

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

The Montana Administrative Register (MAR), 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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 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 Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED
of ARM 2.21.701 through	)	REPEAL
2.21.708 and 2.21.711	)	
pertaining to Leave of	)	NO PUBLIC HEARING
Absence without Pay	)	CONTEMPLATED

TO: All Concerned Persons

1. On March 17, 2005, the Department of Administration proposes to repeal ARM 2.21.701 through 2.21.708, and 2.21.711 pertaining to Leave of Absence without Pay.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m. on February 11, 2005, to advise us of the nature of the accommodation that you need. Please contact Constance Enzweiler, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; telephone (406) 444-3794; Montana Relay Service 711; FAX (406) 444-0703; or e-mail cenzweiler@mt.gov.

3. The Department proposes to repeal the rules as follows:

2.21.701 SHORT TITLE found at ARM page 2-687.

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

2.21.702 POLICY AND OBJECTIVES found at ARM page 2-687.

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

2.21.703 DEFINITIONS found at ARM page 2-687.

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

2.21.704 APPROVAL OF LEAVE found at ARM pages 2-687 through 2-688.

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

2.21.705 REINSTATEMENT found at ARM page 2-688.

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-102, MCA

2.21.706 PAY AND BENEFITS found at ARM page 2-689.

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-102, MCA

2.21.707 LEAVE TO SERVE IN A PUBLIC OFFICE found at ARM page 2-689.

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-102, MCA

2.21.708 LEAVE FOR EXTENDED MILITARY SERVICE found at ARM page 2-689.

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-102, MCA

2.21.711 CLOSING found at ARM page 2-691.

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-102, MCA

REASON: Through the passage of Senate Bill 117, the 58th regular session of the Montana Legislature amended the Montana Administrative Procedure Act at 2-4-102(11), MCA. The Legislature clarified that rules concerning the internal management of state government are excluded from the Montana Administrative Procedure Act provided they do not affect the private rights or procedures available to the public. The Department of Administration believes the leave of absence without pay rules only concern the implementation of leave of absence without pay for state employees; they have no effect on the general public. Therefore, in the interests of administrative efficiency and cost savings, it is necessary to repeal these rules from ARM.

4. Concerned persons may submit their data, views or arguments in writing to Constance Enzweiler, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; or e-mail [cenzweiler@mt.gov](mailto:cenzweiler@mt.gov). Comments must be received no later than 5:00 p.m. February 28, 2005.

5. If persons who are directly affected by the proposed repeal wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Constance Enzweiler, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; or e-mail [cenzweiler@mt.gov](mailto:cenzweiler@mt.gov) to be received no later than 5:00 p.m. February 28, 2005.

6. If the Department of Administration receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected is greater than 25 based on the number of state employees.

7. The Department of Administration 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 and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding personnel rules. Such written request may be mailed or delivered to Hal Peck, Department of Administration, State Personnel Division, P.O. Box 200127, Helena, MT 59620-0127; e-mailed to hpeck@mt.gov; or made by completing a request form at any rules hearing held by the Department of Administration.

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

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

By: /s/ Dal Smilie  
Dal Smilie, Rule Reviewer

Certified to the Secretary of State January 14, 2005.

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

In the matter of the adoption of ) NOTICE OF PUBLIC HEARING  
new rules I through IV, and the ) ON PROPOSED ADOPTION AND  
amendment of ARM 12.11.202, ) AMENDMENT  
12.11.205, 12.11.210, 12.11.215, )  
and 12.11.220, pertaining to the )  
Beaverhead and Big Hole rivers )

TO: All Concerned Persons

1. The Fish, Wildlife and Parks Commission (commission) will hold public hearings to consider the adoption of new rules I through IV and the amendment of ARM 12.11.202, 12.11.205, 12.11.210, 12.11.215, and 12.11.220 pertaining to the Beaverhead and Big Hole rivers. The hearing dates and places are as follows:

February 22, 2005, 6:30 p.m.  
Fish, Wildlife and Parks  
Region 3 Headquarters  
1400 South 19th  
Bozeman, MT

February 23, 2005, 6:30 p.m.  
Red Lion Inn  
2100 Cornell Street  
Butte, MT

February 24, 2005, 6:30 p.m.  
James Short Building  
Western Montana College  
Dillon, MT

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 8, 2005, to advise us of the nature of the accommodation that you need. Please contact Charles Sperry, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-3888; fax (406) 444-4952; email csperry@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I USE OF TEMPORARY CLIENT DAYS ON THE BEAVERHEAD RIVER (1) One-boat outfitters may apply on an annual basis for up to 60 temporary client days on the Beaverhead River.

(2) The department shall allocate available temporary client days to one-boat outfitters based on the applicant's

experience outfitting or guiding on the Beaverhead River and the number of years the applicant has been a licensed outfitter or guide in Montana.

(3) When allocating temporary client days, the department shall give preference to applicants who were allocated temporary client days on the Beaverhead River the previous year.

(4) One-boat outfitters may use their assigned temporary client days the entire year with no more than two-thirds of the use occurring during the restricted period from July 1 through August 31.

(5) After a one-boat outfitter has used temporary client days for three consecutive years, the number of temporary client days that the one-boat outfitter may apply for in the following year must not exceed the highest number of temporary client days used by that one-boat outfitter in one of the previous three years.

(6) After a one-boat outfitter has used temporary client days for five consecutive years, the department may remove these temporary client days from the pool and allocate them to that one-boat outfitter for his or her use. These client days are then no longer considered temporary client days.

(7) In addition to temporary client days, one-boat outfitters may acquire nonpool client days from authorized outfitters on the Beaverhead River. They must remain a one-boat outfitter, however, in order to apply for or retain the use of temporary client days.

AUTH: 87-1-301, 87-1-303 MCA  
IMP: 87-1-303, MCA

NEW RULE II REVIEW OF RIVER RECREATION RULES FOR BEAVERHEAD RIVER

(1) The commission shall review the rules governing recreational use on the Beaverhead River within five years after the adoption of these rules.

(2) The statewide rules governing river recreation management shall apply to future recreation management actions on the Beaverhead River.

AUTH: 87-1-301, 87-1-303 MCA  
IMP: 87-1-303, MCA

NEW RULE III USE OF TEMPORARY CLIENT DAYS ON THE BIG HOLE RIVER

(1) One-boat outfitters may apply on an annual basis for up to 60 temporary client days on the Big Hole River.

(2) The department shall allocate available temporary client days to one-boat outfitters based on the applicant's experience outfitting or guiding on the Big Hole River and the number of years the applicant has been a licensed outfitter or guide in Montana.

(3) When allocating temporary client days, the department shall give preference to applicants who were

allocated temporary client days on the Big Hole River the previous year.

(4) One-boat outfitters may use their assigned temporary client days the entire year with no more than two-thirds of the use occurring during the restricted period from June 1 through July 31.

(5) After a one-boat outfitter has used temporary client days for three consecutive years, the number of temporary client days that the one-boat outfitter may apply for in the following year must not exceed the highest number of temporary client days used by that one-boat outfitter in one of the previous three years.

(6) After a one-boat outfitter has used temporary client days for five consecutive years, the department may remove these temporary client days from the pool and allocate them to the one-boat outfitter for his or her use. The client days are no longer considered temporary client days.

(7) In addition to temporary client days, one-boat outfitters may acquire nonpool client days from authorized outfitters on the Big Hole River. They must remain a one-boat outfitter, however, in order to apply for or retain the use of temporary client days.

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

NEW RULE IV REVIEW OF RIVER RECREATION RULES FOR THE BIG HOLE RIVER

(1) The commission shall review the rules governing recreational use on the Big Hole River within five years after the adoption of these rules.

(2) The statewide rules governing river recreation management shall apply to future recreation management actions on the Big Hole River.

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

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

12.11.202 RIVER DEFINITIONS The following definitions apply to this subchapter:

(1) "Float fishing" means any fishing from a boat and wade fishing when fishing access is gained by boat.

(2) "Float outfitting" means the operation of any boat for the commercial purpose of float fishing by a fishing guide or fishing outfitter.

(3) "Guide" means a person as defined in 87-37-101, MCA.

(4) "Official access site" means those river access sites that are publicly owned, managed, and maintained as an access point. The following are official access sites on the Big Hole River:

(a) High Road fishing access site;

(b) Pennington fishing access site;



- (c) Notch Bottom fishing access site;
- (d) Glen fishing access site;
- (e) Brownes Bridge fishing access site;
- (f) Salmon Fly at Melrose fishing access site;
- (g) Maiden Rock FWP fishing access site;
- (h) Maiden Rock BLM fishing access site;
- (i) Divide fishing access site;
- (j) Power House fishing access site;
- (k) Dewey fishing access site;
- (l) Jerry Creek fishing access site;
- (m) Mallons fishing access site;
- (n) Dickie Bridge fishing access site;
- (o) ~~Eastback~~ East Bank BLM fishing access site;
- (p) Sportsman Park fishing access site;
- (q) Fishtrap fishing access site; and
- (r) Mudd Creek Bridge fishing access site.
- (5) "Outfitter" means a person as defined in 37-47-101,

MCA.

~~(6) The commission shall repeal or amend this rule on or before May 1, 2005.~~

(6) "One-boat outfitter" means an outfitter who operates no more than one boat and is the sole guide.

(7) "Temporary client days" means client days that are available to one-boat outfitters.

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

12.11.205 BEAVERHEAD RIVER RECREATIONAL USE RESTRICTIONS

(1) Starting on the third Saturday in May through Labor Day, recreational use of the Beaverhead River from Clark Canyon Dam to its mouth shall be allowed and restricted in designated river reaches as follows:

(a) in the river reach from Clark Canyon Dam to Henneberry fishing access site, each outfitter is limited to launching or use within the reach of a maximum of three boats in any day;

(b) in the river reach from Henneberry fishing access site to Barretts Diversion, each outfitter is limited to launching or use within the reach of a maximum of three boats in any day;

(c) in the river reach from Barretts Diversion to ~~Highway 91 South (Tash) Bridge~~ Selway Bridge, each outfitter is limited to launching or use within the reach of a maximum of one boat in any day; and

~~(d) the river reach from Highway 91 South (Tash) Bridge to Selway Bridge is closed to any float outfitting; and~~

~~(e)~~(d) in the river reach from Selway Bridge to Jessen Park in Twin Bridges, each outfitter is limited to launching or use within the reach of a maximum of one boat in any day.

(2) Float fishing by nonresidents and float outfitting is limited as follows on the Beaverhead River from the third Saturday in May through Labor Day:

(a) each Saturday float fishing by nonresidents and float outfitting is not permitted on the river reach from High Bridge fishing access site to Henneberry fishing access site; and

(b) each Sunday float fishing by nonresidents and float outfitting is not permitted on the river reach from Henneberry fishing access site to Pipe Organ fishing access site.

~~(3) The commission shall repeal or amend this rule on or before May 1, 2005.~~

AUTH: 87-1-301, 87-1-303 MCA

IMP: 87-1-303, MCA

12.11.210 BIG HOLE RIVER RECREATIONAL USE RESTRICTIONS

(1) Starting on the third Saturday in May through Labor Day, recreational use of the Big Hole River from its headwaters to ~~High Road~~ Notch Bottom fishing access site shall be allowed and restricted by defining ~~seven~~ eight river zones with one zone closed to float outfitting each day and with the zone that is restricted on Saturday and the zone that is restricted on Sunday also closed to nonresident float fishing. The ~~seven~~ eight river zones are defined by river reach and restricted each day of the week as follows:

(a) all seven days of the week, the river reach from the headwaters to Mudd Creek Bridge fishing access site is closed to any float outfitting;

~~(a)~~(b) each Sunday, the river reach from Divide fishing access site to Salmon Fly fishing access site is closed to any float fishing by nonresidents and to any float outfitting;

~~(b)~~(c) each Monday, the river reach from Salmon Fly fishing access site to Glen fishing access site is closed to any float outfitting;

~~(c)~~(d) each Tuesday, the river reach from ~~the headwaters~~ Mudd Creek Bridge fishing access site to Fishtrap fishing access site is closed to any float outfitting;

~~(d)~~(e) each Wednesday, the river reach from ~~Notch Bottom~~ East Bank BLM fishing access site to ~~High Road~~ Jerry Creek fishing access site is closed to any float outfitting;

~~(e)~~(f) each Thursday, the river reach from Fishtrap fishing access site to ~~Jerry Creek~~ East Bank BLM fishing access site is closed to any float outfitting;

~~(f)~~(g) each Friday, the river reach from Glen fishing access site to Notch Bottom fishing access site is closed to any float outfitting; and

~~(g)~~(h) each Saturday, the river reach from Jerry Creek fishing access site to Divide fishing access site is closed to any float fishing by nonresidents and to any float outfitting.

(2) All float users, including each float outfitter, are limited to a total of two launches at or near each official access site per day on the Big Hole River. If a boat is launched at an unofficial site the launch will be counted as occurring at the nearest official site in determining the two-boat limit at or near each official access site.

~~(3) The commission shall repeal or amend this rule on or before May 1, 2005.~~

AUTH: 87-1-301, 87-1-303 MCA  
IMP: 87-1-303, MCA

12.11.215 NEW OUTFITTER MORATORIUM AND OUTFITTER RESTRICTIONS ON THE BEAVERHEAD RIVER (1) ~~Only a~~An outfitter with documented use of the Beaverhead River prior to December 31, 1998, may continue to operate on the Beaverhead River, except as provided in ~~(2)(3)~~.

(2) Outfitters authorized to outfit on the Beaverhead River who do not use any of their allocated client days for any two consecutive years, effective [upon the adoption of these rules], or outfitters authorized to outfit on the Beaverhead River who did not use any of their allocated client days for the five years prior to [the adoption of these rules], forfeit all of their client days and are no longer authorized to outfit on the Beaverhead River. The department shall establish a pool of temporary client days that consists of the forfeited client days. The total number of temporary client days, including client days that have been allocated and client days available in the pool, shall not exceed 2,000.

~~(2)(3)~~ An outfitter who has not documented use on the Beaverhead River prior to December 31, 1998, may not operate on the Beaverhead River unless the outfitter was licensed by the board of outfitters between December 1, 1998, and July 1, 1999, and the outfitter's operating plan included the Beaverhead River-, except as allowed in [NEW RULE I].

~~(3)(4)~~ Each outfitter from July 1 through August 31, inclusive, on the Beaverhead River shall not exceed the number of client days served by the outfitter on the Beaverhead River during those same months for the outfitter's highest client use year from among the years 1995, 1996, 1997, 1998, 1999, or 2000. The records submitted by the outfitter to and maintained by the board of outfitters will determine the number of client days in each year.

~~(4)(5)~~ In the event of the death of an outfitter who has an opportunity to outfit on the Beaverhead River as outlined in this sub-chapter, that opportunity may be assumed by a member of the immediate family of the deceased outfitter. This provision does not ~~supereede~~ supersede the outfitter licensing requirements and authority of the board of outfitters. The transfer of those outfitting businesses that these rules regulate on the Beaverhead River are governed by 37-47-310, MCA, as amended by the 2003 Legislature and approved by the governor effective March 24, 2003.

~~(5)(6)~~ All outfitters given the opportunity to operate on the Beaverhead River, as outlined in this sub-chapter, will be issued boat tags that will identify them as authorized by the commission to operate on this river. These boat tags must be displayed on all authorized outfitter boats when operating on the Beaverhead River.

~~(6) The commission shall repeal or amend this rule on or before May 1, 2005.~~

AUTH: 87-1-301, 87-1-303 MCA  
IMP: 87-1-303, MCA

12.11.220 NEW OUTFITTER MORATORIUM AND OUTFITTER RESTRICTIONS ON THE BIG HOLE RIVER (1) ~~Only a~~An outfitter with documented use of the Big Hole River prior to December 31, 1998, may continue to operate on the Big Hole River, except as provided in ~~(2)(3)~~.

(2) Outfitters authorized to outfit on the Big Hole River who do not use any of their allocated client days for any two consecutive years, effective [upon the adoption of these rules], or outfitters authorized to outfit on the Big Hole River who did not use any of their allocated client days for the five years prior to [the adoption of these rules], forfeit all of their client days and are no longer authorized to conduct use on the Big Hole River. The department shall establish a pool of temporary client days that consists of the forfeited client days. The total number of temporary client days, including client days that have been allocated and client days available in the pool, shall not exceed 2,000.

~~(2)(3)~~ An outfitter who has not documented use on the Big Hole River prior to December 31, 1998, may not operate on the Big Hole River unless the outfitter was licensed by the board of outfitters between December 1, 1998, and July 1, 1999, and the outfitter's operating plan included the Big Hole River, except as allowed in [NEW RULE III].

~~(3)(4)~~ Each outfitter from June 1 through July 31, inclusive, on the Big Hole River shall not exceed the number of client days served by the outfitter on the Big Hole River during those same months for the outfitter's highest client use year from among the years 1995, 1996, 1997, 1998, 1999, or 2000. The records submitted by the outfitter to and maintained by the board of outfitters will determine the number of client days in each year.

~~(4)(5)~~ In the event of the death of an outfitter who has an opportunity to outfit on the Big Hole River, as outlined in this sub-chapter, that opportunity may be assumed by a member of the immediate family of the deceased outfitter. This provision does not ~~supercede~~ supersede the outfitter licensing requirements and authority of the board of outfitters. The transfer of those outfitting businesses that these rules regulate on the Big Hole River are governed by 37-47-310, MCA, as amended by the 2003 Legislature and approved by the governor effective March 24, 2003.

~~(5)(6)~~ All outfitters given the opportunity to operate on the Big Hole River, as outlined in this sub-chapter, will be issued boat tags that will identify them as authorized by the commission to operate on this river. These boat tags must be displayed on all authorized outfitter boats when operating on the Big Hole River.

~~(6) The commission shall repeal or amend this rule on or before May 1, 2005.~~

AUTH: 87-1-301, 87-1-303 MCA  
IMP: 87-1-303, MCA

5. The purpose of these rules is to ensure that present and future generations can continue to enjoy a quality recreation experience on the Beaverhead and Big Hole rivers. The rules are intended to provide a variety of recreation opportunities for a diverse public and protect natural resources in the rivers and on adjacent uplands. The changes proposed in this rulemaking are intended to improve the effectiveness of regulation on the Beaverhead and Big Hole rivers. Another goal of this rulemaking proposal is to ensure that the rules reflect the current conditions on the rivers and to ensure that the rules are consistent with the statewide rules governing river recreation management (hereafter, "statewide rules"), ARM 12.11.401 through 12.11.455.

Rules have governed recreational use of the Beaverhead and Big Hole rivers since 1999. Recreation conditions in the mid to late 1990s fueled public concern about congestion on both of these rivers, concerns about conflicts among floaters, and conflicts between floaters and waders. In response to these concerns, Senators Swysgood and Tash sponsored SB 445 in the 1999 Legislature. This bill directly addressed the problems on the Beaverhead and Big Hole rivers. Governor Marc Racicot vetoed SB 445 because he believed parts of the bill were ambiguous and contained legal and implementation problems. However, in the veto letter of May 10, 1999, Governor Racicot charged the commission with the responsibility of adopting rules to solve the problems on the rivers. On June 18, 1999, the commission adopted a set of temporary recreation rules for each river. This set of rules was adopted as a commission biennial rule distributing use on the Beaverhead and Big Hole rivers. This rule was later amended on January 12, 2000, to accommodate special circumstances of two outfitters operating on the rivers.

The commission adopted a second version of the biennial rule on February 9, 2001. The commission adopted this biennial rule based in part on the recommendations of two citizen advisory committees and input from the general public and the department. On April 10, 2003, the commission adopted the Beaverhead and Big Hole rules as administrative rules, ARM 12.11.202 through 12.11.220, effective April 25, 2003. The commission added language to the rules that states the commission shall repeal or amend the rules on or before May 1, 2005. This language was added in order to allow time for the completion of the statewide river recreation rules and to ensure that the department would reevaluate the Beaverhead and Big Hole rules once the statewide rules were adopted.

The commission adopted the statewide rules, ARM 12.11.401 through 12.11.455, on October 7, 2004 (effective November 5, 2004). The statewide rules identified an analysis and decision-making process that is to be used when developing a river recreation management plan or rule. Due to the fact that there were already rules in effect for the Beaverhead and Big Hole rivers when the statewide river recreation rules were adopted, the commission and department had to determine which aspects of the analysis and decision-making process could be applied when evaluating the Beaverhead and Big Hole rules.

Consistent with the statewide river rules, the department appointed the Beaverhead and Big Hole Citizen Advisory Committee (committee). Its charter was to evaluate the effectiveness of the Beaverhead and Big Hole river recreation rules and make recommendations to the Commissioners that would help them with their decision on repealing or amending the rules. The commission asked the committee to develop collaborative recommendations that would ensure that the Beaverhead and Big Hole rules are consistent with the statewide river recreation rules, and to develop recommendations that reflect the interests of its members, the interests of the public that recreates on these two rivers, and the interests of the public that is affected by river recreation management decisions on these two rivers. The committee had the additional challenge of completing its work with enough time left to allow commission review of the committee's recommendations. In addition, the commission, department, and committee had to factor into the rulemaking timeline time for the department to conduct MEPA analysis and time for the commission to conform with Montana Administrative Procedure Act requirements that apply when the commission adopts administrative rules. To maintain protection of the rivers, all these processes must be complete before the Beaverhead and Big Hole rules expire on May 1, 2005.

One key issue the committee considered during its review of the rules was residency. The citizen advisory committee recommended retaining the rules that restrict nonresident float angling on Saturday and Sunday for specific reaches of the Beaverhead and Big Hole rivers during the time period that the rules are in effect. The commission considered the committee's recommendation in light of the statewide rules, which require that nonresidents should have reasonable and equitable opportunities to enjoy Montana's resources compared to other recreational users. The statewide rules also do not allow management plans and rules that differentiate based solely on the residency of the river user unless the commission determines the best available data indicate that the amount of use by residents or nonresidents is a primary contributor to an identified problem.

Although the committee recommended retaining restrictions on nonresident use of the two rivers, these restrictions are

quite limited in scope, location, and duration. Purposely, they do not prohibit nonresident use of fishing access sites, but rather they limit the types of uses on certain days on certain river reaches. The rules limit float fishing one day a week (Saturday) on one section of the river and for another day (Sunday) on another section of the river. The department estimates that this accounts for only 1.2% to 3% of recreational potential on the Beaverhead River and 2.4% to 3.8% on the Big Hole River. The higher percentage of use for the Beaverhead River is based only on the more popular section of the river from Clark Canyon Dam to the town of Dillon and does not count the less popular stretch between Dillon and Twin Bridges. The higher percentage for the Big Hole River is based only on the more popular section of the river from Fishtrap fishing access site to the Jefferson River. Nonresidents may still float fish on the nonrestricted sections of the rivers, and they may still wade fish on any section at any time. Based on this information, the commission concludes that nonresidents have reasonable and equitable opportunities to use the Beaverhead and Big Hole rivers.

According to angling pressure surveys conducted by the department every other year, overall angling use on the Beaverhead River went from 22,690 in 1989 to a high of 39,726 in 1997. This increase in use and associated concerns about crowding led to the adoption of the river rules in 1999. The amount of use by nonresidents at that time was considered a primary contributor to the crowding problem. In 1999 the department conducted a survey of river users on the Beaverhead and Big Hole rivers, hereafter referred to as "user survey". The user survey examined all types of use on the river, whereas, the angling pressure survey only examined angling use. The user survey estimated that nonresidents comprised 73% of the river users on the Beaverhead River in 1999.

Since 1997, use on the Beaverhead River decreased to 14,574 in 2001 and then went back up to 26,968 in 2003. The proportion of use by nonresidents, however, has remained relatively the same since 1997. User surveys estimated the proportion of nonresident users to be 63% in 2000 and 65% in 2002. Although the user survey was not conducted in 2003, the angling pressure survey estimated that there were 19,100 nonresident angler days on the Beaverhead River in 2003, or 70% of the angling pressure.

Although overall angling use on the river decreased in 2001, the angling pressure surveys estimated that use went up again in 2003.

Because the proportion of nonresidents using the Beaverhead River has remained relatively the same since 1999 when it was determined that nonresident use was a primary contributor to the crowding problem, it is predicted that as the amount of

use increases, the proportion of nonresident use will remain a primary contributor to the crowding problem.

For the Big Hole River, angling use went from 39,671 in 1989 to a high of 83,408 in 1997. This increase in use and associated concerns about crowding led to the adoption of the river rules in 1999. The amount of use by nonresidents at that time was considered a primary contributor to the crowding problem. In 1999 the department conducted a user survey on the Big Hole River and estimated that nonresidents comprised 55% of the river users.

In considering both the user surveys and the angling pressure surveys, the proportion and amount of nonresident use on the Big Hole River has fluctuated since the rules were adopted. Since 1997, use on the Big Hole River decreased to 33,121 in 2001 and then went back up to 57,285 in 2003. User surveys estimated the proportion of nonresident users to be 36% in 2000 and 29% in 2002. The user survey was not conducted in 2003. The angling pressure survey estimated that there were 20,357 nonresident angler days on the Big Hole River in 2001 or 61% of the angling pressure. The angling pressure survey estimated 28,171 nonresident angler days on the Big Hole River in 2003, or 49% of the angling pressure.

The fluctuation in the proportion and amount of nonresident use on the Big Hole River leaves some question as to whether the rules are affecting nonresident use or whether other variables outside of the commission's control are affecting nonresident use, e.g., drought, economy, fire, security issues, etc. Resident use of the river, which is not restricted, also fluctuated during this same time period, which could indicate that outside variables are influencing use patterns.

The angling pressure surveys do indicate that nonresident angling days on the Big Hole River increased in 2003 and the proportion of nonresidents was 49%, a figure that is close to the percentage of nonresident users (55%) in 1999 when nonresidents were determined to be a primary contributor to the crowding problem. It is predicted that as the amount of use increases, the proportion of nonresident use will remain a primary contributor to the crowding problem.

Based on the best data that are available, the commission concluded that nonresident users remain a primary contributor to crowded conditions on the Beaverhead and Big Hole rivers and that this use warrants retaining the restrictions on nonresident float fishing on specified days and sections of the rivers. This is consistent with the citizen advisory committee's recommendation to retain the restrictions on nonresidents. These rules require the commission to review the rules within five years and at that time more will be known about the trend in nonresident and resident use of the



river, and whether it is necessary to differentiate based on residency and retain the restrictions on nonresident float angling. Particular attention will be given to the Big Hole River where use has fluctuated more than on the Beaverhead River.

The committee recommended changes regarding some of the river reaches on both the Beaverhead and Big Hole rivers. The proposed rule amendments for ARM 12.11.205(1)(c) and (d) eliminate a restriction that previously prohibited any float outfitting on the river reach from Tash Bridge to Selway Bridge on the Beaverhead River. Instead, the rule states that in the river reach from Barrett Diversion to Selway Bridge, each outfitter is limited to launching or use with the reach of a maximum of one boat in any day. This change reflects the committee's assessment that by opening this stretch to some float outfitting there would be less pressure on the upper sections of the river where congestion is more of a concern. The committee also concluded that the opening of this section to float outfitting would not result in a significant increase in float angling on the Tash Bridge to Selway Bridge reach of the Beaverhead River.

The committee also recommended that the reach designations for the Big Hole River be modified. One proposed change is the addition of language to ARM 12.11.210(1)(a), prohibiting float outfitting on the river reach from the headwaters to Mudd Creek Bridge fishing access site on the Big Hole River. The committee believed that in this reach of the river there are limited opportunities for float angling due to the physical characteristic of the river and difficulty of access. In the committee's view, prohibiting float outfitting on this reach of the river would not have a significant impact on the outfitting industry and would provide an opportunity for walk-in, wade angling.

The reach of the Big Hole River that used to go from the Fishtrap fishing access site to Jerry Creek fishing access site would be two reaches if this amendment is adopted: Fishtrap fishing access site to East Bank fishing access site, and East Bank fishing access site to Jerry Creek fishing access site. The closure to float outfitting applies on Wednesday for Fishtrap to East Bank and on Thursday for East Bank to Jerry Creek. ARM 12.11.210(1)(e) and (f). The committee recommended this change because it thought the change would provide more options for float outfitters and disperse use instead of concentrating it in fewer areas.

ARM 12.11.210(1)(e) of this proposal reflects the committee's recommendation that the rules no longer include a restriction on float outfitting for the reach of the Big Hole River between the Notch Bottom fishing access site and the High Road fishing access site. The committee reasoned that the amount

of float outfitting that occurs in this reach is minimal and therefore recommended that the restriction be lifted.

Another change proposed in this rulemaking is allowing use of temporary client days. See, New Rules I and III. Outfitters who conduct business with one boat (the outfitter serves as the outfitter and the guide) may apply for temporary client days on the Beaverhead and/or Big Hole rivers. The temporary client days would come from outfitters who reported zero use over the past five years or outfitters who report zero use for two consecutive years in the future. The intention of allowing outfitters to apply for temporary client use days is to provide an opportunity for one-boat outfitters who want to operate on the Beaverhead and/or Big Hole rivers but do not have the monetary means to purchase an authorized outfitter's entire business. This provision is also intended to provide an opportunity for one-boat outfitters who are authorized to conduct use on these rivers but who are in need of additional client days to maintain a viable business. An outfitter who uses more than one boat will still be allowed to purchase an authorized outfitter's business in its entirety and operate using the client days that transfer with the sale of that business.

6. Concerned persons may present their data, views or arguments, either orally or in writing, at the hearings. Written data, views or arguments may also be submitted to Charles Sperry, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT; telephone (406) 444-3888; fax (406) 444-4952; or email at [csperry@mt.gov](mailto:csperry@mt.gov) and must be received no later than March 7, 2005.

7. Charles Sperry, or another hearing officer appointed by the department, has been designated to preside over and conduct the hearings.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by this department or commission. 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 department.

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

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

/s/ Robert N. Lane  
Robert N. Lane  
Rule Reviewer

Certified to the Secretary of State January 14, 2005

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED  
adoption of new rule I relating ) ADOPTION  
to lobbying and regulation of )  
lobbying ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. On February 26, 2005, the Commissioner of Political Practices proposes to adopt a new rule relating to lobbying and regulation of lobbying.

2. The Commissioner of Political Practices will make reasonable accommodations for persons with disabilities who wish to participate in this process or need an alternative accessible format of this notice. If you require an accommodation, contact the Commissioner of Political Practices no later than 5:00 p.m. on February 18, 2005 to advise us of the nature of the accommodation that you need. Please contact Gordon Higgins, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana 59620-2401; telephone (406) 444-2942; Fax (406) 444-1643; email ghiggins@mt.gov.

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

RULE I PAYMENT THRESHOLD - INFLATION ADJUSTMENT

(1) Pursuant to the operation specified in 5-7-112, MCA, the adjusted payment threshold for calendar years 2005 and 2006 is \$2,200.

AUTH: 5-7-111, MCA  
IMP: 5-7-112, MCA

Reasonable Necessity: Section 5-7-112, MCA, requires the Commissioner of Political Practices, following a general election, to adjust the payment threshold amount for reporting of lobbying related expenses based on application of an inflation factor specified in the statute. There is reasonable necessity for adoption of Rule I because section 5-7-112, MCA, requires the Commissioner of Political Practices to adopt the adjusted amount by administrative rule.

4. Concerned persons may submit their data, views, or arguments, in writing, to Gordon Higgins, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana 59620-2401, or by email to ghiggins@mt.gov to be received no later than February 24, 2005.

5. If persons who are directly affected by this proposed adoption wish to express their data, views, or arguments

orally or in writing at a public hearing, they must make written request for a public hearing and submit this request, along with any written comments, to the Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, 59620-2401, or by email to ghiggins@mt.gov. Written requests for hearing must be received no later than February 24, 2005.

6. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is fewer, of the persons who are directly affected by the proposed action, from the appropriate administrative review committee of the legislature, from a governmental subdivision or agency, or from an association having no fewer than 25 members who will be directly affected, a hearing will be scheduled at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 92 based on the 918 lobbyists who registered to lobby in 2003-2004.

7. An electronic copy of this Notice of Proposed Adoption is available through the agency's site on the World Wide Web at <http://www.state.mt.us/cpp>, under "public meetings/notices" and "administrative rule notices." The agency strives to make the electronic copy of this Notice of Proposed Adoption 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 agency strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission or comments.

8. The Commissioner of Political Practices maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their names added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices concerning campaign finance, ethics, or lobbying. Such written request may be mailed or delivered to the Commissioner of Political Practices at P.O. Box 202401, 1205 Eighth Avenue, Helena, MT 59620-2401, or faxed to (406) 444-1643, or may be made by completing a request form at any rules hearing held by the Commissioner of Political Practices.

9. The bill sponsor notice requirements of 2-4-302, MCA, have been fulfilled.

By: /s/ GORDON HIGGINS  
Gordon Higgins  
Commissioner

By: /s/ JIM SCHEIER  
Jim Scheier  
Assistant Attorney General  
Rule Reviewer

Certified to the Secretary of State on January 14, 2005.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the ) NOTICE OF AMENDMENT  
amendment of ARM 4.17.106 )  
and 4.17.107 relating to )  
organic certification fees )

TO: All Concerned Persons

1. On December 2, 2004, the Department of Agriculture published MAR Notice No. 4-14-154 regarding the proposed amendment of the above-stated rules relating to organic certification fees at page 2865 of the 2004 Montana Administrative Register, Issue Number 23.

2. The agency has amended ARM 4.17.106 and 4.17.107 exactly as proposed.

3. The following comments were received and appear with the Department of Agriculture's response:

COMMENT 1: The department received two written and one verbal comment, all in support of the proposed rule changes.

RESPONSE: Concurs.

DEPARTMENT OF AGRICULTURE

/s/ Nancy K. Peterson  
Nancy K. Peterson, Director

/s/ Timothy J. Meloy  
Timothy J. Meloy, Attorney  
Rule Reviewer

Certified to the Secretary of State, January 14, 2005.

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

In the matter of the adoption )  
of new rule III (ARM )  
36.12.116), legal land )  
description standards )

CORRECTED NOTICE OF  
ADOPTION

TO: All Concerned Persons

1. On September 23, 2004, the Department of Natural Resources and Conservation published MAR Notice No. 36-12-101 regarding a public hearing on the proposed amendment of ARM 36.12.101 concerning definitions and adoption of new RULES I through XXIX concerning a complete and correct application, department action, and standards regarding water rights at page 2163 of the 2004 Montana Administrative Register, Issue Number 18. On December 16, 2004, the department published notice of the adoption of the above-stated rule at page 3036 of the 2004 Montana Administrative Register, Issue Number 24.

2. The reason for the correction is that two sections were inadvertently left out that were addressed in the adoption notice. The corrected rule is as follows:

RULE III (36.12.110) LEGAL LAND DESCRIPTION STANDARDS  
(1) through (1)(b) remain as adopted.  
(c) and (d) remain as proposed.  
(2) through (5) remain as adopted.

3. Replacement pages for the corrected notice of adoption were submitted to the Secretary of State on December 31, 2004.

By: /s/ Mary Sexton  
MARY SEXTON  
Director

/s/ Tim D. Hall  
TIM D. HALL  
Rule Reviewer

Certified to the Secretary of State January 14, 2005.



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

In the matter of the amendment        )       NOTICE OF AMENDMENT  
of ARM 37.82.101 pertaining to        )  
medicaid eligibility                    )

TO: All Interested Persons

1. On December 2, 2004, the Department of Public Health and Human Services published MAR Notice No. 37-338 pertaining to the public hearing on the proposed amendment of the above-stated rule relating to medicaid eligibility, at page 2894 of the 2004 Montana Administrative Register, issue number 23.

2. The Department has amended ARM 37.82.101 as proposed.

3. No comments or testimony were received.

Dawn Sliva  
Rule Reviewer

Robert E. Wynia, MD  
Director, Public Health and  
Human Services

Certified to the Secretary of State January 14, 2005

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF ADOPTION  
of New Rule I (42.4.3202) and )  
II (42.4.3203) relating to )  
qualified research expenses )  
for a qualified corporation, )  
individual, small business )  
corporation, partnership, )  
limited liability partnership,) )  
or limited liability company )

TO: All Concerned Persons

1. On November 4, 2004, the department published MAR Notice No. 42-2-744 regarding the proposed adoption of the above-stated rules relating to qualified research expenses for a qualified corporation, individual, small business corporation, partnership, limited liability partnership, or limited liability company at page 2707 of the 2004 Montana Administrative Register, issue no. 21.

2. A public hearing was held on December 6, 2004, to consider the proposed adoption. No one appeared at the hearing to testify and no written comments were received.

3. The department adopts New Rule I (42.4.3202) and II (42.4.3203) as proposed.

4. An electronic copy of this Adoption Notice is available through the Department's site on the World Wide Web at <http://www.discoveringmontana.com/revenue>, under "for your reference;" "DOR administrative rules;" and "upcoming events and proposed rule changes." The Department strives to make the electronic copy of this Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State January 14, 2005

**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 PO 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) 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<br>Subject                    | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and 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, 2004. This table includes those rules adopted during the period September 1, 2004 through December 31, 2004 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, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2004, 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 2003 and 2004 Montana Administrative Registers.

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

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## BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in December, 2004 appear. Vacancies scheduled to appear from February 1, 2005, through April 30, 2005, 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 7, 2005.

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 2004**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Medical Examiners</b> (Labor and Industry)			
Dr. Dennis Salisbury Butte	Governor	Alzheimer	12/8/2004 9/1/2007
Qualifications (if required): doctor of medicine			
<b>Board of Veterans' Affairs</b> (Military Affairs)			
Ms. Sarah Converse Great Falls	Governor	not listed	12/22/2004 8/1/2008
Qualifications (if required): representative of Senator Conrad Burns' office and a nonvoting member			
Mr. Jeff Gerard Helena	Governor	not listed	12/22/2004 8/1/2008
Qualifications (if required): representative of Congressman Rehberg's office and a nonvoting member			
<b>Governor's HIV/AIDS Advisory Council</b> (Public Health and Human Services)			
Sen. John Bohlinger Billings	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Ms. Wendy Doely Kalispell	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Mr. Frank Gary Butte	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Mr. Barry Grace Kalispell	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			

**BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2004**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Governor's HIV/AIDS Advisory Council</b> (Public Health and Human Services) cont.			
Ms. Kathy Hall Billings	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Ms. Katrese Hammond Harlem	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Mr. David Herrera Missoula	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Mr. Rick Holman Butte	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Ms. Sharon Howard Great Falls	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Ms. Brittany Kukes Helena	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Mr. Andrew Laue Missoula	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Ms. Mary Jane Nealon Missoula	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			

**BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2004**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Governor's HIV/AIDS Advisory Council</b> (Public Health and Human Services) cont.			
Ms. Kelly Parsley Helena	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Rev. Lois Van Leer Bozeman	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
Mr. Steven C. Yeakel Helena	Governor	not listed	12/6/2004 12/6/2006
Qualifications (if required): public member			
<b>Independent Living Council</b> (Public Health and Human Services)			
Ms. Nickie Fee Great Falls	Director	Kiewel	12/10/2004 12/10/2006
Qualifications (if required): none specified			
Ms. Evelyn Oats Box Elder	Director	Bear	12/10/2004 12/10/2006
Qualifications (if required): 121 Project Director			
Ms. Evelyn Pool Columbia Falls	Director	Cowie	12/10/2004 12/10/2006
Qualifications (if required): none specified			
Ms. Nicola Smith Great Falls	Director	Laing	12/10/2004 12/10/2006
Qualifications (if required): representing consumers			

**BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2004**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Alfalfa Seed Committee</b> (Agriculture)			
Mr. Thomas Matchett	Governor	Johnson	12/21/2004
Billings			12/21/2007
Qualifications (if required): representative of alfalfa seed growers			
Mr. Tom Neibur	Governor	Markegard	12/21/2004
Malta			12/21/2007
Qualifications (if required): representative of alfalfa seed growers			
<b>Montana Small Business Development Center Advisory Council</b> (Commerce)			
Mr. Scott Atwood	Director	not listed	12/15/2004
Billings			12/15/2006
Qualifications (if required): none specified			
Ms. Shirley Beck	Director	not listed	12/15/2004
Philipsburg			12/15/2006
Qualifications (if required): none specified			
Mr. Ken Green	Director	not listed	12/15/2004
Whitefish			12/15/2006
Qualifications (if required): none specified			
Ms. Sara Hamlen	Director	not listed	12/15/2004
Townsend			12/15/2006
Qualifications (if required): none specified			
Mr. Steve Holland	Director	not listed	12/15/2004
Bozeman			12/15/2006
Qualifications (if required): none specified			
Ms. Michelle Johnston	Director	not listed	12/15/2004
Helena			12/15/2006
Qualifications (if required): none specified			

**BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2004**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Small Business Development Center Advisory Council</b> (Commerce) cont.			
Ms. Kathy Jones Great Falls	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Mr. Dan Killoy Miles City	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Mr. John Langenheim Bozeman	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Mr. Steve Louttit Helena	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Ms. Reatha Montoya Colstrip	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Mr. Andy Poole Helena	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Sen. Jon Tester Big Sandy	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			
Mr. Paul Tuss Havre	Director	not listed	12/15/2004 12/15/2006
Qualifications (if required): none specified			

**BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2004**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Small Business Development Center Advisory Council</b> (Commerce) cont.			
Mr. Joe Unterreiner	Director	not listed	12/15/2004
Kalispell			12/15/2006
Qualifications (if required): none specified			
Mr. Hale Williams	Director	not listed	12/15/2004
Missoula			12/15/2006
Qualifications (if required): none specified			
<b>Senate District 42</b> (Senate)			
Rep. Dave Lewis	County Commissioners	Anderson	12/8/2004
Helena			1/1/2005
Qualifications (if required): appointed			
<b>Tourism Advisory Council</b> (Commerce)			
Mr. Michael Morrison	Governor	Whitehead	12/22/2004
Great Falls			7/1/2006
Qualifications (if required): representing Russell Country			

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Architects</b> (Labor and Industry) Mr. Eugene Vogl, Billings Qualifications (if required): licensed architect	Governor	3/27/2005
<b>Board of Athletics</b> (Labor and Industry) Mr. John C. Kinna, Fairfield Qualifications (if required): public member	Governor	4/25/2005
<b>Board of Clinical Laboratory Science Practitioners</b> (Commerce) Mr. John Michael Long, Glendive Qualifications (if required): clinical lab science practitioner	Governor	4/16/2005
Dr. Peter A.F. Smith, Kalispell Qualifications (if required): physician	Governor	4/16/2005
<b>Board of County Printing</b> (Administration) Mr. Verle L. Rademacher, White Sulphur Springs Qualifications (if required): representative of the printing industry	Governor	4/1/2005
Ms. Nancy Clark, Ryegate Qualifications (if required): public member	Governor	4/1/2005
Mr. Curtis H. Starr, Malta Qualifications (if required): representative of the printing industry	Governor	4/1/2005
Ms. Marianne Roose, Eureka Qualifications (if required): County Commissioner	Governor	4/1/2005
Ms. Julie Jordan, Miles City Qualifications (if required): County Commissioner	Governor	4/1/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Dentistry</b> (Commerce) Dr. Paul Sims, Butte Qualifications (if required): dentist	Governor	3/29/2005
<b>Board of Directors of State Compensation Insurance Fund</b> (Administration) Mr. Herbert Leuprecht, Butte Qualifications (if required): representative of private industry and a policy holder	Governor	4/28/2005
Mr. Derek Grewatz, Missoula Qualifications (if required): licensed insurance producer	Governor	4/28/2005
Mr. Jack Morgenstern, Lewistown Qualifications (if required): representative of private enterprise and a policyholder	Governor	4/28/2005
Mr. Mark Cole, Shelby Qualifications (if required): policyholder and representing private enterprise	Governor	4/28/2005
<b>Board of Hail Insurance</b> (Agriculture) Ms. Lillian Ostendorf, Powderville Qualifications (if required): public member	Governor	4/18/2005
<b>Board of Livestock</b> (Livestock) Mr. Jerry E. Leep, Amsterdam Qualifications (if required): dairy producer	Governor	3/1/2005
Mr. Bob Lee, Judith Gap Qualifications (if required): cattle producer	Governor	3/1/2005
Mr. Jeremy Kinross-Wright, Big Timber Qualifications (if required): swine producer	Governor	3/1/2005



VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Optometry</b> (Commerce) Dr. Cynthia Johnson, Bozeman Qualifications (if required): optometrist	Governor	4/3/2005
<b>Board of Public Education</b> (Education) Ms. Diane Fladmo, Glendive Qualifications (if required): Independent residing in District 4	Governor	2/1/2005
<b>Board of Regents of Higher Education</b> (Education) Mr. Richard Roehm, Bozeman Qualifications (if required): representative of District 2 and an Independent	Governor	2/1/2005
<b>Governor's Council on Families</b> (Public Health and Human Services) Mr. Stan Rathman, Choteau Qualifications (if required): public member	Governor	4/29/2005
Ms. Floral Goodman, Laurel Qualifications (if required): public member	Governor	4/29/2005
Ms. Melissa Sundberg, Florence Qualifications (if required): public member	Governor	4/29/2005
Rep. John Sinrud, Belgrade Qualifications (if required): public member	Governor	4/29/2005
Mr. Jeff Greer, Missoula Qualifications (if required): public member	Governor	4/29/2005
Mr. Tom Burnett, Belgrade Qualifications (if required): public member	Governor	4/29/2005
Ms. Arlene Diehl, East Helena Qualifications (if required): public member	Governor	4/29/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Governor's Council on Families</b> (Public Health and Human Services) cont. Dr. Paul Olson, Kalispell Qualifications (if required): public member	Governor	4/29/2005
Ms. Annette Friesen, Billings Qualifications (if required): public member	Governor	4/29/2005
Mr. Rick Robinson, Lame Deer Qualifications (if required): public member	Governor	4/29/2005
Mr. Ed Matter, Havre Qualifications (if required): public member	Governor	4/29/2005
Ms. Laurie Koutnik, Helena Qualifications (if required): public member	Governor	4/29/2005
Ms. Amber Gundlach, Baker Qualifications (if required): public member	Governor	4/29/2005
Ms. Maria Jimenez, Helena Qualifications (if required): public member	Governor	4/29/2005
Ms. Annette Osen, Bozeman Qualifications (if required): public member	Governor	4/29/2005
Mr. Steven Fred Geisser, Townsend Qualifications (if required): public member	Governor	4/29/2005
<b>Governor's Wolf Management Advisory Council</b> (Fish, Wildlife, and Parks) Dr. Charles E. Buehler, Butte Qualifications (if required): public member	Governor	2/26/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Governor's Wolf Management Advisory Council</b> (Fish, Wildlife, and Parks) cont. Mr. Hank Fischer, Missoula Qualifications (if required): public member	Governor	2/26/2005
Rep. Chase Hibbard, Helena Qualifications (if required): public member	Governor	2/26/2005
Mr. Bruce Tutvedt, Kalispell Qualifications (if required): public member	Governor	2/26/2005
Ms. Darlyne Dascher, Fort Peck Qualifications (if required): public member	Governor	2/26/2005
Rep. Bruce Malcolm, Emigrant Qualifications (if required): public member	Governor	2/26/2005
Dr. Nelson Wert, Townsend Qualifications (if required): public member	Governor	2/26/2005
Ms. Robin Hompesch, Bozeman Qualifications (if required): public member	Governor	2/26/2005
Mr. James Cross, Kalispell Qualifications (if required): public member	Governor	2/26/2005
Mr. Terry Beaver, Helena Qualifications (if required): public member	Governor	2/26/2005
Mr. Jay Kirkpatrick, Billings Qualifications (if required): public member	Governor	2/26/2005
Mr. Dan Carney, Browning Qualifications (if required): public member	Governor	2/26/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Great Falls College of Technology MSU Executive Board</b> (University System) Mr. Jack King, Great Falls Qualifications (if required): public member	Governor	4/15/2005
<b>Helena College of Technology UM Executive Board</b> (University System) Mr. Eric Schindler, East Helena Qualifications (if required): public member	Governor	4/15/2005
<b>MSU Billings Executive Board</b> (University System) Mr. Jeffery J. Oven, Billings Qualifications (if required): public member	Governor	4/15/2005
<b>MSU Northern Executive Board</b> (University System) Mr. David C. Henry, Havre Qualifications (if required): public member	Governor	4/15/2005
<b>Missouri River Basin Advisory Council</b> (Natural Resources and Conservation) Ms. Diane Brandt, Glasgow Qualifications (if required): public member	Governor	3/4/2005
Mr. Don Pfau, Lewistown Qualifications (if required): public member	Governor	3/4/2005
Mr. Bud Clinch, Helena Qualifications (if required): DNRC Director	Governor	3/4/2005
Mr. Jim Rector, Glasgow Qualifications (if required): public member	Governor	3/4/2005
Mr. Ron Miller, Glasgow Qualifications (if required): public member	Governor	3/4/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Missouri River Basin Advisory Council</b> (Natural Resources and Conservation) cont. Mr. Steve Page, Glasgow Qualifications (if required): public member	Governor	3/4/2005
Mr. John Foster, Lewistown Qualifications (if required): public member	Governor	3/4/2005
Mr. Boone A. Whitmer, Wolf Point Qualifications (if required): public member	Governor	3/4/2005
Mr. Buzz Mattelin, Brockton Qualifications (if required): public member	Governor	3/4/2005
<b>Montana Arts Council</b> (Education) Mr. Bill Frazier, Big Timber Qualifications (if required): public member	Governor	2/1/2005
Mr. Monte Dolack, Missoula Qualifications (if required): public member	Governor	2/1/2005
Ms. Marilyn Olson, Sidney Qualifications (if required): public member	Governor	2/1/2005
Ms. Jennifer Earle Seifert, Troy Qualifications (if required): public member	Governor	2/1/2005
Ms. Linda Reed, Helena Qualifications (if required): public member	Governor	2/1/2005
Ms. Kari Knierim, Glasgow Qualifications (if required): public member	Governor	2/1/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana State University Executive Board</b> (University System) Mr. Lee Oldenburger, Manhattan Qualifications (if required): public member	Governor	4/15/2005
<b>Montana Tech of the University of Montana Executive Board</b> (University System) Mr. Daniel T. Berube, Anaconda Qualifications (if required): public member	Governor	4/15/2005
<b>Montana Vocational Rehabilitation Council</b> (Public Health and Human Services) Mr. Dennis Moore, Billings Qualifications (if required): federally mandated parent organization position	Director	3/3/2005
<b>Montana Voluntary Employee Beneficiary Association Advisory Council</b> (Administration) Mr. Thomas Schneider, Helena Qualifications (if required): none specified	Director	3/1/2005
Ms. Beth McLaughlin, Helena Qualifications (if required): none specified	Director	3/1/2005
Mr. Tom Bilodeau, Helena Qualifications (if required): none specified	Director	3/1/2005
Ms. Coleen Balzarini, Great Falls Qualifications (if required): none specified	Director	3/1/2005
Ms. Sheila Cozzie, Helena Qualifications (if required): none specified	Director	3/1/2005
Mr. Glen Leavitt, Helena Qualifications (if required): none specified	Director	3/1/2005
Mr. Todd Watkins, Kalispell Qualifications (if required): none specified	Director	3/1/2005

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2005 through APRIL 30, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Voluntary Employee Beneficiary Association Advisory Council</b> (Administration) cont. Mr. Don Kinman, Helena Qualifications (if required): none specified	Director	3/1/2005
<b>Public Employees' Retirement Board</b> (Administration) Mr. Terry Teichrow, Helena Qualifications (if required): public employee	Governor	4/1/2005
<b>University of Montana Executive Board</b> (University System) Col. Sam A. Roberts, Missoula Qualifications (if required): public member	Governor	4/15/2005
<b>University of Montana Western Executive Board</b> (University System) Ms. Maryellen Wilkerson, Dillon Qualifications (if required): public member	Governor	4/15/2005