

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 10.57.102, 10.57.112,)	PROPOSED AMENDMENT AND
10.57.201, 10.57.201A, 10.57.215,)	REPEAL
10.57.216, 10.57.301, 10.57.410)	
through 10.57.421, 10.57.424 through)	
10.57.430, 10.57.432 through)	
10.57.436, 10.57.601A and repeal of)	
ARM 10.57.104, 10.57.110,)	
10.57.220, 10.57.422, and 10.57.423)	
relating to educator licensure)	

TO: All Concerned Persons

1. On February 24, 2009, at 9:00 a.m. a public hearing will be held in the conference room of the Office of Public Instruction building at 1300 11th Avenue, Helena, Montana, to consider the amendment and repeal of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on February 10, 2009, to advise us of the nature of the accommodation that you need. Please contact Steve Meloy, P.O. Box 200601, Helena, MT 59620-0601, telephone: (406) 444-6576, fax: (406) 444-0847, e-mail: smeloy@mt.gov.

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

10.57.102 DEFINITIONS The following definitions apply to this chapter.

(1) "Acceptable evidence" means current official transcripts, portfolio, and such other data as may be deemed necessary by the Board of Public Education ~~and/or~~ the Superintendent of Public Instruction.

(2) "Accredited" refers to program approval (accreditation) by the National Council for the Accreditation of Teacher Education (NCATE) ~~and/or~~ accreditation by a state board of education or a state agency. In circumstances where the accrediting body is a state board of education or a state agency, the Montana Board of Public Education has the discretion to determine whether such accreditation ensures that the standards are substantially equivalent or greater than the standards required in Montana.

(3) remains the same.

(a) an educator preparation program accredited by NCATE; ~~and/or~~

(b) and (4) remain the same.

(a) a program for the preparation of specialists accredited by a national professional accrediting body; ~~and/or~~

(b) through (8) remain the same.

(9) "College credit" means credit received for completion of a course from an regionally accredited college. College credits are counted as one quarter credit being equal to 10 clock hours, or one semester credit being equal to 15 clock hours. One semester credit is equivalent to one and one-half quarter credits and one quarter credit is equivalent to two-thirds semester credit.

(10) through (14) remain the same.

(15) "Minimal ~~education~~ educator licensure requirements" means:

(a) a ~~baccalaureate~~ bachelor's degree from a regionally accredited institution of higher education;

(b) remains the same.

(c) verification of student teaching or one year of teaching experience in an elementary and/or secondary school or school district either in Montana or elsewhere or eligibility for a Class 5 alternative license to complete this requirement.

(16) through (18) remain the same.

(19) "Supervised teaching experience" means teaching experience while under the supervision of an accredited professional educator preparation program and is identified on a university transcript as field experience, internship, practicum, or student teaching.

~~(19)~~ (20) "Year of administrative experience" means employment in an accredited school during a school fiscal year as a licensed member of a supervisory or administrative staff. The experience required must be obtained in a school organization consistent with Montana's K-12 pattern. Experience gained prior to basic eligibility for initial licensure is not considered. Any individual wishing to have their experience as a County Superintendent considered as "administrative" experience must provide evidence of the following:

(a) possession of a Class 3 administrative license for the time as County Superintendent they are requesting to be considered for administrative experience; and

(b) the school(s) they are claiming to hold or have held supervisory responsibilities over have noted there is no superintendent or principal by having the chair of the Board of Trustees sign the school's Annual Data Collection report.

~~(20)~~ (21) "Year of teaching experience" means employment in an accredited school during a school fiscal year as a licensed member of an instructional staff. The experience required must be obtained in a school organization consistent with Montana's K-12 pattern. Experience gained prior to basic eligibility for initial licensure is not considered.

(21) remains the same but is renumbered (22).

AUTH: 20-4-102, MCA

IMP: 20-4-106, MCA

10.57.112 LICENSE OF EXCHANGE TEACHERS (1) A Class 5 license may be issued for one year to a teacher, administrator, or specialist who is on an exchange program with a school district or university, when the university-employed exchange teacher is assigned in the role of a Class 8 dual credit-only postsecondary faculty.

AUTH: 20-4-102, MCA
IMP: 20-4-103, MCA

10.57.201 GENERAL PROVISIONS TO ISSUE LICENSES (1) and (2)
remain the same.

(a) individuals who have a current professional - not provisional or alternative - teacher, specialist, or administrator license from another state in an area that can be licensed in Montana. This section applies only to individuals who have completed an applicable accredited professional educator preparation program in an area that can be licensed in Montana and have satisfied minimal ~~education~~ educator licensure requirements as defined in ARM 10.57.102;

(b) individuals who have graduated within the last five years from an accredited teacher, specialist, or administrator professional educator preparation program in an area that can be licensed in Montana and have satisfied minimal ~~education~~ educator licensure requirements as defined in ARM 10.57.102;

(i) an applicant for initial Class 1, 2, or 3 licensure whose degree is more than five years old and who does not have current out-of-state licensure must have earned six semester credits within the five-year period preceding the effective date of the license;

(ii) an applicant for an initial Class 6 license whose degree is more than five years old and who does not have current out-of-state licensure must have earned six graduate semester credits within the five-year period preceding the effective date of the license;

(c) individuals who hold a current license from the National Board for Professional Teaching Standards in an area that can be licensed in Montana and have satisfied minimal ~~education~~ educator licensure requirements as defined in ARM 10.57.102;

(d) individuals who currently hold a Class 5 alternative license who meet one or more of the above three qualifications and have satisfied minimal ~~education~~ educator licensure requirements as defined in ARM 10.57.102;

(e) individuals seeking initial Class 1 or 2 licensure must verify completion of a supervised teaching experience either as part of an accredited professional educator preparation program or successfully complete one year of supervised internship in a state accredited elementary and/or secondary school or school district either in Montana or elsewhere.

(3) Applicants for initial Class 4 licensure who have a current career and vocational/technical license from another state in an area that can be endorsed in Montana shall be licensed as Class 4A, 4B, or 4C depending on the level of education and extent of training.

(4) Applicants for initial Class 5 alternative licensure who meet the requirements of ARM 10.57.424 and the relevant section(s) of ARM 10.57.425 through 10.57.432 may be licensed as appropriate.

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

AUTH: 20-4-102, MCA
IMP: 20-4-103, MCA

10.57.201A CRIMINAL HISTORY BACKGROUND CHECK (1) through (3) remain the same.

(4) ~~The applicant~~ Neither the Superintendent of Public Instruction nor the Board of Public Education shall bear the costs of the background check.

(5) remains the same.

(6) The Superintendent of Public Instruction may accept the results of a background check conducted for field experiences required by a professional educator preparation unit of the Montana university system or a private college or university in Montana of a student, for employment in a public school or school district, provided the background check was completed no more than two years before the applicant submits a license application to the Superintendent of Public Instruction.

(7) remains the same.

(8) Each provider who is the subject of a background check is entitled to:

~~(a) obtain a copy of any background check report; and~~

~~(b) challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency.~~

(9) remains the same.

(10) Conviction, including conviction following a plea of nolo contendere, a conviction in which the sentence is suspended or deferred, or any other adjudication treated by the court as a conviction, may be considered by the Superintendent of Public Instruction in the ~~certification~~ licensure process if the conviction was for a sexual offense, a crime involving violence, the sale of drugs, or theft, or any other crime meeting the criteria of Title 37, chapter 1, part 2, MCA.

~~(11) This rule shall be effective for persons applying for licensure on or after January 1, 2003.~~

AUTH: 20-4-102, MCA

IMP: 20-4-103, 20-4-104, MCA

10.57.215 RENEWAL REQUIREMENTS (1) remains the same.

(a) Class 1, and 3, and 7 licenses require 60 renewal units;

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

(c) Class 3 licenses require 60 renewal units;

~~(d) Class 4 licenses require 60 renewal units. The requirements specific to each type of license are set forth in ARM 10.57.421, 10.57.422 and 10.57.423~~
10.57.420(3);

~~(d)~~ (e) Class 6 licenses require college credit or renewal units as follows:

(i) and (ii) remain the same.

(iii) 60 renewal units;

(f) Class 7 licenses require 60 renewal units as verified by the tribe and as set forth in ARM 10.57.536;

(g) Class 8 licenses require 60 renewal units.

(2) and (3) remain the same.

(a) for activities other than (3)(b) or (c):

(i) a planned and structured experience;
~~(b)~~ (ii) of benefit to the license holder's professional development as defined in ARM 10.55.714; and

~~(c)~~ (iii) an exposure to a new idea or skill or an extension of an existing idea or skill; and

(iv) comply with (6) and (7); or

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

(4) All renewal units must be earned during the valid term of the license.

Renewal units earned through August 31 immediately following the expiration date of a license shall also be considered for renewal.

(5) through (7) remain the same.

AUTH: 20-2-121, 20-4-102, MCA

IMP: 20-4-102, 20-4-108, MCA

10.57.216 APPROVED RENEWAL ACTIVITY (1) Providers of professional development activities which verify acceptable renewal unit activities for license renewal are: Organizations wishing to offer professional development activities for the award of renewal units may apply for annual provider status to the Superintendent of Public Instruction. The organization must receive approval prior to awarding renewal units. Status as an annual provider must be renewed July 1 of each year.

~~(a) state, regional or national accredited college and university programs, for which no application or prior approval is required;~~

~~(b) accredited school districts, upon submission and approval of an application for status as a provider of professional development renewal unit credit; and~~

~~(c) professional education organizations and government agencies (federal, state, tribal, county, city), upon submission and approval of an application for status as a provider of professional development renewal unit credit.~~

~~(2) Those school districts approved as providers of professional development may identify programs at locations other than their site of operation for renewal unit verification to be awarded by them. This may include out-of-state programs and conferences. Organizations which may be approved for status as a provider of professional development for renewal unit credit, upon submission and approval of an application for status as a provider of professional development renewal unit credit, may include:~~

~~(a) regionally accredited college and university programs offering activities for units other than college credit;~~

~~(b) public school districts or schools accredited by the Board of Public Education not part of a public school district which is an OPI-approved renewal unit provider;~~

~~(c) government agencies (federal, state, tribal, county, city); and~~

~~(d) other organizations providing professional development appropriate for educators in Montana's accredited K-12 schools.~~

~~(3) Those entities approved by the superintendent of public instruction as Approved providers of professional development programs are those applicants who~~

~~for the award of renewal units must agree to; maintain a process in compliance with ARM 10.57.215 and this rule.~~

~~(a) Approved providers must agree to report the activities undertaken as professional development for renewal unit awards annually to the Superintendent of Public Instruction. provide activities deemed appropriate for educator license renewal in compliance with ARM 10.55.714 and 10.57.215;~~

~~(b) Approved providers must agree to submit to an audit of records conducted by the Superintendent of Public Instruction. Records which must be maintained by the provider include:~~

~~(i) the activity title and brief description;~~

~~(ii) date(s) and location of program;~~

~~(iii) program schedule and number of participants. prepare and issue completed renewal unit registration forms to eligible participants.~~

~~(c) For all programs designated as professional development for the purpose of issuing renewal units to license holders, the provider shall prepare and issue completed renewal unit registration forms to eligible participants. This form shall be provided by the Superintendent of Public Instruction and this form, or an approved facsimile, must be utilized for all renewal unit awards;~~

~~(c) report the activities undertaken as professional development for renewal unit awards to the Superintendent of Public Instruction. Annual provider status shall be continued upon complete reporting of all activities for the period of July 1 through June 30 of each year;~~

~~(d) submit to an audit of records conducted by the Superintendent of Public Instruction. Records which must be maintained by the provider include:~~

~~(i) the activity title and brief description;~~

~~(ii) date(s) and location(s) of the program; and~~

~~(iii) program schedule and number of participants; and~~

~~(e) maintain records of all professional development activities for which renewal unit awards are made for one year following the date of completion of the annual reporting requirement.~~

~~(4) Upon receipt of a complete and accurate annual report of professional development activities by the Superintendent of Public Instruction on or before the deadline for submission, the provider status shall be continued.~~

~~(5) The Superintendent of Public Instruction shall annually provide a report to the Board of Public Education, which shall include, at a minimum, a list of providers.~~

~~(6) Providers will be responsible for maintenance of records of all professional development activities for which renewal unit awards are made for one year following the date of completion of the annual reporting requirement.~~

AUTH: 20-4-102, MCA

IMP: 20-4-108, MCA

10.57.301 ENDORSEMENT INFORMATION (1) and (2) remain the same.

~~(3) Appropriate teaching areas acceptable for license endorsement include: agriculture, art K-12, biology, business education, career and vocational/technical education endorsements as determined by the superintendent of public instruction, chemistry, computer science K-12, drama, earth science, economics, elementary~~

~~education, English, English as a second language K-12, family and consumer sciences, French K-12, geography, German K-12, school counseling K-12, health, history, history-political science, industrial arts, journalism, Latin K-12, library K-12, marketing, mathematics, music K-12, other language K-12, physical education and health K-12, physical science, physics, political science, psychology, reading K-12, Russian K-12, science (broadfield), social studies (broadfield), sociology, Spanish K-12, special education P-12, speech-communication, speech-drama, technology education, trade and industry, and traffic education K-12.~~

~~(4) Appropriate career and vocational/technical education areas acceptable for endorsement on the class 4 license include but are not limited to: automotive technology, welding, auto body, industrial mechanics, small engines, heavy equipment operations, electronics, horticulture, agriculture mechanics, building trades, building maintenance, culinary arts, metals, drafting, computer information systems, graphic arts, aviation, health occupations, machining, and diesel mechanics.~~

~~(5) Appropriate administrative areas acceptable for license endorsement include: elementary principal, secondary principal, K-12 principal, K-12 superintendent and supervisor.~~

~~(6) Appropriate specialist areas acceptable for license endorsement are school psychologist and school counselor.~~

~~(7) Both elementary and secondary preparation, including student teaching or university supervised teaching experience are required for endorsement in any approved K-12 endorsement area. The K-12 endorsement areas outlined in (3) may also be endorsed at the elementary or secondary level depending on the verified level of preparation.~~

~~(a) A class 1 or 2 license may be endorsed in special education P-12 with program preparation at the elementary or secondary levels, or a balanced K-12 program of comparable preparation.~~

~~(b) The balanced K-12 license level option is available through Montana board of public education approved special education programs for those individuals with:~~

~~(i) a minimum of bachelor's degree completed, and~~

~~(ii) verified completion of an out-of-state state-approved special education program which includes student teaching or university supervised teaching experience.~~

~~(c) completion of an accredited professional educator preparation program in any disability area shall result in a special education endorsement.~~

~~(8) Applicants with graduate degrees in an endorsable field of specialization may use experience instructing in relevant higher education courses as credit in that endorsement area for licensure.~~

~~(9) (3) An endorsement may be dropped from a teaching license at the end of the valid term of the license if minimum licensure requirements (major and minor or extended major) are met without that endorsement.~~

AUTH: 20-4-102, MCA

IMP: 20-4-103, 20-4-106, MCA

10.57.410 CLASS 2 STANDARD TEACHER'S LICENSE (1) remains the same.

(2) To obtain a Class 2 standard teacher's license an applicant must submit verification of all of the following: have a bachelor's degree and have completed
(a) meeting or exceeding the minimum educator licensure requirements in ARM 10.57.102(14);

(b) completion of an accredited professional educator preparation program;
and

(c) qualification for one or more endorsement as outlined in ARM 10.57.412.

(3) remains the same.

(4) A lapsed Class 2 standard teacher's license may be reinstated by showing verification of:

~~(a) 60 renewal units, 40 of which must be earned by college credit, earned during the five-year period preceding the validation date of the new license; or~~

~~(b) 120 renewal units, 80 of which must be earned by college credit, earned during the nine-year period preceding the validation date of the new license.~~

AUTH: 20-2-121, 20-4-102, MCA

IMP: 20-4-102, 20-4-103, 20-4-106, 20-4-108, MCA

10.57.411 CLASS 1 PROFESSIONAL TEACHER'S LICENSE (1) remains the same.

(2) To obtain a Class 1 professional teacher's license an applicant must have submit verification of all of the following:

(a) eligibility for the Class 2 standard teacher's license as set forth in ARM 10.57.410;

~~(b) a master's degree or one year of study consisting of at least 30 graduate semester credits beyond the bachelor's degree in professional education or an endorsable teaching area(s) from an accredited college or university; and~~

~~(b) (c) verification of three years of successful teaching experience or the equivalent as defined by ARM 10.57.102(20).~~

(3) remains the same.

(4) A lapsed Class 1 professional teacher's license may be reinstated by showing verification of:

~~(a) 60 renewal units earned during the five-year period preceding the validation date of the new license; or~~

~~(b) 120 renewal units earned during the nine-year period preceding the validation date of the new license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.412 CLASS 1 AND 2 ENDORSEMENTS (1) Subject field endorsement must be in areas approved for endorsement by the Board of Public Education.

(2) Areas approved for endorsement on Class 1 and 2 licenses include the following: agriculture, art K-12, biology, business education, chemistry, computer

science K-12, drama, earth science, economics, elementary education, English, English as a second language K-12, family and consumer sciences, geography, health, history, history-political science, industrial arts, journalism, library K-12, marketing, mathematics, music K-12, physical education K-12, school counseling K-12, science (broadfield), social studies (broadfield), sociology, special education P-12, speech-communication, speech-drama, technology education, trade and industry, traffic education K-12, and world languages.

(3) A license holder may qualify for a statement of specialized competency by the completion of a minimum of 20 semester college credit hours or equivalency in a specific academic area as approved by the Board of Public Education. Approved areas of permissive specialized competency are: early childhood education, gifted and talented education, and technology in education.

(1) and (2) remain the same but are renumbered (4) and (5).

~~(3) To obtain a K-12 endorsement, the applicant must provide verification of training in both elementary and secondary curriculum.~~

~~(4) Subject field endorsement must be in areas approved for endorsement by the Board of Public Education.~~

(6) Both elementary and secondary preparation, including student teaching or university supervised teaching experience, are required for endorsement in any approved K-12 endorsement area. The K-12 endorsement areas outlined in (2) may also be endorsed at the elementary or secondary level depending on the verified level of preparation.

(a) A Class 1 or 2 license may be endorsed in special education P-12 with program preparation at the elementary or secondary levels, or a balanced K-12 program of comparable preparation.

(b) The balanced K-12 license level option is available through Montana Board of Public Education-approved special education programs for those individuals with:

(i) a minimum of a completed bachelor's degree; and

(ii) verified completion of an out-of-state approved special education program which includes student teaching or university supervised teaching experience.

(c) Completion of an accredited professional educator preparation program in any disability area shall result in a special education endorsement.

(7) Applicants with graduate degrees in an endorsable field of specialization may use experience instructing in relevant higher education courses as credit in that endorsement area for licensure.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.413 CLASS 3 ADMINISTRATIVE LICENSE (1) remains the same.

(2) Appropriate administrative areas acceptable for license endorsement are the following: elementary principal, secondary principal, K-12 principal, K-12 superintendent, and supervisor.

(3) To obtain a Class 3 administrative license an applicant must provide verification of a ~~hold~~ at least the appropriate master's degree in an accredited school

administration program or the equivalent and must qualify for one of the endorsements set forth in ARM 10.57.414 through 10.57.419.

~~(3) A class 3 administrative license shall be renewed upon verification of 60 renewal units earned during the valid term of the license.~~

(4) A lapsed Class 3 administrative license may be reinstated by showing verification of:

(a) 60 renewal units earned during the five-year period preceding the validation date of the new license; ~~or~~

~~(b) 120 renewal units earned during the nine-year period preceding the validation date of the new license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.414 CLASS 3 ADMINISTRATIVE LICENSE – SUPERINTENDENT ENDORSEMENT (1) To obtain a superintendent endorsement an applicant must provide verification of all of the following:

(a) a minimum of three years of successful teaching experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor; and

(b) a minimum of 18 semester graduate credits in a school administrator preparation program, of which 12 must be beyond the master's degree, in each of the following content areas:

(i) organizational leadership;

(ii) instructional leadership;

(iii) facilities planning and policy;

(iv) personnel and labor relations;

(v) community and board relations;

(vi) policy development; and

(vii) three semester credits of college coursework in Montana school law and three semester credits of college coursework in Montana school finance. Applicants who meet all other requirements for the superintendent endorsement but lack these courses shall be issued the Class 3 license and must sign and file a plan of professional intent with the Superintendent of Public Instruction agreeing to complete these courses by the first renewal of their Class 3 license.

(2) In addition to the requirements detailed in (1), every applicant must provide verification of either:

(a) an education specialist degree or doctoral degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102(3); and

(b) a minimum of one year of administrative experience as an appropriately licensed principal or one year of a supervised Board of Public Education approved administrative internship as a superintendent; or

~~(b) (c) a master's degree in educational leadership or equivalent from an accredited professional educator preparation program as determined by the university system to include:~~ or a master's degree in education from an accredited program; and

~~(f) (d) licensure/ and endorsement as a K-12 principal; and
(e) a minimum of one year of administrative experience as defined in ARM 10.57.102(20) or a minimum of one year of a supervised Board of Public Education approved administrative internship as superintendent.~~

~~(ii) one year of administrative experience as an appropriately licensed principal or one year of a supervised board of public education approved administrative internship as superintendent; and~~

~~(iii) a minimum of 18 semester graduate credits, of which 12 must be beyond the master's degree, in the following content areas:~~

~~(A) organizational leadership;~~

~~(B) instructional leadership;~~

~~(C) management to include finance, facilities, law and policy;~~

~~(D) personnel and labor relations; and~~

~~(E) community and board relations.~~

(3) A Class 3 administrative license endorsed as a superintendent shall be renewed as follows:

(a) for those applicants meeting all licensure requirements at the time of initial application, verification of 60 renewal units earned during the valid term of the license; or

(b) for those applicants not meeting the requirement of (1)(b)(vii), verification of three semester credits of college coursework in Montana school law and three semester credits of college coursework in Montana school finance earned during the valid term of the initial Class 3 license.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.415 CLASS 3 ADMINISTRATIVE LICENSE – ELEMENTARY PRINCIPAL ENDORSEMENT (1) remains the same.

(a) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the elementary level; and

(b) remains the same.

(c) a master's degree from any accredited professional educator preparation program and a minimum of 24 graduate semester credits from a school administrator preparation program in the following content areas:

(i) and (ii) remain the same.

(iii) ~~management to include finance and law~~ successful completion of three semester credits of college coursework in Montana school law; and

(iv) remains the same.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.416 CLASS 3 ADMINISTRATIVE LICENSE – SECONDARY PRINCIPAL ENDORSEMENT (1) remains the same.

(a) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the secondary level; and

(b) remains the same.

(c) a master's degree from any accredited professional educator preparation program and a minimum of 24 graduate semester credits from a school administrator preparation program in the following content areas:

(i) and (ii) remain the same.

(iii) ~~management to include finance and law~~ successful completion of three semester credits of college coursework in Montana school law; and

(iv) remains the same.

(2) A Class 3 administrative license endorsed as a secondary principal shall be renewed upon verification of 60 renewal units earned during the valid term of the license.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.417 CLASS 3 ADMINISTRATIVE LICENSE – K-12 PRINCIPAL ENDORSEMENT (1) through (1)(b) remain the same.

(c) a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at any level within K-12; and

(d) remains the same.

(2) A Class 3 administrative license endorsed as a K-12 principal shall be renewed upon verification of 60 renewal units earned during the valid term of the license.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.418 CLASS 3 ADMINISTRATIVE LICENSE – SUPERVISOR ENDORSEMENT (1) remains the same.

(2) A Class 3 administrative license endorsed as a supervisor shall be renewed upon verification of 60 renewal units earned during the valid term of the license.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.419 CLASS 3 ADMINISTRATIVE LICENSE – SPECIAL EDUCATION SUPERVISOR ENDORSEMENT (1) remains the same.

(2) A Class 3 administrative license endorsed as a special education supervisor shall be renewed upon verification of 60 renewal units earned during the valid term of the license.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.420 CLASS 4 CAREER AND VOCATIONAL/TECHNICAL EDUCATION LICENSE (1) A Class 4 license is specific to career and vocational/technical education and shall be valid for a period of five years.

~~(2) There are three types of Class 4 licenses: —Class 4A, 4B and 4C.~~

~~(2) A class 4 license shall be valid for a period of five years.~~

(a) A Class 4A license shall be issued to individuals holding a valid Montana secondary level teaching license, but without an appropriate career and technical education endorsement;

(b) A Class 4B license shall be issued to individuals with at least a bachelor's degree, but who do not hold a valid Montana secondary level teaching license with the appropriate career and technical education endorsement;

(c) A Class 4C license shall be issued to individuals who hold at least a high school diploma or GED and meet the minimum requirements for endorsement.

~~(3) remains the same.~~

(a) Class 4A licenses (with a bachelor's degree) shall be renewable by earning 60 renewal units, 40 of which must be earned through college credit. Endorsement related to technical studies may be accepted with prior approval. The first renewal must show evidence of renewal units earned in the following content areas:

(i) principles and/or philosophy of career and technical education;

(ii) safety and teacher liability.

(b) Class 4A licenses (with a master's degree) shall be renewable by earning 60 renewal units. The first renewal must show evidence of renewal units earned in the following content areas:

(i) principles and/or philosophy of career and technical education; and

(ii) safety and teacher liability.

(c) Class 4B or 4C licenses shall be renewable by earning 60 renewal units, 40 of which must be earned through college credit. Appropriate coursework to renew a Class 4B or 4C license includes the following:

(i) principles and/or philosophy of career and technical education;

(ii) curriculum and instruction in career and technical education;

(iii) learning styles/teaching styles; including serving students with special needs;

(iv) safety and teacher liability;

(v) classroom management;

(vi) teaching methods;

(vii) career guidance in career and technical education; and

(viii) endorsement related technical studies, with prior approval.

~~(4) Recognized occupations eligible for a class 4 license shall be evaluated on an annual basis by the Superintendent of Public Instruction. Current appropriate class 4 career and vocational/technical occupational areas are set forth in ARM 10.57.301(4). Endorsements not on the list of recognized occupations may be retained as long as the holder continues to renew the license.~~

~~(5) A lapsed Class 4 license may be reinstated by showing verification of the following:~~

(a) for Class 4A licenses:

(i) if the licensee does not have a master's degree, 60 renewal units, 40 of which must be earned by college credit or prior approved endorsement related technical studies, earned during the five-year period preceding the validation date of the new license; or

(ii) if the licensee has a master's degree, 60 renewal units earned during the five-year period preceding the validation date of the new license.

(b) for Class 4B and 4C licenses, the licensee must verify completion of four semester credits of coursework in the following areas:

(i) principles and/or philosophy of career and technical education;

(ii) curriculum and instruction in career and technical education;

(iii) learning styles/teaching styles; including serving students with special needs;

(iv) safety and teacher liability;

(v) classroom management;

(vi) teaching methods;

(vii) career guidance in career and technical education;

(viii) endorsement related technical studies, with prior approval.

~~60 renewal units, 40 of which must be earned by college credit and/or technical studies if the licensee does not have a master's degree, earned during the five-year period preceding the validation date of the new license;~~

~~(b) 120 renewal units, 80 of which must be earned by college credit and/or technical studies if the licensee does not have a master's degree, earned during the nine-year period preceding the validation date of the new license;~~

~~(c) 60 renewal units earned during the five-year period preceding the validation date of the new license if the licensee has a master's degree; or~~

~~(d) 120 renewal units earned during the nine-year period preceding the validation date of the new license if the licensee has a master's degree.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.421 CLASS 4A CAREER AND VOCATIONAL/TECHNICAL EDUCATION LICENSE ENDORSEMENTS (1) Recognized occupations eligible for a Class 4 license shall be evaluated on an annual basis by the Superintendent of Public Instruction. Appropriate career and technical education areas acceptable for endorsement on the Class 4 license include but are not limited to the following: automotive technology, welding, auto body, industrial mechanics, small engines, heavy equipment operations, electronics, horticulture, agriculture mechanics, building trades, building maintenance, culinary arts, metals, drafting, computer information systems, graphic arts, aviation, health occupations, machining, diesel mechanics, videography, and theater arts. Endorsements not on the list of recognized occupations may be retained as long as the holder continues to renew the license.

(2) To obtain an endorsement on a Class 4 license, an applicant must provide the following:

(a) verification of a minimum of 10,000 hours of documented work experience which may include apprenticeship training, documenting the knowledge and skills required in the specific trade in which they are to teach. Acceptable documentation is determined by the superintendent and may include, but is not limited to:

(i) work experience completed and verified by previous employers, to include a detailed description of the duties performed during employment;

(ii) for self-employed individuals, examples of projects completed, letters of verification from clients or customers, profit and loss statements demonstrating the viability of the business or self-employment;

(iii) verification of teaching experience in the area requested for endorsement, accompanied by verification of substantial work experience in the area requested for endorsement;

(iv) certificates of completion of appropriate technical programs or related college degrees and coursework, and industry certification (e.g., ASE, AWS);

(b) for health occupations or computer information systems, an alternative to the above requirement of 10,000 hours work experience may be substituted as approved by the Superintendent of Public Instruction as follows:

(i) for health occupations:

(A) hold a Class 1 or 2 license with an endorsement in health or any of the science areas;

(B) verification of participation in or completion of an approved internship program in a medical setting; and

(C) successful completion of coursework in human biology and anatomy and physiology; or

(D) hold a current professional license or certificate in a related health occupation field;

(ii) for computer information systems an individual may provide verification of completion of an approved technical program in a recognized training institution and hold a professional license or recognized industry standard certificate.

(3) A Class 4A, 4B, or 4C career and technical education license may be approved to teach traffic education if the license meets the requirements of ARM 10.13.310. A class 4A license shall be issued to individuals holding a valid Montana secondary level teaching license, but without an appropriate career and vocational/technical education endorsement, and who meet the following minimum requirements:

(a) 10,000 hours of documented work experience or apprenticeship training equal to 10,000 hours in the specific trade in which they are to teach;

(b) for computer information systems or health occupations, an alternative to the above requirement of 10,000 hours work experience may be substituted, as approved by the Superintendent of Public Instruction as follows:

(i) for health occupations an individual may hold a related health or science education endorsement, have completed an approved internship program in a recognized medical setting of a minimum of 200 hours (five weeks), and hold a current professional license or certificate.

~~(ii) for computer information systems an individual may provide verification of completion of an approved technical program in a recognized training institution and hold a professional license or recognized industry standard certificate.~~

~~(2) Class 4A licenses (with a master's degree) shall be renewable by earning 60 renewal units. The first renewal must show evidence of renewal units earned in the following content areas:~~

~~(a) principles and/or philosophy of career and vocational/technical education; and~~

~~(b) safety and teacher liability.~~

~~(3) Class 4A licenses (with a bachelor's degree) shall be renewable by earning 60 renewal units, 40 of which must be earned through college credit and/or technical studies. The first renewal must show evidence of renewal units earned in the following content areas:~~

~~(a) principles and/or philosophy of career and vocational/technical education; and~~

~~(b) safety and teacher liability.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.424 CLASS 5 ALTERNATIVE LICENSE (1) remains the same.

(2) An applicant for a Class 5 alternative license must sign and file with the Superintendent of Public Instruction a plan of professional intent leading to the Class 1, 2, 3₁ or 6 license within three years of the date of the alternative license.

(3) A Class 5 alternative license is available with any endorsement normally allowed for Class 1, 2, 3₁ or 6 licenses.

(4) Class 5 alternative license holders are not eligible for a Board of Public Education approved internship program in the same endorsement area subsequent to the Class 5 licensure expiration date.

(5) When the endorsement-specific requirement in ARM 10.57.425 through 10.57.432 requires a master's degree, master's degrees which do not meet the specific requirement may be accepted with university approval.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.425 CLASS 5 ALTERNATIVE LICENSE – ELEMENTARY LEVEL

(1) remains the same.

(a) a bachelor's degree from an accredited college or university meeting or exceeding the minimal educator licensure requirements set forth in ARM 10.57.102(14);

(b) a minimum of 60 semester credits of academic preparation in language arts and literature, history, government and related social science, mathematics, and any two of the following: art, music, foreign languages, speech, drama, library science, or health; and

(c) professional preparation of at least six semester credits to include human growth and development, reading and/or language arts, social studies, and arithmetic; and

(d) for those licensees who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.426 CLASS 5 ALTERNATIVE LICENSE – SECONDARY LEVEL

(1) remains the same.

(a) a bachelor's degree from an accredited college or university meeting or exceeding the minimal educator licensure requirements set forth in ARM

10.57.102(14);

(b) a minimum of 30 semester credits in an area approved by the Board of Public Education for endorsement; and

(c) professional educator preparation of at least six semester credits; and

(d) for those licensees who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.427 CLASS 5 ALTERNATIVE LICENSE – SUPERINTENDENT ENDORSEMENT (1) remains the same.

(a) a master's degree in educational leadership from an accredited professional educator preparation program or equivalent;

(b) eligibility for a Class 1, 2, or 5, or 6 teaching license at the appropriate level;

(c) verification a minimum of three years of successful experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at any level teaching experience; and

(d) verification of one year of appropriately licensed experience as a principal or one year of a supervised Board of Public Education approved administration internship as superintendent.

(2) Licensees more than six semester credits from meeting requirements for full licensure must also submit written evidence of either:

(a) enrollment in an accredited professional educator preparation program leading to the superintendent endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.703; or

(b) enrollment in an accredited professional educator preparation program leading to the superintendent endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:

(i) supervision of the licensee by university personnel;

(ii) annual on-site visitations by the university supervisor; and

(iii) progress toward completion of requirements for the superintendent endorsement.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.428 CLASS 5 ALTERNATIVE LICENSE – ELEMENTARY PRINCIPAL ENDORSEMENT (1) To obtain a Class 5 alternative license with an elementary principal endorsement, an applicant must provide verification of:

- (a) remains the same.
- (b) eligibility for a Class 1, 2, or 5, or 6 teaching license at the elementary level; and
- (c) ~~verification~~ a minimum of three years of successful ~~teaching~~ experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the elementary level.

(2) Licensees more than six semester credits from meeting requirements for full licensure must also submit written evidence of either:

(a) enrollment in an accredited professional educator preparation program leading to the elementary principal endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.703; or

(b) enrollment in an accredited professional educator preparation program leading to the elementary principal endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:

- (i) supervision of the licensee by university personnel;
- (ii) annual on-site visitations by the university supervisor; and
- (iii) progress toward completion of requirements for the superintendent endorsement.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.429 CLASS 5 ALTERNATIVE LICENSE – SECONDARY PRINCIPAL ENDORSEMENT (1) and (1)(a) remain the same.

(b) eligibility for a Class 1, 2, or 5, or 6 teaching license at the secondary level; and

(c) ~~verification~~ a minimum of three years of successful ~~teaching~~ experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at the elementary level.

(2) Licensees more than six semester credits from meeting requirements for full licensure must also submit written evidence of either:

(a) enrollment in an accredited professional educator preparation program leading to the secondary principal endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.703; or

(b) enrollment in an accredited professional educator preparation program leading to the secondary principal endorsement and an equivalent accredited

university-provided professional educator intern program which must include or provide:

- (i) supervision of the licensee by university personnel;
- (ii) annual on-site visitations by the university supervisor; and
- (iii) progress toward completion of requirements for the superintendent endorsement.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.430 CLASS 5 ALTERNATIVE LICENSE – K-12 PRINCIPAL ENDORSEMENT (1) and (1)(a) remain the same.

(b) eligibility for a Class 1, 2, or 5, or 6 teaching license at any level within K-12; and

(c) verification a minimum of three years of successful teaching experience as an appropriately licensed and assigned Class 1 or 2 teacher or Class 6 school counselor at any level with K-12.

(2) Licensees more than six semester credits from meeting requirements for full licensure must also submit written evidence of either:

(a) enrollment in an accredited professional educator preparation program leading to the K-12 principal endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.703; or

(b) enrollment in an accredited professional educator preparation program leading to the K-12 principal endorsement and an equivalent accredited university-provided professional educator intern program which must include or provide:

- (i) supervision of the licensee by university personnel;
- (ii) annual on-site visitations by the university supervisor; and
- (iii) progress toward completion of requirements for the superintendent endorsement.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.432 CLASS 5 ALTERNATIVE LICENSE – SPECIALIST ENDORSEMENT (1) remains the same.

(a) a master's degree or greater in school psychology or related field from an accredited school psychologist professional educator preparation program; and

(b) completion of at least 12 of the following 16 requirements: recommendation from the Montana Association of School Psychologists Competency Review Board.

(i) undergraduate or graduate general education/psychology course work/content to include:

- (A) careers;
- (B) human growth and development;
- (C) general psychology;
- (D) abnormal psychology; and
- (E) learning theory;

~~(ii) undergraduate or graduate general education course work/content to include:~~

- ~~(A) exceptional children (must include special education);~~
- ~~(B) curriculum development;~~
- ~~(C) diagnosis and remediation of reading; and~~
- ~~(D) educational evaluation; and~~

~~(iii) graduate psychological methods and techniques course work/content to include:~~

- ~~(A) individual intelligence testing;~~
 - ~~(B) child psychopathology and achievement testing;~~
 - ~~(C) personality assessment;~~
 - ~~(D) interviewing and counseling;~~
 - ~~(E) behavior interventions;~~
 - ~~(F) school psychology practicum/internship; and~~
 - ~~(G) administration, role and function of school psychology; and~~
 - ~~(c) specific completion of the individual intelligence testing requirement.~~
- (2) remains the same.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.433 CLASS 6 SPECIALIST LICENSE (1) through (3) remain the same.

(4) A lapsed Class 6 specialist license may be reinstated by showing verification of:

- ~~(a) four graduate semester credits or equivalent renewal units earned during the five-year period preceding the validation date of the new license; or~~
- ~~(b) eight graduate semester credits or equivalent renewal units earned during the nine year period preceding the validation date of the new license.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.434 CLASS 6 SPECIALIST LICENSE – SCHOOL PSYCHOLOGIST

(1) and (1)(a) remain the same.

~~(b) a master's degree in school psychology or a master's degree which includes the following minimums: an education specialist degree in a related field from an accredited institution; and~~

(c) recommendation from the Montana Association of School Psychologists Competency Review Board after completion of an oral examination.

~~(i) 10 semester credits in general education/psychology (graduate or undergraduate) training to include:~~

- ~~(A) new careers or transitions;~~
- ~~(B) human growth and development;~~
- ~~(C) general psychology;~~
- ~~(D) educational psychology; and~~
- ~~(E) abnormal psychology;~~

~~(ii) completion of the following course work is required at either the undergraduate or graduate level, provided the applicant has a master's degree from an accredited program:~~

- ~~(A) exceptional children (must include special education);~~
- ~~(B) curriculum development;~~
- ~~(C) diagnosis and remediation of reading; and~~
- ~~(D) educational evaluation; and~~

~~(iii) completion of the following specific course work in psychological methods and techniques is required at the graduate level:~~

- ~~(A) individual intelligence testing;~~
- ~~(B) child psychopathology;~~
- ~~(C) personality assessment;~~
- ~~(D) interviewing and counseling;~~
- ~~(E) behavioral interventions;~~
- ~~(F) school psychology practicum/internship (a minimum of four semester hours of graduate credit or appropriate waiver); and~~
- ~~(G) administration, role and function of school psychology.~~

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.435 CLASS 6 SPECIALIST LICENSE – SCHOOL COUNSELOR

(1) remains the same.

(2) A Class 6 specialist endorsed in school counseling may be approved to teach traffic education if the licensee meets the requirements of ARM 10.13.310 and is approved by the Superintendent of Public Instruction.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.57.436 CLASS 7 AMERICAN INDIAN LANGUAGE AND CULTURE SPECIALIST (1) through (3) remain the same.

(4) A Class 7 American Indian language and culture specialist licensee may be approved to teach traffic education if the licensee meets the requirements of ARM 10.13.310 and is approved by the Superintendent of Public Instruction.

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

AUTH: 20-4-102, MCA

IMP: 20-4-103, 20-4-106, MCA

10.57.601A DEFINITION OF "IMMORAL CONDUCT" (1) remains the same.

(a) sexual contact, as defined in 45-2-101~~(66)~~ (67), MCA, or sexual intercourse as defined in 45-2-101~~(67)~~ (68), MCA, between a teacher, specialist, or administrator and a person the teacher, specialist, or administrator knows or reasonably should know is a student at a public or private elementary or secondary school;

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

(xxi) 45-5-622(3), MCA (endangering welfare of children);

(c) through (d) remain the same.

(e) falsifying, intentionally misrepresenting, willfully omitting, or being negligent in reporting information submitted to federal, state, and other governmental agencies such as professional qualifications, criminal history, and information submitted in the course of an official inquiry or investigation, college or professional development credit and/or degrees, academic awards, and employment history when applying for employment and/or licensure, or when recommending an individual for employment, promotion, or licensure.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

4. Statement of Reasonable Necessity: By authority of 20-4-102, MCA the Board of Public Education adopts policies for the issuance of teacher licenses. The board regularly considers recommendations for revision of the policies at any time it deems necessary. Every five years the board makes a comprehensive review of licensure policies to ensure that such policies are meeting the needs of the state. Therefore, the Board of Public Education has determined it is reasonable and necessary to amend and repeal rules relating to chapter 57, educator licensure. The Certification Standards and Practices Advisory Council staff and the Office of Public Instruction staff facilitated the comprehensive process to amend chapter 57, educator licensure with input from Montana P-20 education stakeholders.

5. The rules proposed for repeal follow:

ARM 10.57.104 STUDENT TEACHING/SUPERVISED PRACTICE is being repealed because the provisions in this rule have been included in ARM 10.57.201.
AUTH: 20-4-102, MCA; IMP, 20-4-102, MCA

ARM 10.57.110 AREA OF PERMISSIVE SPECIALIZED COMPETENCY is being repealed because the provisions in this rule have been included in ARM 10.57.413.
AUTH: 20-4-102, MCA; IMP, 20-4-103, MCA

ARM 10.57.220 RECENCY OF CREDIT is being repealed because the provisions in this rule have been included in ARM 10.57.201.
AUTH: 20-4-102, 20-4-103, MCA; IMP, 20-4-102, 20-4-103, 20-4-106, MCA

ARM 10.57.422 CLASS 4B CAREER AND VOCATIONAL/TECHNICAL EDUCATION LICENSE is being repealed because the provisions in this rule have been included in ARM 10.57.420 and 10.57.421.
AUTH: 20-4-102, MCA; IMP, 20-4-106, 20-4-108, MCA

ARM 10.57.423 CLASS 4C CAREER AND VOCATIONAL/TECHNICAL EDUCATION LICENSE is being repealed because the provisions in this rule have been included in ARM 10.57.420 and 10.57.421.

AUTH: 20-4-102, MCA; IMP, 20-4-106, 20-4-108, MCA

6. Pursuant to the agreement between the Board of Public Education and the Legislature, the board does not anticipate any implementation costs, but shall request and report in its adoption notice any cost estimates received from districts during the hearing.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted by mail to the Board of Public Education, P.O. Box 200601, Helena, Montana 59620-0601, or by e-mail to smeloy@mt.gov and must be received no later than 5:00 p.m. on February 26, 2009.

8. Steve Meloy has been designated to preside over and conduct the hearing.

9. The Board of Public Education 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 Steve Meloy, P.O. Box 200601, Helena, Montana 59620-0601, faxed to the office at (406) 444-0847, by e-mail to smeloy@mt.gov, or may be made by completing a request form at any rules hearing held by the Board of Public Education.

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

11. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

/s/ Patty Myers
Patty Myers, Chairperson
Board of Public Education

/s/ Steve Meloy
Steve Meloy, Rule Reviewer
Board of Public Education

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.2204 pertaining to a no) PROPOSED AMENDMENT
wake zone on Echo Lake)

To: All Concerned Persons

1. On February 19, 2009, at 6:00 p.m. the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Region 1 offices located at 490 North Meridian Road, Kalispell, Montana to consider the amendment of the above-stated rule.

2. The commission 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 commission no later than 5:00 p.m. on February 12, 2009, to advise us of the nature of the accommodation that you need. Please contact Martha Abbrescia, Fish, Wildlife and Parks, Region 1, 490 North Meridian Road, Kalispell, MT 59901; telephone (406) 751-4567; fax (406) 257-0349; e-mail mabbrescia@mt.gov.

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

12.11.2204 ECHO LAKE (1) Echo Lake is located in Flathead County.

(2) Echo Lake is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), except for the following areas:

(a) the upper three islands in the southwest corner of section 5, approximately 1/4 mile southeast of the entrance of Blackies Bay.

(b) the narrow corridor that serves as the entrance and exit to Blackies Bay located in the northwest corner of Echo Lake; ~~and~~

(c) the narrow corridor that serves as the entrance and exit to Causeway Bay located in the northeast corner of Echo Lake;

(d) the narrow corridor that serves as the entrance and exit to Sunrise Bay, west of Blackies Bay; and

(e) the narrow corridor that serves as the entrance and exit of the bay located at the southwest side of Echo Lake bordered by Echo Chalet Drive and East Village Drive.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

4. The Fish, Wildlife and Parks Commission (commission) received two petitions, regarding the no wake zone established by ARM 12.11.115, on Echo Lake. After hearing comments from the petitioners pursuant to ARM 12.11.117, the commission is proposing the enclosed rulemaking.

The commission is proposing amendments to ARM 12.11.2204 to establish an alternative route to the existing path motorized watercraft towing skiers are allowed to travel in order to allow safe travel across the whole lake. The existing no wake zone around the perimeter of the lake disallows motorized watercraft towing a skier to continue through to other portions of the lake because the 200 foot no wake zone overlaps and does not allow watercraft to travel at speeds required to pull a skier. The commission found that areas where watercraft can travel at speeds to tow a skier are too congested and cause wave action that resulted in damage to adjacent property owners' docks and shorelines. This proposal provides a safe route, with high visibility, allowing watercraft towing a skier to travel a greater portion of the lake relieving congestion and minimizing damage to the shoreline caused by waves.

The commission is proposing the amendments to provide a continuous route from the bays to the main body of water on Echo Lake by exempting the corridors serving as entrance and exit for each bay from ARM 12.11.115.

On November 10, 2008 the commission voted and approved to direct the Department of Fish, Wildlife and Parks to initiate rulemaking.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Martha Abbrescia, Fish, Wildlife and Parks, Region 1, 490 North Meridian Road, Kalispell, MT 59901; fax (406) 257-0349; e-mail mabbrescia@mt.gov, and must be received no later than February 27, 2009.

6. Jessica Fitzpatrick, or another hearing officer appointed by the department, has been designated to preside over and conduct the hearing.

7. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

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

/s/ Joe Maurier
Joe Maurier, Acting Secretary
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter
Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State January 20, 2009.

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 PUBLIC HEARING ON
17.40.318 and the adoption of New Rule)	PROPOSED AMENDMENT AND
I pertaining to state revolving fund and)	ADOPTION
public water and sewer projects eligible)	
for categorical exclusion from MEPA)	(WATER TREATMENT SYSTEMS
review)	AND OPERATORS)
)	(PUBLIC WATER AND SEWAGE
)	SYSTEM REQUIREMENTS)

TO: All Concerned Persons

1. On February 24, 2009, at 1:30 p.m., the Board of Environmental Review and the Department of Environmental Quality will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The board and department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., February 11, 2009, 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.

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

17.40.318 STATE REVOLVING FUND PROJECTS ELIGIBLE FOR CATEGORICAL EXCLUSION FROM ~~EIS REQUIREMENT~~ MEPA REVIEW (1) A Except as provided in (2), a department action ~~on an application for loan assistance under Title 75, chapter 5, part 11, MCA, and this subchapter may receive a categorical exclusion from the requirements of 75-1-201(1)(b)(iii), MCA, and ARM 17.4.626 through 17.4.641, if the department determines under (2) of this rule that its action on the application would not individually, collectively, or cumulatively over time require~~ is excluded from the requirement to prepare an environmental assessment (EA) or environmental impact statement (EIS), and under (3) of this rule that its action is not precluded from a categorical exclusion. if the application for department review is for any of the following projects:

~~(2) Actions consistent with any of the following categories are eligible for the categorical exclusion:~~

~~(a) actions that are solely directed toward projects involving minor rehabilitation of existing facilities, functional replacement of equipment, or~~

~~construction of new ancillary facilities adjacent or appurtenant to existing facilities. These improvements may not decrease the degree of treatment of the existing facility; and~~

~~(b) actions for projects in sewerred communities of less than 10,000 persons that involve only minor upgrading or minor expansion of existing treatment works and do not change existing unit processes, and that do not directly or indirectly involve the extension of new collection systems.~~

(a) projects relating to existing infrastructure systems such as sewer systems, drinking water supply systems, and stormwater systems, including combined sewer overflow systems that involve:

(i) minor upgrading;

(ii) minor expansion of system capacity;

(iii) rehabilitation (including functional replacement) of the existing system and system components; or

(iv) construction of new minor ancillary facilities adjacent to or on the same property as existing facilities; or

(b) projects in unsewerred communities involving the replacement of existing on-site systems, provided that the new on-site systems do not result in substantial increases in the volume of discharges or in loadings of pollutants from existing sources, and do not relocate existing discharges.

~~(3)~~ (2) A categorical exclusion may not be granted for a department action under (1) if:

(a) remains the same.

(b) the action ~~will~~ would result in an increase above permit levels established for the facility under the Montana pollutant discharge elimination system or Montana ground water pollution control system for either volume of discharge or loading rate of pollutants to receiving waters;

(c) the action would authorize facilities that ~~would~~ will provide capacity to serve a population at least 30% greater than the existing population;

(d) the action is not supported by the state, or other regional growth plan or strategy;

(e) the action directly or indirectly involves or relates to upgrading or extending infrastructure systems primarily for the purposes of future development;

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

~~(e)~~ (g) the department determines that the proposed project that is the subject of the state action shows some potential for causing a significant effect on the quality of the human environment, based on ARM 17.4.608, or might possibly affect:

(i) and (ii) remain the same.

~~(4)~~ (3) The department shall document its decision to issue a categorical exclusion by referencing the application, providing a brief description of the proposed action, and describing how the action meets the criteria for a categorical exclusion in (1) without violating the criteria for not granting an exclusion in (2).

(5) through (5)(d) remain the same, but are renumbered (4) through (4)(d).

AUTH: 75-5-201, 75-5-1105, MCA

IMP: 75-1-201, 75-5-1105, MCA

REASON: ARM 17.40.318 sets out the criteria under which a wastewater treatment project may qualify for an exclusion from review under the Montana Environmental Policy Act (MEPA). Adopted in 1992, the rule applies to applications to the department, under the Water Pollution Control State Revolving Fund Act, for financial assistance for wastewater treatment projects. The amendments to ARM 17.40.318 are proposed by the board under the Water Quality Act and by the department under the Water Pollution Control State Revolving Fund Act.

The department reviews projects for eligibility for state funding, but has also been approved by EPA to award federal funding for certain projects. The current language in ARM 17.40.318 is based on a federal categorical exclusion under the National Environmental Policy Act (NEPA). The NEPA exclusion, which was promulgated by the U.S. Environmental Protection Agency (EPA), applies to awards of federal funding for wastewater projects. In 2007, EPA modified its NEPA categorical exclusion criteria. The new EPA rule is set out at 40 CFR Section 6.204. The purpose of the proposed amendments to ARM 17.40.318 is to modify the state MEPA exclusion criteria to conform to the new NEPA rule.

The proposed amendments to ARM 17.40.318 do not significantly change the current exclusion criteria. The amendments would restrict the current exclusion to "minor" ancillary facilities, and would expand the current exclusion to include rehabilitation projects that are not "minor". A new provision would prohibit use of the exclusion for upgrades or extensions that are primarily for the purposes of future development. The amendments would also no longer limit the exclusion to communities of less than 10,000 persons. These changes are not substantive with regard to MEPA because the rule continues to require that the department review all projects to determine whether there is potential for significant environmental impacts or significant public interest. See current ARM 17.40.318(4). If that potential exists, MEPA review is required. The other limitations on use of the exclusion also continue to apply (e.g., no new discharge or increase of a discharge above permit levels, or expansion of capacity by 30% or more beyond the existing population).

For projects that apply to the department for federal funding or a combination of state/federal funding, the department's MEPA review must be consistent with NEPA. The amendments to ARM 17.40.318 are necessary to ensure that the department's MEPA categorical exclusion is consistent with the corresponding NEPA exclusion in 40 CFR Section 6.204.

4. The proposed new rule provides as follows:

NEW RULE I PUBLIC WATER AND SEWER PROJECTS ELIGIBLE FOR CATEGORICAL EXCLUSION FROM MEPA REVIEW (1) Except as provided in (2), a department action under this subchapter and under either Title 75, chapter 6, part 1 or Title 75, chapter 6, part 2, MCA, is excluded from the requirement to prepare an environmental assessment or an environmental impact statement if the application for department review is for any of the following projects:

(a) projects relating to existing infrastructure systems such as sewer systems, drinking water supply systems, and stormwater systems, including combined sewer overflow systems that involve:

(i) minor upgrading;

- (ii) minor expansion of system capacity;
 - (iii) rehabilitation (including functional replacement) of the existing system and system components; or
 - (iv) construction of new minor ancillary facilities adjacent to or on the same property as existing facilities; or
 - (b) projects in unsewered communities involving the replacement of existing on-site systems, provided that the new on-site systems do not result in substantial increases in the volume of discharges or in loadings of pollutants from existing sources, and do not relocate existing discharges.
- (2) A categorical exclusion may not be granted for a department action under (1) if:
- (a) the action would authorize facilities that will provide a new discharge or relocate an existing discharge to ground or surface waters;
 - (b) the action would result in an increase above permit levels established for the facility under the Montana pollutant discharge elimination system or Montana ground water pollution control system for either volume of discharge or loading rate of pollutants to receiving waters;
 - (c) the action would authorize facilities that will provide capacity to serve a population at least 30% greater than the existing population;
 - (d) the action is not supported by the state, or other regional growth plan or strategy;
 - (e) the action directly or indirectly involves or relates to upgrading or extending infrastructure systems primarily for the purposes of future development;
 - (f) the department has received information indicating that public controversy exists over the project's potential effects on the quality of the human environment; or
 - (g) the department determines that the proposed project that is the subject of the state action shows some potential for causing a significant effect on the quality of the human environment, based on ARM 17.4.608, or might possibly affect:
 - (i) sensitive environmental or cultural resource areas; or
 - (ii) endangered or threatened species and their critical habitats.
- (3) The department shall document its decision to issue a categorical exclusion by referencing the application, providing a brief description of the proposed action, and describing how the action meets the criteria for a categorical exclusion in (1) without violating the criteria in (2).
- (4) The department may revoke a categorical exclusion if:
- (a) the project is not initiated within the time period specified in the facility plan, or a new or modified application is submitted;
 - (b) the proposed action no longer meets the requirements for a categorical exclusion because of changes in the proposed action;
 - (c) new evidence demonstrates that serious local or environmental issues exist; or
 - (d) state, local, tribal, or federal laws may be violated.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The provisions of New Rule I are the same as the proposed

amendments to ARM 17.40.318, except that the New Rule will apply to department review of projects under the state drinking water revolving fund (SRF) program. The drinking water SRF program is administered under Title 75, chapter 6, part 2, MCA. For a summary of the key provisions of the proposed New Rule, see the Reason statement in paragraph 3 above.

Because ARM 17.40.318 is codified in a subchapter that applies only to wastewater SRF projects under Title 75, chapter 5, part 11, MCA, the drinking water categorical exclusion in the New Rule needs to be codified separately. New Rule I will be codified in ARM Title 17, chapter 38, as part of the board's public water and sewer (PWS) rules. The New Rule will apply to drinking water projects reviewed under the drinking water SRF program as well as to non-SRF drinking water and wastewater projects reviewed under the PWS statutes in Title 75 chapter 6, MCA. Unlike the amendments to ARM 17.40.318, which are jointly proposed under separate authorities by the board and the department, New Rule I is proposed by the board under the authority of the PWS statutes.

MEPA review is not necessary for projects that have no significant environmental impacts and when there is no public concern about environmental impacts. A categorical exclusion will allow the department to process applications for these projects without formal MEPA review. EPA has also recommended that, for applications for federal funds, the state drinking water SRF program should adopt a categorical exclusion modeled on the NEPA exclusion in 40 CFR Section 6.204. New Rule I is modeled on the federal rule in order to ensure that the department's MEPA review is consistent with NEPA.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to 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., February 26, 2009. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Katherine Orr, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

7. 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.

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

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ James M. Madden
JAMES M. MADDEN
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. OPPEN, Director

Certified to the Secretary of State, January 20, 2009.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING
RULE I pertaining to licensee lookup) ON PROPOSED ADOPTION
database)

TO: All Concerned Persons

1. On February 19, 2009, at 1:00 p.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on February 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Darcee L. Moe, Business Standards Division, Department of Labor and Industry, P.O. Box 200513, Helena, MT 59620-0513; telephone (406) 841-2327; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2313; or e-mail at damoe@mt.gov.

3. The proposed new rule provides as follows:

NEW RULE I POSTING DISCIPLINARY ORDERS ON LICENSEE LOOKUP DATABASE (1) Unless the exceptions in (2) and (3) are applicable, any final order imposing a sanction against a professional or occupational license holder that is based on competence to practice issues or based on an allegation that generally or specifically is a violation of law or regulation, is a "disciplinary action" that must be published and noted on the licensee lookup.

(2) If a final order is based only upon a failure to file or complete in a timely manner a minor administrative requirement that is in rule or law, the order affecting the licensee is not a "disciplinary action" for the purposes of publication and notice on the licensee lookup.

(3) A final order of license denial based solely upon an applicant's failure to meet minimum licensure qualifications and not based on competence to practice issues or involving the applicant's past disciplinary or legal actions is not a "disciplinary action" for the purposes of publication and notice on the licensee lookup.

AUTH: 37-1-101, MCA
IMP: 37-1-311, 37-1-405, MCA

REASON: The 2007 Montana Legislature enacted Chapter 225, Laws of 2007 (Senate Bill 453), an act creating a uniform framework to inform the public of matters before the boards and programs of the department with respect to disciplinary

proceedings. The bill was signed by the Governor on April 17, 2007, and became effective on January 1, 2009.

The department, following consultation with the bill's sponsor, has determined it is reasonable and necessary to adopt this new rule to implement the legislation. The new rule clarifies the definition of "disciplinary action" to adequately inform the public and licensees exactly what actions are required to be publically posted via the online licensee lookup system.

4. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Department of Labor and Industry, Business Standards Division, Attn: Darcee L. Moe, P.O. Box 200513, Helena, Montana 59620-0513; by facsimile to (406) 841-2313; or by e-mail to damoe@mt.gov, and must be received no later than 5:00 p.m., February 27, 2009.

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

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all department administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Department of Labor and Industry, Business Standards Division, Attn: Darcee L. Moe, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2313, e-mailed to damoe@mt.gov, or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The bill sponsor was notified by U.S. mail on September 24, 2008.

8. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

/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 January 20, 2009

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.141.301 definitions,)	PROPOSED AMENDMENT AND
24.141.405 fees, 24.141.501)	REPEAL
applications, 24.141.502)	
temporary practice permits,)	
24.141.503 examinations,)	
24.141.2102 continuing education,)	
and repeal of ARM 24.141.506)	
master electrician qualifications)	

TO: All Concerned Persons

1. On February 20, 2009, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the State Electrical Board (board) no later than 5:00 p.m., on February 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdele@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The board is amending authority and implementation cites throughout these rules to accurately reflect all statutes implemented through the rules and to provide the complete sources of the board's statutory rulemaking authority.

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

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

(1) "Appliance" means all products covered by 42 USC Section 6292, the National Appliance Energy Conservation Act of 1987, as amended.

(2) "Electrical construction" means work performed by an individual, firm, or business entity in which an electrical connection is made to a supply of electricity or in which electricity is supplied to any electrical equipment installation for which a permit is required by the authority having jurisdiction. Electrical construction work constitutes the electrical construction field.

(3) "Electrical trade school" is a state-approved inside wireman apprenticeship program or an associate's degree program of an accredited university or trade school.

(4)(4) "Full-time employment" means employment, as an independent contractor or an employee, wherein the responsible electrician is available to procure, perform, administer, and supervise all electrical work being performed by the electrical contractor.

(5) "Journeyman level experience" means being recognized as a journeyman electrician by a state or other legally authorized jurisdiction or having a minimum of 8000 hours of practical experience. No more than 2000 hours of work experience may be accrued in any 12-month period. Hours of experience while serving an apprenticeship are not considered journeyman level experience.

(6) "Legally obtained experience" means experience obtained in accordance with the laws and rules of the jurisdiction in which the applicant obtained the experience and with the statutes and rules of the Montana State Electrical Board.

(2)(7) "Limited electrical contractor" means a licensed electrical contractor limited to residential construction consisting of less than five living units in a single structure.

(8) "Low voltage" is considered to be 90 volts or less. Low voltage installers are unlicensed and include individuals who are involved in telecommunications. Low voltage installers may run raceways to be used strictly as physical protectors of the wires therein.

(3)(9) "Maintenance" means ordinary and customary in-plant or on-site installations, modifications, additions, or repairs. Maintenance which shall be limited to relamping fixtures, replacing ballasts, trouble shooting motor controls, replacing motors, breakers, magnetic starters, in kind-for-kind manner. Also included are connection of specific items of specialized equipment that can be directly connected to an existing branch circuit panel by means of factory installed leads. If a new circuit is required to operate the equipment or if the size of the supply conductors needs to be increased, or if new fixtures, breakers, or other new electrical installations are required it shall be considered new work that must be performed by a licensed electrical contractor if permitted and inspected by the appropriate building code authority.

(a) The term does not include installation of a new circuit to operate the equipment described in (1) or installations that require the size of the supply conductors to be increased. These actions require installation by a licensed electrical contractor.

(10) "Maintenance personnel" means unlicensed individuals whose duties include the performance of maintenance as defined in (9).

(11) "Montana state electrical code" means those sections of the National Electrical Code adopted by the Department of Labor and Industry's Building Standards Program.

(12) "National Electric Code" means the code adopted by the board to regulate licensees.

(13) "Practical experience" means experience gained in the electrical construction field consisting of laying out, assembling, repairing, connecting, and testing electrical fixtures, apparatus and control equipment, and wiring in residential

and nonresidential settings pursuant to the provisions of the state electrical code or pursuant to the requirements of another authority having jurisdiction.

(14) "Public utility" has the meaning provided in 69-3-101, MCA.

~~(4)~~(15) "Responsible electrician" means the person engaged in a full-time capacity that who is responsible for all licensed electrical work performed by the electrical contractor.

(16) "Subcontracting" means that one licensed electrical contractor enters into a contract with another electrical contractor to do all or part of an installation. Subcontracting does not allow a limited electrical contractor to perform work beyond the scope of a limited electrical contractor's license.

~~(5)~~(17) "Unlimited electrical contractor" means a licensed electrical contractor that is licensed to perform electrical work on commercial, residential, industrial, and institutional electrical installations as covered by the national electrical code.

AUTH: 37-1-131, 37-68-201, MCA

IMP: 37-1-131, 37-68-102, 37-68-103, 37-68-201, 37-68-304, 37-68-312,
MCA

REASON: The board determined it is reasonable and necessary to amend this rule to adopt or modify definitions and clarify key words or phrases used throughout these rules.

24.141.405 FEE SCHEDULE (1) through (5) remain the same.

(6) Temporary permit

20 50

(7) and (8) remain the same.

AUTH: 37-1-134, ~~37-1-141~~, 37-68-201, MCA

IMP: 37-1-134, 37-1-141, ~~37-1-304, 37-1-305~~, 37-68-304, ~~37-68-307~~, 37-68-310, 37-68-311, 37-68-312, 37-68-313, MCA

REASON: The board is amending ARM 24.141.502 to reduce the effective period for temporary permits from 90 days to 30 days. The board is amending this rule to increase the fee to cover the projected staff time required to process, investigate, and issue the increased number of temporary permits. The \$30 increase will affect approximately 240 applicants with a \$7200 estimated increase in annual revenue.

24.141.501 ELECTRICIAN APPLICATIONS – JOURNEYMAN AND MASTER ELECTRICIAN (1) The practical experience requirement set forth in 37-68-304 and 37-68-305, MCA, shall be of such nature as is satisfactory to the board. The board will ~~only~~ accept electrical experience only in the construction field. Maintenance work, as defined in ARM 24.141.301, ~~which~~ is exempt under 37-68-103, MCA, and will not be accepted towards fulfillment of the practical experience requirement.

(2) For the journeyman license, no less than five percent but not more than a maximum of 50 percent of the electrical experience in the construction field may be residential in nature. The balance must be either commercial, industrial, institutional, or a combination thereof.

~~(3) For the master electrician license, the experience must be either commercial, residential, industrial, institutional or a combination thereof. An applicant for a master electrician's license shall furnish evidence satisfactory to the board that the applicant meets one of the following requirements:~~

~~(a) the applicant is a graduate electrical engineer from an accredited college or university and has at least one year of journeyman level experience;~~

~~(b) the applicant is a graduate of a two-year electrical trade school and has at least four years of practical journeyman level experience; or~~

~~(c) the applicant has five years of journeyman level experience in planning, laying out, or supervising the installation and repair of wiring apparatus for electrical light, heat, and power.~~

~~(4) The journeyman level experience required by (3)(a), (b), or (c) must be obtained by a combination of residential, commercial, institutional, and industrial work. No less than 20 percent, but no more than 50 percent of the required experience may be obtained in residential work.~~

~~(4)(5) An applicant shall have one year from the date of board approval to take the examination for which application was approved. If the examination is not taken within that one-year period, the applicant will be required to submit a new application with written verifications provide and pay the applicable fees.~~

~~(5)(6) All applications must be filed 15 days prior to the next scheduled board meeting in order to be considered at that board meeting. All applications shall be approved, tabled, or disapproved denied on a case-by-case basis as the board may deem proper.~~

AUTH: 37-1-131, 37-68-201, MCA

IMP: ~~37-1-131, 37-68-103, 37-68-201, 37-68-301, 37-68-302, 37-68-304, 37-68-305, 37-68-310, 37-68-311, MCA~~

REASON: The board determined it is reasonably necessary to amend this rule to require a better balance of experience for licensure applicants. The board is amending (2) to establish a minimum requirement of five percent residential experience for journeyman licensure. The board notes that journeyman licensure is typically used for residential work and the amendment will ensure that these applicants have at least some experience in the residential area.

The board is also adding (3) and (4) to this rule to set forth licensure requirements for journeyman and master electrician licenses in one rule. The master level requirements were formerly set forth in ARM 24.141.506 which is proposed for repeal in this notice.

24.141.502 TEMPORARY PRACTICE PERMIT (1) A temporary practice permit may be issued to an applicant for a residential or journeyman electrician license upon completion of an application, submission of verification of experience as required under ~~37-68-305, MCA~~, payment of the appropriate fees, and approval by the board or designated board representative. An applicant for a master electrician license may be issued a journeyman temporary practice permit.

~~(2) An applicant for a residential or journeyman electrician license may act as an electrician in the category for which an application is approved, as long as the~~

~~applicant is employed by a licensed electrical contractor and a temporary practice permit has been issued~~ active temporary practice permit allows an applicant to perform work while employed by a licensed electrical contractor.

(3) A temporary practice permit issued to an applicant for an electrician license shall expire ~~90~~ 30 days from the date of issuance or upon receipt of licensure examination results.

(4) A temporary practice permit does not allow a ~~journeyman applicant~~ an individual to act as a responsible electrician for a ~~limited licensed~~ licensed electrical contractor, ~~nor does it permit the applicant to obtain an electrical contractor license. A temporary practice permit allows an applicant only to work under a properly licensed electrical contractor.~~

(5) ~~An applicant for licensure by endorsement or reciprocity may be issued a temporary practice permit under the conditions above. The temporary practice permit shall expire at such time as the board approves the application and a license is issued or the board denies the application. Applicants who fail an exam with a score of 69 percent or less are not eligible for a temporary practice permit.~~

(6) ~~A second~~ Subsequent temporary practice permits may be issued at the discretion of the board, ~~on a case-by-case basis, only to an applicant who has failed the examination with a score of 70 to 74%, is registered to take the next scheduled examination and upon receipt of:~~

(a) ~~a letter from the applicant requesting a second temporary practice permit and submitting proof of registration to take the next scheduled examination; and~~

(b) ~~a letter from the employer stating that the applicant is employed and under the supervision of a licensed journeyman or master electrician.~~

(7) ~~If the applicant does not register for the examination within 90 days, the second temporary practice permit shall expire.~~

AUTH: 37-1-319, 37-68-201, MCA

IMP: 37-1-305, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the process for temporary practice permits and for consistency in terminology within the rules. The board notes that it is not clear in the current rule whether master electricians can obtain temporary permits and is amending this rule to clarify that temporary permits are available to all applicants. The board concluded that many applicants who qualify for temporary licenses do not follow through with taking the licensure examinations within 90 days. In addition, most projects are complete within the 90-day period and temporary permit holders simply leave the state without taking the qualifying exam. The board determined that this is not a good process to ensure that minimally qualified electricians are providing such services to the public. In addition, with the availability of the new electronic exam online, applicants can take the licensure exams at the latest one week after being approved. The board is therefore amending (3) to reduce the period for temporary practice permits from 90 days to 30 days.

24.141.503 EXAMINATIONS (1) ~~A person~~ An applicant who has failed to pass fails any examination for which application was made, may, upon the payment

of the appropriate fee, take the next scheduled examination. However, if the applicant fails the ~~test~~ examination a second time ~~they~~ the applicant may not take the test again within a six-month period, and in addition, must:

~~(a) demonstrate to the board by a sworn statement that the applicant has conscientiously studied at least 20 hours in the areas of the examination that were failed;~~

~~(b) provide a signed and dated list of the books or materials studied, specifying the name, author, edition (or latest copyright year); and~~

~~(e)(a) provide proof of having attended at least one eight-hour electrical code seminar approved by the board, since the initial failure to pass.~~

(2) and (2)(a) remain the same.

(b) reapply to the board; and

~~(c) demonstrate to the board by the applicant's sworn statement that the applicant has conscientiously studied at least 40 hours in all the areas covered by the last exam, 30 hours of which shall have been devoted to those test areas wherein the applicant failed to achieve a passing score;~~

~~(d) provide a signed and dated list of the books or materials studied, specifying the name, author, edition (or latest copyright year); and~~

~~(e)(c) provide proof of having attended at least two eight-hour electrical code seminars approved by the board.~~

(3) An applicant who ~~has failed~~ fails the master or journeyman examination two or more times may apply for and take a lower level licensing examination without obtaining the supplementary education and study hours as set forth in (1) and (2) ~~of this rule.~~

(4) An applicant who fails to take an examination within 18 months from the date of the last examination ~~that was failed~~ failed will be required to submit a new application, provide written verification, and pay the applicable fees. Upon receipt of a new application, the board will require the applicant to submit the documentation required in (1) or (2) depending on the number of times the applicant has failed the examination.

(5) All examinations are open book. Applicants may use only:

~~(a) Candidates may only use:~~

~~(i)(a) an NEC code book applicable to the examination being given (tabs or indexes may be used in the book);~~

~~(ii)(b) a silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations; and~~

~~(iii)(c) copies of the Montana statutes and rules relating to electricians.~~

(6) An applicant for an examination who, due to a specific physical, mental, or sensory impairment, requires special accommodation in examination procedures must submit a written request to the board office for the specific accommodation needed at least 15 days prior to the scheduled exam.

(7) Any ~~candidate~~ applicant who takes an examination and does not pass the examination may request a review of the examination.

(a) The ~~department~~ board will not modify examination results unless the ~~candidate~~ applicant presents clear and convincing evidence of error in the grading of the examination.

(b) The ~~department~~ board will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(8) ~~The procedure for requesting an informal review of examination results is as follows:~~

~~(a) The A request for rescoring of an examination must be made in writing to the board office and received within 20 days of the date of the examination and must request a rescore of the examination.~~

~~(b) The following procedures apply to review of the results of the examination:~~

~~(i)(a) The candidate applicant will be allowed two hours to review the examination and must:~~

~~(ii) The candidate must identify the challenged examination questions of the examination and must state specific specifically reasons why the results should be modified with pursuant to the NEC code book and/or Montana statutes and rules supporting the candidates applicant's position.~~

~~(iii)(b) Within 15 days of the candidate's applicant's review, the department board will review the examination and candidate's the applicant's justification and notify the candidate applicant in writing of the department's board's decision.~~

(9) ~~Anyone~~ Any applicant determined by the board to be cheating on an examination or using inappropriate material/equipment during an examination will fail and be required to wait at least one year before reapplying and reapply for licensure and before being allowed to reexamine. All such reexaminations will be scheduled and administered by the department board in Helena, Montana, ~~require a written examination fee, and the candidate will be required to apply and schedule the examination with the board office.~~

(10) Examination appeals must be submitted ~~and reviewed~~ for review by the full board at its next regularly scheduled meeting.

AUTH: 37-1-131, 37-68-201, MCA

IMP: 37-1-131, 37-68-201, 37-68-304, 37-68-305, MCA

REASON: The board is amending this rule throughout to update grammar and language choices, eliminate repetitive language, and renumber sections for better organization and ease of use. The board is proposing to eliminate the requirements for retake applicants to provide sworn statements as to their examination study time and materials. The board determined that because courses are now available online, they are easily obtained and verified by the board. The board is removing the sworn statement requirements as outdated and unnecessary.

The board is amending (6) to require that applicants submit requests for exam accommodations to the board at least 15 days prior to the exam. Because the board bears the responsibility for providing accommodations and the board at times must request additional information to establish appropriate accommodations, it is reasonably necessary to require some advance notice of accommodation requests.

The board is amending (8) to clarify the process for applicants to request a rescoring of a failed examination. The board concluded that the previous informal review process may mislead applicants to think that it includes a review of all exam

questions and correct answers. The rescoring process actually focuses the request on the specific challenged questions and protects the integrity of the entire exam. The board is also amending this rule to clarify that it is the board, not department staff, that conducts the rescoring and decides to adjust the score or not.

24.141.2102 CONTINUING EDUCATION (1) ~~Each master, journeyman, and residential electrician license shall not be renewed unless the continuing education requirements imposed by this rule have been met, prior to the renewal date set by ARM 24.101.413. Any licensee who fails to fulfill the continuing education requirements imposed by this rule shall cause the license to lapse. It is unlawful for a person whose license has lapsed to perform electrical work in this state. For reinstatement after the license has lapsed, the applicant shall have completed the continuing education requirements, certified that fact to the board, and met all other renewal requirements. Eight hours of continuing education must be obtained for each year in the renewal cycle. Requisite hours may be obtained during any portion of the renewal cycle. A minimum of four of the eight annual hours shall be verified as covering National Electrical Code updates.~~

(2) ~~To receive credit for continuing education, the following requirements must be met: Licensees are responsible for maintaining a record of completion certificates for courses or seminars and the hours attended. A random audit of completion certificates may be performed by the board at any time.~~

(a) ~~(3) Courses~~ ~~Curriculums for courses~~ or seminars must be preapproved have prior approval of curriculum by the State Electrical Board or a designated board representative. ~~Request for approval of courses or seminars must be made no later than 60 days prior to the date of the seminar.~~ Each preapproved course shall be assigned a course approval number by the board to be listed on the certificate of completion. Board approval of said courses and seminars expires August 1 of each license renewal year.

(a) Curriculum of courses or seminars shall address National Electrical Code updates, or other subjects related to the electrical industry. Basic electric courses or apprentice type courses will not be approved. Course curriculum must provide a breakdown of the type of credit hours (code or industry) which must be included on the completion certificate.

(b) Credits for courses or seminars will be given in a minimum of four-hour increments.

(b) ~~(c)~~ The course sponsor is responsible to ensure that instructors are credentialed as one or more of the following:

(i) through (v) remain the same.

(vi) certified electrical inspectors; ~~and~~ or

(vii) remains the same.

(d) Certificates required by (3) must contain the following:

(i) date of course;

(ii) title of course;

(iii) name of person completing the course;

(iv) State Electrical Board approval number; and

(v) breakdown of code and/or industry related credit hours.

(e) Certificates must be verifiable online within 30 days of completion of the course.

~~(c) (4)~~ Representatives of the department or members of the State Electrical Board shall be able to may attend and monitor the courses or seminars without charge.

~~(d)~~ Maintaining a record of completion certificates for courses or seminars and the hours attended shall be the responsibility of the licensee. An audit of completion certificates may be requested by the board or designated board representative at any time. A minimum of eight hours each licensed year must be obtained per renewal cycle. All of the requisite hours may be obtained during any portion of the renewal cycle. A minimum of four of the eight hours shall be verified as being on the National Electrical Code updates.

~~(e)~~ Curriculum of courses or seminars shall be on the National Electrical Code updates, or other subjects related to the electrical industry. Approval of course curriculum shall be at the discretion of the board. Board approval will contain a breakdown for the course or seminar regarding type of credit hours (code or industry). The breakdown must be included on the completion certificate.

~~(f)~~ Credit for courses or seminars will be given in a minimum of four-hour increments.

~~(g)~~ Request for approval of courses or seminars must be made no later than the board meeting next preceding the seminar.

~~(h)~~ The board must be notified 15 days prior as to the time and place of every course or seminar.

~~(i)~~ In general, courses should be designed for advancing knowledge or skills of trained individuals; basic courses or apprentice type courses will not be approved.

~~(j)~~ Certificates required by (d) above must contain the following:

~~(i)~~ date of course;

~~(ii)~~ location of course;

~~(iii)~~ title of course including date of prior approval by the board;

~~(iv)~~ name of instructor;

~~(v)~~ name of sponsoring agency;

~~(vi)~~ name of person completing the course;

~~(vii)~~ State Electrical Board approval number; and

~~(viii)~~ breakdown of code and/or industry related credit hours.

~~(3)(5)~~ Continuing education courses approved by another state which has a reciprocal licensing agreement with the board will be honored toward renewal. The reciprocal state's course approval number, and date of course, and credit breakdown must appear on the completion certificate.

~~(4)(6)~~ Completion certificates must be submitted within 30 days ~~upon~~ after request by the board office for the purpose of licensing renewal audits. Failure to supply continuing education completion certificates when requested by the board office shall be cause for disciplinary actions.

AUTH: 37-1-131, 37-1-319, 37-68-201, MCA

IMP: 37-1-131, 37-1-306, ~~37-1-319, 37-68-201~~, MCA

REASON: The board determined it is reasonable and necessary to amend this continuing education (CE) rule throughout for better organization, simplicity, and ease of use. The board is amending (3) to require that providers submit requests for course approval a minimum of 60 days prior to the scheduled course. The board notes that there are currently over 600 approved course providers and numerous new requests are received constantly, nearly all via e-mail. Due to the changes in technology surrounding CE provision and the resultant workload increase for board staff, the board determined it is reasonably necessary to require the 60-day period.

The board is amending this rule to no longer require that CE certificates include course location and names of instructors and sponsoring agencies because CE courses are often available online and the board obtains the information through the course approval process.

The board is adding to (3)(e) the requirement that CE certificates are verifiable online within 30 days of the seminar. The board determined it is reasonable to require providers to have online verification to move away from licensees providing paper proof of CE completion and to expedite verification of CE completion. Following amendment, the board will no longer require providers to notify the board of every CE seminar's location and time. Due to the online availability of many CE courses, the board determined this requirement to be outdated and unnecessary.

The board is amending (5) of this rule to address the requirement for honoring CE courses from states in reciprocal licensing agreements with Montana. Following amendment, out-of-state CE certificates must show the breakdown of code or industry credit hours for consistency with in-state certificates and to ensure minimum CE requirements are met.

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

24.141.506 MASTER ELECTRICIAN QUALIFICATIONS found at ARM page 24-12542.

AUTH: 37-1-131, 37-68-201, MCA

IMP: 37-1-131, 37-68-201, 37-68-301, 37-68-304, MCA

REASON: It is reasonable and necessary to repeal this rule as the board is incorporating the information in this rule into ARM 24.141.501 so that licensure qualifications for journeyman and master licenses are available in a single rule.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdele@mt.gov, and must be received no later than 5:00 p.m., March 2, 2009.

7. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.electrician.mt.gov. The department strives to make the electronic copy of this Notice conform to the official

version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. The State Electrical Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all State Electrical Board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdele@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

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

STATE ELECTRICAL BOARD
JACK FISHER, 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 January 20, 2009

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.216.402 fees, and) PROPOSED AMENDMENT
24.216.2103 sanitarian in training)

TO: All Concerned Persons

1. On February 19, 2009, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Sanitarians (board) no later than 5:00 p.m., on February 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdsan@mt.gov.

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

24.216.402 FEE SCHEDULE

(1) Application fee	\$ 90 <u>200</u>
(2) Examination	150 <u>350</u>
(3) Reexamination	150 <u>350</u>
(4) Renewal	90 <u>180</u>
(5) Sanitarian-in-training application fee	90 <u>200</u>

(6) and (7) remain the same.

(8) ~~In addition to the examination fees specified in this rule~~ The board may approve an outside vendor to administer exams; in those cases, there is a vendor fee set by the exam vendor. Current fee amounts for the sanitarian examination are available at the board office.

(9) Examination and reexamination fees in (2) and (3) apply only to those exams given in paper format at the board office.

AUTH: 37-1-134, 37-40-203, MCA

IMP: 37-1-134, 37-1-141, ~~37-40-101~~, 37-40-301, 37-40-302, MCA

REASON: After lengthy debate and consideration of methods to reduce expenses and alternative fee increases, the board determined that it is reasonably necessary to make the proposed fee changes to comply with the provisions of 37-1-134, MCA,

and to keep the board's fees commensurate with program costs. The Department of Labor and Industry (department), in providing administrative services to the board, has determined that unless the licensure fees are increased as proposed, the board will have a shortage of operating funds by the 2009 licensure renewal period. The board estimates that approximately 206 persons will be affected by the proposed fee changes and annual revenue will be increased by \$20,330.

The board is also amending this rule to address applicant questions by clarifying that examination fees do not apply to vendor administered exams. Implementation cites are being amended to accurately reflect the statutes implemented through the rule.

24.216.2103 SANITARIAN-IN-TRAINING (1) through (3) remain the same.

(4) A sanitarian-in-training exemption is valid for a period of one year. While practicing under a valid sanitarian-in-training exemption, the sanitarian-in-training is eligible to sit for the examination ~~upon making an appointment with the board office and paying the examination fee.~~ There is no limit to the number of times a sanitarian-in-training may take the examination during the one year exemption period.

AUTH: 37-1-319, 37-40-203, MCA

IMP: 37-1-305, 37-40-101, 37-40-203, 37-40-301, 37-40-302, MCA

REASON: Sanitarians-in-training electing to take the exam through a contract examination provider must contact the provider to schedule the exam and pay the fees directly to the provider. The board is therefore amending this rule to align it with the current examination processes. The board is amending the implementation cites to accurately reflect all statutes implemented through the rule.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdsan@mt.gov, and must be received no later than 5:00 p.m., February 27, 2009.

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

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdsan@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

8. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SANITARIANS
JERRY CORMIER, RS, 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 January 20, 2009

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

In the matter of the adoption of NEW) CORRECTED NOTICE OF
RULES I through XIII; the) AMENDMENT AND TRANSFER
amendment and transfer of ARM)
2.43.203 through 2.43.205, 2.43.301)
through 2.43.303, 2.43.308 through)
2.43.310, 2.43.402 through 2.43.408,)
2.43.410, 2.43.418, 2.43.420 through)
2.43.424, 2.43.426, 2.43.432,)
2.43.433, 2.43.437, 2.43.440,)
2.43.451, 2.43.452, 2.43.502 through)
2.43.506, 2.43.508 through 2.43.511,)
2.43.514, 2.43.515, 2.43.603,)
2.43.604, 2.43.607, 2.43.611,)
2.43.617, 2.43.801 through 2.43.804,)
2.43.905, 2.43.914, 2.43.1002)
through 2.43.1004, 2.43.1010 through)
2.43.1012, 2.43.1015, 2.43.1017,)
2.43.1020, 2.43.1031, 2.43.1032,)
2.43.1045, 2.43.1046, 2.43.1101,)
2.43.1104, 2.43.1111, 2.43.1112,)
2.43.1210 through 2.43.1212,)
2.43.1701, 2.43.1703, 2.43.1704,)
2.43.1802, 2.43.1803, and 2.43.1810)
through 2.43.1812; the repeal of ARM)
2.43.409, 2.43.425, 2.43.428 through)
2.43.430, 2.43.520, 2.43.605,)
2.43.606, 2.43.609, 2.43.610, and)
2.43.1030; and the transfer of ARM)
2.43.201, 2.43.202, 2.43.304,)
2.43.512, 2.43.441, 2.43.442,)
2.43.513, 2.43.901, 2.43.902,)
2.43.909 through 2.43.911,)
2.43.1001, 2.43.1005, 2.43.1023)
through 2.43.1025, 2.43.1040,)
2.43.1105, 2.43.1108, 2.43.1110,)
2.43.1113, 2.43.1115, 2.43.1118,)
2.43.1119, 2.43.1702, 2.43.1705, and)
2.43.1801, all pertaining to the)
operation of the retirement systems)
and plans administered by the)
Montana Public Employees')
Retirement Board)

TO: All Concerned Persons

1. On September 11, 2008, the board published MAR Notice No. 2-43-403 regarding a public hearing on the proposed adoption, amendment and transfer, repeal, and transfer of the above-stated rules at page 1852 of the 2008 Montana Administrative Register, Issue Number 17. On November 26, 2008, the Board published notice of the adoption, amendment and transfer, repeal, and transfer of the above-stated rules at page 2467 of the 2008 Montana Administrative Register, Issue Number 22.

2. A purpose of this corrected notice is to resolve an error with respect to the authority citation for ARM 2.43.2101 (transferred from ARM 2.43.405). The Montana Code Annotated citation "19-2-403" under AUTH: is a new authority for this rule and should have been underlined. ARM 2.43.2101, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

2.43.2101 MEMBERSHIP (1) through (4) remain as amended.

AUTH: 19-2-403, MCA

IMP: 19-2-303, 19-3-1605, 19-7-711, 19-8-1105, MCA

3. A second purpose for this corrected notice is to address the failure to include the transfer of ARM 2.43.441 and 2.43.442. The board transfers the following rules:

<u>OLD</u>	<u>NEW</u>	
2.43.441	2.43.2312	PURCHASE OF SERVICE THROUGH DIRECT TRUSTEE-TO-TRUSTEE TRANSFER OF FUNDS
2.43.442	2.43.2314	ELIGIBLE FEDERAL VOLUNTEER SERVICE

4. The final purpose for this corrected notice is to address errors related to the listing of incorrect catchphrases when transferring ARM 2.43.201 to ARM 2.43.1401, ARM 2.43.304 to ARM 2.43.1306, and ARM 2.43.1702 to ARM 2.43.3004. The correct catchphrases are shown as follows:

<u>OLD</u>	<u>NEW</u>	
2.43.201	2.43.1401	MODEL PROCEDURAL RULES
2.43.304	2.43.1306	ACTUARIAL RATES AND ASSUMPTIONS
2.43.1702	2.43.3004	FAMILY LAW ORDERS FOR THE PERS DEFINED CONTRIBUTION RETIREMENT PLAN

5. The replacement pages for this corrected notice were submitted to the Secretary of State on December 31, 2008.

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

/s/ John Paull
John Paull, President
Public Employees' Retirement Board

/s/ Michael P. Manion
Michael P. Manion, Chief Legal Counsel
and Rule Reviewer
Department of Administration

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.1801 [ARM 2.43.5101)
effective December 1, 2008] pertaining)
to the adoption by reference of the)
State of Montana Public Employee)
Deferred Compensation Plan)
Document, January 1, 2008, edition)

TO: All Concerned Persons

1. On November 26, 2008, the Public Employees' Retirement Board published MAR Notice No. 2-43-409 pertaining to the above-stated rule at page 2393 of the 2008 Montana Administrative Register, Issue Number 22.

2. Interested parties were given until December 31, 2008, to comment on the proposed amendment. No comments were received.

3. The board has amended the following rule as proposed:

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN
DOCUMENT AND TRUST AGREEMENT

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

/s/ John Paull
John Paull, President
Public Employees' Retirement Board

/s/ Michael P. Manion
Michael P. Manion, Chief Legal Counsel
and Rule Reviewer
Department of Administration

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.1001 [ARM 2.43.3501)
effective December 1, 2008] pertaining)
to the adoption by reference of the)
State of Montana Public Employee)
Defined Contribution Plan Document,)
January 1, 2008, edition)

TO: All Concerned Persons

1. On November 26, 2008, the Public Employees' Retirement Board published MAR Notice No. 2-43-410 pertaining to the above-stated rule at page 2396 of the 2008 Montana Administrative Register, Issue Number 22.

2. Interested parties were given until December 31, 2008, to comment on the proposed amendment. No comments were received.

3. The board has amended the following rule as proposed:

2.43.3501 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT
AND TRUST AGREEMENT

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

/s/ John Paull
John Paull, President
Public Employees' Retirement Board

/s/ Michael P. Manion
Michael P. Manion, Chief Legal Counsel
and Rule Reviewer
Department of Administration

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 6.6.2101, 6.6.2102, 6.6.2103,)	AMENDMENT AND TRANSFER,
and 6.6.2104, the amendment and)	AND REPEAL
transfer of ARM 6.6.1201, and the)	
repeal of ARM 6.6.1202 and 6.6.1203)	
pertaining to Discrimination)	

TO: All Concerned Persons

1. On November 26, 2008, the State Auditor and Commissioner of Insurance published MAR Notice No. 6-183 regarding the public hearing on the proposed amendment, amendment and transfer, and repeal of the above-stated rules at page 2403 of the 2008 Montana Administrative Register, issue number 22.

2. On December 18, 2008, the State Auditor and Commissioner of Insurance held a public hearing to consider the proposed amendment, amendment and transfer, and repeal of the above-stated rules. There were no public attendees at the hearing.

3. The department has amended ARM 6.6.2101, 6.6.2102, 6.6.2103, and 6.6.2104, has amended and transferred ARM 6.6.1201 (6.6.2106), and has repealed ARM 6.6.1202 and 6.6.1203 exactly as proposed.

4. No comments were heard at the hearing, and no written comments were received up to the comment deadline.

/s/ Christina L. Goe
Christina L. Goe
Rule Reviewer

/s/ Robert W. Moon
Robert W. Moon
Deputy Insurance Commissioner

Certified to the Secretary of State January 20, 2009.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)
RULE I concerning audit data storage) NOTICE OF ADOPTION AND
devices and the amendment of ARM) AMENDMENT
23.16.1802 concerning definitions and)
ARM 23.16.1827 concerning record)
keeping requirements)

TO: All Concerned Persons

1. On December 11, 2008, the Department of Justice published MAR Notice No. 23-16-207, regarding the public hearing on the proposed adoption and amendment of the above-stated rules at page 2540, 2008 Montana Administrative Register, Issue Number 23.

2. The Department of Justice amended ARM 23.16.1802 and 23.16.1827 exactly as proposed.

3. The department adopts the remaining rule with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (23.16.1902) AUDIT DATA STORAGE DEVICES (1) The department may approve a VGM (video gambling machine) utilizing an ASD (audit storage device) for use in place of duplicate printed audit tapes. Each VGM providing ASD support must be reported on a tier I and tier II system and operate in the following manner:

(a) through (h) remain as proposed.

(i) the department will administer the distribution of ~~private~~ RSA public encryption keys to manufacturers as defined by the department;

(j) the department must be able to authenticate records through the use of an external software utility and ~~public~~ RSA private encryption keys as defined by the department;

(k) through (n) remain as proposed.

4. A public hearing was held on January 7, 2009. No adverse comments were offered at the public hearing. However, Richard Ask, the division's Operations Bureau Chief, noted a potential conflicting variation in record keeping periods for VGMs using the ASD format. Specifically, he noted that, without this amendment, it would be possible for a machine with an ASD to report manually, and be required to preserve the VGM records for 12 quarters, while another machine with an ASD might report electronically on a Tier system, and only be required to preserve records for 4 quarters. He noted that without this rule amendment, manufacturers might have to specially program VGMs to retain records for 12 quarters, and would be contrary to the rationale for authorizing the digital storage of VGM records.

Additionally, Ben Kamerzel, Supervisor of the Technical Services Section, noted that the terms "public key" and "private key" had been inadvertently reversed, and he urged they be corrected. Mr. Kamerzel also suggested including the label "RSA" be included to properly identify the type of encryption keys required under the rule. Mr. Kamerzel suggested further that the division's rationale for adopting the new rule should clarify that a "thumb drive" is only a common example of an audit storage device, but it could embrace other forms of digital media.

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 January 20, 2009.

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

In the matter of the adoption of New) CORRECTED NOTICE OF
Rule I and the amendment of ARM) AMENDMENT
37.10.101, 37.10.104, and 37.10.105)
pertaining to living wills)

TO: All Concerned Persons

1. On August 14, 2008, the Department of Public Health and Human Services published MAR Notice No. 37-450 pertaining to the proposed amendment of the above-stated rules at page 1686 of the 2008 Montana Administrative Register, Issue Number 15. On November 6, 2008, the department published the notice of amendment at page 2356 of the 2008 Montana Administrative Register, Issue Number 21.

2. This corrected notice is to correct an error in ARM 37.10.104(2)(a)(i). The words "comfort one" were inadvertently omitted from the proposal and adoption notices and should have been shown as struck out as shown below.

37.10.104 LIVING WILL PROTOCOL FOR EMS PERSONNEL (1) remains as amended.

(2) For a patient who has completed a POLST or Comfort One form, emergency medical services personnel must follow the POLST protocol for providing palliative care or withholding life-sustaining procedures from a patient if a patient meets the following criteria:

(a) The identity of the patient has been clearly established and the personnel have been presented with any one of the following:

- (i) a ~~comfort one~~ POLST form for the patient;
- (ii) through (b) remain as amended.

AUTH: 50-9-110, MCA
IMP: 50-9-102, 50-9-103, MCA

3. Replacement pages for the corrected notice were submitted to the Secretary of State on December 31, 2008. All other provisions of the notice of amendment remain as adopted.

/s/ Shannon McDonald
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.8.1801, 37.8.1802,)
37.8.1803, and 37.8.1808 pertaining)
to the Montana central tumor registry)

TO: All Concerned Persons

1. On November 26, 2008 the Department of Public Health and Human Services published MAR Notice No. 37-459 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2428 of the 2008 Montana Administrative Register, Issue Number 22.

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

3. No comments or testimony were received.

/s/ Shannon McDonald
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.75.101, 37.75.109,)
37.75.202, 37.75.205, 37.75.206, and)
37.75.209 pertaining to the Child and)
Adult Care Food Program (CACFP))

TO: All Concerned Persons

1. On November 26, 2008 the Department of Public Health and Human Services published MAR Notice No. 37-461 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2446 of the 2008 Montana Administrative Register, Issue Number 22.

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

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: In ARM 37.75.209 there is concern about changing the notification of intent to switch sponsors to the last day of the month prior to the switch from the fifth day. The reason for the fifth day was to give sponsors some planning time. As many as three providers can switch in a month, so if three did and the sponsors did not know until the last day, the sponsors could monitor them that month when really that would not be necessary. If providers told sponsors the providers were switching then sponsors would not monitor them. Why incur the expense. Sponsors will need a sign up visit, a 30-day visit with the new provider. Some sponsor regions are huge so this could be a huge expense for those sponsors. Without having the longer notice could add undo expenses for sponsors.

RESPONSE #1: In July 2007, the USDA Food and Nutrition Service Mountain Plains Region (the "USDA") conducted its Fiscal Year 2007 Child and Adult Care Food Program ("CACFP") Focused Management Evaluation of the Montana CACFP. At that time, the USDA noted that the Montana CACFP policy on providers changing sponsors "appears to cause undue hardship on the provider". The USDA stated, "Providers should be given options of continuing with their current sponsor...or to terminate their agreement with their current sponsor prior to the fifth of the month, which might result in a break in reimbursement." The change is made in order to remove the perceived undue hardship for providers described by the USDA.

In its evaluation, the USDA also advised CACFP that the policy language limiting to three the number of homes which could change from one sponsor to another in any

given month "sets an arbitrary limit on the number of providers who may transfer in a given month (and) may restrict access to the program". That language was never part of the rule, but was part of the policy, and the department is removing it in response to the comments of the USDA. The focus of the change is to promote provider choice of a sponsoring organization to participate in the program.

/s/ Francis X. Clinch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 20, 2009.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 38.5.2102 pertaining to electric)
utility voltage and ARM 38.5.2202,)
38.5.2302, pertaining to pipeline)
safety)

TO: All Concerned Persons

1. On November 26, 2008, the Montana Department of Public Service Regulation published MAR Notice No. 38-2-202 relating to the amendment of the above-stated rules at page 2453 of the 2008 Montana Administrative Register, Issue Number 22.

2. The agency has amended ARM 38.5.2102, 38.5.2202, and 38.5.2302 exactly as proposed.

3. No comments or testimony were received.

4. The department intends for the amendment of these rules to be applied retroactively to December 30, 2008, as indicated in the Notice of Proposed Rulemaking.

DEPARTMENT OF PUBLIC SERVICE REGULATION

/s/ Greg Jergeson
Greg Jergeson, Chairman
Public Service Commission

/s/ Robin A. McHugh
Reviewed by Robin A. McHugh

Certified to the Secretary of State, January 20, 2009.

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 September 30, 2008. This table includes those rules adopted during the period September 1, 2008, through December 31, 2008, and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2008, this table, and the table of contents of this issue of the MAR.

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

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

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- 37.88.206 and other rules - Mental Health Services Plan, p. 1424, 1988
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- 37.106.1946 and other rules - Crisis Stabilization Facilities, p. 905, 1993
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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in December 2008 appear. Vacancies scheduled to appear from February 1, 2009, through April 30, 2009, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of January 1, 2009.

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

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Medical Examiners (Labor and Industry)			
Dr. Dean Center Bozeman	Governor	reappointed	12/22/2008 9/1/2012
Qualifications (if required): doctor of medicine			
Board of Pharmacy (Governor)			
Ms. Lee Ann Bradley Missoula	Governor	MacKenzie	12/17/2008 7/1/2010
Qualifications (if required): licensed pharmacist			
Board of Speech-Language Pathologists and Audiologists (Governor)			
Ms. Lynn Harris Missoula	Governor	reappointed	12/31/2008 12/31/2011
Qualifications (if required): audiologist			
Ms. Tina Hoagland Billings	Governor	reappointed	12/31/2008 12/31/2011
Qualifications (if required): audiologist			
Historical Records Advisory Board (Historical Society)			
Ms. Donna McCrea Missoula	Governor	Goffin	12/17/2008 8/29/2009
Qualifications (if required): public representative			
Kindergarten to College Work Group (Governor)			
Mr. Evan Barrett Butte	Governor	not listed	12/4/2008 9/11/2010
Qualifications (if required): ex-officio member			

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Kindergarten to College Work Group (Governor) cont.			
Ms. Kelly Chapman Helena	Governor	Stipcich	12/4/2008 9/11/2010
Qualifications (if required): Student Assistance Foundation representative			
Mr. Dick Clark Helena	Governor	not listed	12/4/2008 9/11/2010
Qualifications (if required): ex-officio member			
Rep. David Ewer Helena	Governor	not listed	12/4/2008 9/11/2010
Qualifications (if required): ex-officio member			
Mr. Steve Gettel Great Falls	Governor	reappointed	12/4/2008 9/11/2010
Qualifications (if required): School for the Deaf and Blind representative			
Superintendent Denise Juneau Helena	Governor	McCulloch	12/4/2008 9/11/2010
Qualifications (if required): Superintendent of Public Instruction			
Director Keith Kelly Helena	Governor	not listed	12/4/2008 9/11/2010
Qualifications (if required): ex-officio member			
Ms. Jan Lombardi Helena	Governor	not listed	12/4/2008 9/11/2010
Qualifications (if required): representative of the Governor			

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Kindergarten to College Work Group (Governor) cont. Superintendent Linda McCulloch Helena Qualifications (if required): Superintendent of Public Instruction	Governor	reappointed	12/4/2008 1/5/2009
Mr. Steve Meloy Helena Qualifications (if required): Board of Public Education executive secretary	Governor	reappointed	12/4/2008 9/11/2010
Ms. Mara Menehan Helena Qualifications (if required): student representative	Governor	Grosvold	12/4/2008 9/11/2010
Mr. Bernard Olsen Lakeside Qualifications (if required): Board of Public Education representative	Governor	not listed	12/4/2008 9/11/2010
Ms. Janine Pease Billings Qualifications (if required): Board of Regents representative	Governor	reappointed	12/4/2008 9/11/2010
Director Tony Preite Helena Qualifications (if required): ex-officio member	Governor	not listed	12/4/2008 9/11/2010
Ms. Sheila Stearns Helena Qualifications (if required): Commissioner of Higher Education	Governor	reappointed	12/4/2008 9/11/2010

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Kindergarten to College Work Group (Governor) cont. Ms. Anna Whiting-Sorrell Helena Qualifications (if required): ex-officio member	Governor	not listed	12/4/2008 9/11/2010
Ms. Erin Williams Missoula Qualifications (if required): parent representative	Governor	reappointed	12/4/2008 9/11/2010
Rep. Jonathan Windy Boy Box Elder Qualifications (if required): representative of the Governor	Governor	not listed	12/4/2008 9/11/2010
State Workforce Investment Board (Governor) Mr. Brad Eldridge Helena Qualifications (if required): public sector representative	Governor	Tyler	12/17/2008 7/1/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Architects (Labor and Industry) Mr. James G. Shepard, Billings Qualifications (if required): registered architect with three years continuous practice</p>	Governor	3/27/2009
<p>Board of Athletics (Labor and Industry) Mr. Don Vegge, Billings Qualifications (if required): public representative</p>	Governor	4/25/2009
<p>Board of Dentistry (Labor and Industry) Ms. Jennifer Porter, Bozeman Qualifications (if required): dental hygienist with at least 5 years experience</p>	Governor	3/29/2009
<p>Board of Hail Insurance (Agriculture) Ms. Trudy Laas Skari, Chester Qualifications (if required): public member</p>	Governor	4/18/2009
<p>Board of Livestock (Livestock) Ms. Meg Smith, Divide Qualifications (if required): cattle producer</p>	Governor	3/1/2009
<p>Mr. George Hammond, Hardin Qualifications (if required): cattle producer</p>	Governor	3/1/2009
<p>Mr. Brett DeBruycker, Dutton Qualifications (if required): cattle producer</p>	Governor	3/1/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Public Education (Education) Mr. Kirk J. Miller, Havre Qualifications (if required): representative of District 3 and a Republican	Governor	2/1/2009
Clinical Laboratory Science Practitioners (Labor and Industry) Dr. Thomas Bennett, Billings Qualifications (if required): doctor of medicine qualified to direct a high complexity laboratory	Governor	4/16/2009
Ms. Wendy Palmer, Raynesford Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/2009
County Printing Board (Administration) Commissioner Marianne Roose, Eureka Qualifications (if required): County Commissioner	Governor	4/1/2009
Mr. Dan Killoy, Miles City Qualifications (if required): printing industry representative	Governor	4/1/2009
Mr. Milton Wester, Laurel Qualifications (if required): printing industry representative	Governor	4/1/2009
Mr. Calvin J. Oraw, Sidney Qualifications (if required): public representative	Governor	4/1/2009
Commissioner Gary A. Macdonald, Wolf Point Qualifications (if required): County Commissioner	Governor	4/1/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Family Health Advisory Council (Public Health and Human Services) Ms. Jill Baker, Great Falls Qualifications (if required): public representative	Governor	3/22/2009
Ms. Linda Best, Deer Lodge Qualifications (if required): public representative	Governor	3/22/2009
Ms. Peggy Cochran, Missoula Qualifications (if required): public representative	Governor	3/22/2009
Ms. Debra Donovan, Billings Qualifications (if required): public representative	Governor	3/22/2009
Dr. Jane Gillette, Bozeman Qualifications (if required): public representative	Governor	3/22/2009
Ms. Betty Hall-Munger, Helena Qualifications (if required): public representative	Governor	3/22/2009
Ms. Rhonda Howlett, Arlee Qualifications (if required): public representative	Governor	3/22/2009
Ms. Carol Keaster, Belt Qualifications (if required): public representative	Governor	3/22/2009
Ms. Janet Runnion, Box Elder Qualifications (if required): public representative	Governor	3/22/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Family Health Advisory Council (Public Health and Human Services) cont. Ms. Jeanne Seifert, Glendive Qualifications (if required): public representative	Governor	3/22/2009
Fetal Alcohol Spectrum Disorder Advisory Council (Public Health and Human Services) Mr. Thomas Price, Eureka Qualifications (if required): parent	Governor	2/22/2009
Ms. Mary Behrendt, Whitefish Qualifications (if required): educator	Governor	2/22/2009
Ms. Allison Failing, Poplar Qualifications (if required): tribal community representative	Governor	2/22/2009
Dr. John Johnson, Helena Qualifications (if required): medical geneticist	Governor	2/22/2009
Dr. Ted Laine, Missoula Qualifications (if required): neonatologist	Governor	2/22/2009
Ms. Irene Lake, Saint Ignatius Qualifications (if required): prevention program representative	Governor	2/22/2009
Ms. Linda Tarinelli, Bozeman Qualifications (if required): educator	Governor	2/22/2009
Ms. Margaret Ann Yellow Kidney, Browning Qualifications (if required): tribal community representative	Governor	2/22/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Fetal Alcohol Spectrum Disorder Advisory Council (Public Health and Human Services) cont. Ms. Cheryl Jill Plumage, Harlem Qualifications (if required): tribal community representative	Governor	2/22/2009
Ms. Kay Flinn, Helena Qualifications (if required): family and addiction specialist	Governor	2/22/2009
Ms. Bonnie Stout, Kalispell Qualifications (if required): prevention program representative	Governor	2/22/2009
Governor's Advisory Council on Economic Security for Montana Families (Governor) Ms. Sheila Hogan, Butte Qualifications (if required): public representative	Governor	2/22/2009
Ms. Minkie Medora, Missoula Qualifications (if required): public representative	Governor	2/22/2009
Rep. Shannon Augare, Browning Qualifications (if required): public representative	Governor	2/22/2009
Ms. Lori Brengle, Glendive Qualifications (if required): public representative	Governor	2/22/2009
Ms. Mary Danford, Bigfork Qualifications (if required): public representative	Governor	2/22/2009
Ms. Bethany Letiecq, Bozeman Qualifications (if required): public representative	Governor	2/22/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Advisory Council on Economic Security for Montana Families Mr. Everall Fox, Billings Qualifications (if required): public representative	(Governor) cont. Governor	2/22/2009
Ms. Elaine Topsy, Box Elder Qualifications (if required): public representative	Governor	2/22/2009
Ms. Barb Stiffarm, Havre Qualifications (if required): public representative	Governor	2/22/2009
Mr. Robert Young, Bozeman Qualifications (if required): public representative	Governor	2/22/2009
Ms. Angie Wasia, Bozeman Qualifications (if required): public representative	Governor	2/22/2009
MSU Billings Local Executive Board (University System) Mr. Paul Beck, Red Lodge Qualifications (if required): public representative	Governor	4/15/2009
Montana Pulse Crop Advisory Committee (Agriculture) Ms. Kim Murray, Froid Qualifications (if required): Producer	Director	2/14/2009
Mr. Michael Ehlers, Oilmont Qualifications (if required): Producer	Director	2/14/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Montana Pulse Crop Advisory Committee (Agriculture) cont. Mr. Perry Miller, Bozeman Qualifications (if required): Research</p>	Director	2/14/2009
<p>Montana State University Executive Board - Northern (University System) Mr. Jupe Compton, Havre Qualifications (if required): public representative</p>	Governor	4/15/2009
<p>Montana State University Local Executive Board (University System) Mr. Jay Bentley, Bozeman Qualifications (if required): public representative</p>	Governor	4/15/2009
<p>Montana State University-Great Falls College of Technology Local Executive Board (University System) Mr. Bryan Dunn, Great Falls Qualifications (if required): public representative</p>	Governor	4/15/2009
<p>Public Employees' Retirement Board (Administration) Mr. Terrence Smith, Bozeman Qualifications (if required): public employee/defined contribution plan member</p>	Governor	4/1/2009
<p>Mr. Loren Bough, Big Sky Qualifications (if required): experience in investment management</p>	Governor	4/1/2009
<p>State Compensation Insurance Fund Board (Administration) Mr. Thomas R. Heisler, Great Falls Qualifications (if required): private enterprise</p>	Governor	4/28/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Charitable Giving Campaign Advisory Council (Administration)		
Ms. Joy McGrath, Helena Qualifications (if required): federation/independent representative	Director	2/14/2009
Mr. Matthew Dale, Helena Qualifications (if required): employee representative	Director	2/14/2009
Ms. Mary Wright, Helena Qualifications (if required): employee representative	Director	2/14/2009
Ms. Marcia Armstrong, Helena Qualifications (if required): employee representative	Director	2/14/2009
Ms. Kathy Miller, Helena Qualifications (if required): Independent Charities Representative	Director	2/14/2009
Mr. Gary Owen, Great Falls Qualifications (if required): federation/independent representative	Director	2/14/2009
Mr. Jack Lynch, Helena Qualifications (if required): employee representative	Director	2/14/2009
Mr. Rick Bush, Helena Qualifications (if required): employee representative	Director	2/14/2009
Mr. Marty Roos, Helena Qualifications (if required): employee representative	Director	2/14/2009

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2009 THROUGH APRIL 30, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Charitable Giving Campaign Advisory Council (Administration) cont. Mr. Rob Mayer, Helena Qualifications (if required): employee representative	Director	2/14/2009
Ms. Candy Kirby, Helena Qualifications (if required): employee representative	Director	2/14/2009
Ms. Marie Matthews, Helena Qualifications (if required): employee representative	Director	2/14/2009
UM Western Local Executive Board (University System) General James Womack, Dillon Qualifications (if required): public representative	Governor	4/15/2009
University of Montana Local Executive Board (University System) Rep. Bob Ream, Helena Qualifications (if required): public representative	Governor	4/15/2009
University of Montana-Helena College of Technology Local Executive Board (University System) Ms. Pamela Carlson, Helena Qualifications (if required): public representative	Governor	4/15/2009
University of Montana-Montana Tech Local Executive Board (University System) Ms. Anna Gallus, Butte Qualifications (if required): public representative	Governor	4/15/2009