCA, will result in changes to agricultural land use. Among other purposes a reappraisal is a means to provide compliance with other Montana statutes related to the current classification of land. A classification change, no matter how minor, should be treated in a consistent and equitable manner as described in law.

3. The department adopts New Rule I (42.20.607) as proposed.

4. An electronic copy of this adoption notice is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this adoption 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.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Alan Peura
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State June 1, 2010

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF DECISION ON
Rule I and II and amendment of ARM	)	PROPOSED RULE ACTIONS
42.12.101, 42.12.106, 42.12.110,)	
42.12.111, 42.12.115, 42.12.122,)	
42.12.128, 42.12.130, 42.12.133,)	
42.12.141, and 42.12.143 relating to)	
liquor license)	

TO: All Concerned Persons

1. On April 29, 2010 the Department of Revenue published MAR Notice No. 42-2-829 pertaining to a public hearing on the proposed adoption and amendment of the above-stated rules at page 1044 of the 2010 Montana Administrative Register, Issue Number 8.

2. The department has decided to cancel the public hearing on the proposed adoption and amendment of the above-stated rules that was scheduled for June 2, 2010, at 1:00 p.m., at the Department of Revenue's Third Floor Conference Room, at Helena, Montana.

3. The department is temporarily cancelling this rule hearing to further review the contents of the rules.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF DECISION ON
Rule I and amendment of ARM	)	PROPOSED RULE ACTIONS
42.12.312, 42.12.313, and 42.12.323)	
relating to special licenses and)	
permits)	

TO: All Concerned Persons

1. On April 29, 2010 the Department of Revenue published MAR Notice No. 42-2-830 pertaining to a public hearing on the proposed adoption and amendment of the above-stated rules at page 1059 of the 2010 Montana Administrative Register, Issue Number 8.

2. The department has decided to cancel the public hearing on the proposed adoption and amendment of the above-stated rules that was scheduled for June 2, 2010, at 2:00 p.m., at the Department of Revenue's Third Floor Conference Room, at Helena, Montana.

3. The department is temporarily cancelling this rule hearing to further review the contents of the rules.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to the Secretary of State June 1, 2010.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF DECISION ON
ARM 42.12.401, 42.12.405,) PROPOSED RULE ACTION
42.12.406, 42.12.408, 42.12.412, and)
42.12.414 relating to restaurant beer)
and wine licenses and lottery process)

TO: All Concerned Persons

1. On April 29, 2010 the Department of Revenue published MAR Notice No. 42-2-831 pertaining to a public hearing on the proposed amendment of the above-stated rules at page 1063 of the 2010 Montana Administrative Register, Issue Number 8.

2. The department has decided to cancel the public hearing on the proposed amendment of the above-stated rules that was scheduled for June 2, 2010, at 2:30 p.m., at the Department of Revenue's Third Floor Conference Room, at Helena, Montana.

3. The department is temporarily cancelling this rule hearing to further review the contents of the rules.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to the Secretary of State June 1, 2010.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	CORRECTED NOTICE OF
ARM 44.3.104, 44.3.2014, 44.3.2015,	)	AMENDMENT
44.3.2109, 44.3.2113, 44.3.2114,)	
44.3.2401, 44.9.202, 44.9.301,)	
44.9.303, 44.9.305, 44.9.307,)	
44.9.312, 44.9.315, 44.9.402, and)	
44.9.404 pertaining to elections)	

TO: All Concerned Persons

1. On February 25, 2010, the Secretary of State published MAR Notice No. 44-2-158 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 520 of the 2010 Montana Administrative Register, Issue Number 4.

2. On April 15, 2010, the Secretary of State published an Amended Notice and Extension of Comment Period for MAR Notice No. 44-2-158 because it revised the statements of reasonable necessity for the proposed amendments to ARM 44.3.104, ARM 44.3.2114, and ARM 44.9.315 pursuant to e-mailed comments received from David Niss on behalf of the State Administration and Veterans' Affairs Interim Committee at page 906 of the 2010 Montana Administrative Register, Issue No. 7.

3. On May 27, 2010, the Secretary of State published a Notice of Amendment for MAR Notice No. 44-2-158 at page 1319 of the 2010 Montana Administrative Register, Issue No. 10.

4. The Secretary of State is filing a corrected notice of amendment because the MCA citation referenced in ARM 44.3.2109 was incomplete and the MCA citation referenced in ARM 44.3.2401 was incorrect. The rules, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

44.3.2109 PROCEDURES FOR CHALLENGES (1) through (4) remain as adopted.

(a) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The notification must be made pursuant to 13-13-301(4)(b), MCA.

(b) through (6) remain as adopted.

AUTH: 13-13-301, MCA

IMP: 13-13-301, MCA

44.3.2401 BALLOT FORM AND UNIFORMITY (1) through (6)(b) remain as adopted.

(c) A ballot requested pursuant to Title 13, chapter 21, MCA, must be ~~handled as provided in 13-1-104(1)~~ sent to the elector as specified in 13-13-205(2), MCA; and

(d) remains as adopted.

AUTH: 13-12-202, MCA

IMP: 13-12-202, 13-13-205, MCA

/s/ Jorge Quintana
JORGE QUINTANA
Rule Reviewer

/s/ Linda McCulloch
LINDA MCCULLOCH
Secretary of State

Dated this 1st day of June, 2010.

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 December 31, 2009. This table includes those rules adopted during the period January 1, 2010, through March 31, 2010, 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 December 31, 2010, 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 2009 and 2010 Montana Administrative Register.

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