

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

AGRICULTURE, Department of, Title 4

4-14-174 Notice of Proposed Amendment - Organic Certification Program. No Public Hearing Contemplated. 990-994

FISH, WILDLIFE, AND PARKS, Department of, Title 12

12-332 Notice of Public Hearing on Proposed Amendment - Replacement Licenses. 995-997

TRANSPORTATION, Department of, Title 18

18-119 Notice of Proposed Amendment - Acceptance and Use of Electronic Records and Electronic Signatures. No Public Hearing Contemplated. 998-1003

LABOR AND INDUSTRY, Department of, Title 24

24-138-63 (Board of Dentistry) Notice of Public Hearing on Proposed Amendment and Repeal - Mandatory Certification - Initial Licensure of Dentists by Examination - Initial Licensure of Hygienists by Examination - Dentist Licensure by Credentials - Dental Hygienist Licensure by Credentials - Dentist Licensure by Credentials for Specialists - Dental Hygiene Local Anesthetic Agent Certification -

LABOR AND INDUSTRY, Continued

Denturist Application Requirements - Application to Convert an Inactive Status License to an Active Status License - Renewals - Reactivation of an Expired License - Licensure of Retired or Nonpracticing Dentist or Dental Hygienist for Volunteer Service - Reactivation of a Lapsed License. 1004-1014

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-410 Notice of Public Hearing on Proposed Amendment - Case Management Services for Persons With Developmental Disabilities, Reimbursement. 1015-1019

PUBLIC SERVICE REGULATION, Department of, Title 38

38-2-198 Notice of Public Hearing on Proposed Amendment - Cogeneration and Small Power Production. 1020-1023

RULE SECTION

FISH, WILDLIFE AND PARKS, Department of, Title 12

Notice of Decision on Proposed Rule Action - Purchase of Duplicate Licenses. 1024

NEW Game Bird Farms - Possession of Captive-Reared Game  
AMD Birds - Field Trial Permits.  
TRANS 1025-1027

LABOR AND INDUSTRY, Department of, Title 24

AMD Insurer Reporting Requirements. 1028

Corrected Notice of Amendment (Board of Plumbers) Fee Schedule. 1029-1030

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee. 1031-1032

How to Use ARM and MAR. 1033

Accumulative Table. 1034-1042

Boards and Councils Appointees. 1043-1050

Vacancies on Boards and Councils. 1051-1060

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

|                                      |   |                    |
|--------------------------------------|---|--------------------|
| In the matter of the proposed        | ) | NOTICE OF PROPOSED |
| amendment of ARM 4.17.102, 4.17.106, | ) | AMENDMENT          |
| and 4.17.114 relating to the organic | ) |                    |
| certification program                | ) | NO PUBLIC HEARING  |
|                                      | ) | CONTEMPLATED       |

TO: All Concerned Persons

1. On August 25, 2007, the Montana Department of Agriculture proposes to amend the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on August 9, 2007, to advise us of the nature of the accommodation that you need. Please contact Gregory H. Ames at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-3144; Fax: (406) 444-5409; or e-mail: agr@mt.gov.

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

4.17.102 ADOPTION OF NATIONAL ORGANIC PROGRAM REGULATIONS

(1) through (1)(f)(v) remain the same.

(2) The department adopts and incorporates by reference the European Council Regulation (EEC or EC) Number 2092/91, as adopted June 24, 1991, and amended as follows:

- |  |   |
|--|---|
| <u>EEC 1535/92, June 15, 1992</u>      | <u>EC 331/2000, December 17, 1999</u>   |
| <u>EEC 2083/92, July 14, 1992</u>      | <u>EC 1073/2000, May 19, 2000</u>       |
| <u>EEC 207/93, January 29, 1993</u>    | <u>EC 1437/2000, June 30, 2000</u>      |
| <u>EEC 2608/93, September 23, 1993</u> | <u>EC 2020/2000, September 25, 2000</u> |
| <u>EC 468/94, March 2, 1994</u>        | <u>EC 436/2001, March 2, 2001</u>       |
| <u>EC 1468/94, June 20, 1994</u>       | <u>EC 2491/2001, December 19, 2001</u>  |
| <u>EC 2381/94, September 30, 1994</u>  | <u>EC 473/2002, March 15, 2002</u>      |
| <u>EC 1201/95, May 29, 1995</u>        | <u>EC 223/2003, February 5, 2003</u>    |
| <u>EC 1202/95, May 29, 1995</u>        | <u>EC 599/2003, April 1, 2003</u>       |
| <u>EC 1935/95, June 22, 1995</u>       | <u>EC 806/2003, April 14, 2003</u>      |
| <u>EC 418/96, March 7, 1996</u>        | <u>EC 2277/2003, December 22, 2003</u>  |
| <u>EC 1488/97, July 29, 1997</u>       | <u>EC 392/2004, February 24, 2004</u>   |
| <u>EC 1900/98, September 4, 1998</u>   | <u>EC 746/2004, April 22, 2004</u>      |
| <u>EC 330/99, February 12, 1999</u>    | <u>EC 779/2004, April 26, 2004</u>      |
| <u>EC 1804/99, July 19, 1999</u>       |   |

(a) A copy of these regulations may be obtained from the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201.

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

~~(3)~~ (4) References in the adopted federal regulations to "certifying agent" may be taken to mean the department as used in this ~~manual~~ rule.

AUTH: 80-11-601, MCA

IMP: 80-11-601, MCA

REASON: Producers and handlers certified by the department have asked us to provide European Union organic certification. Adoption of the European Council Regulation Number 2092/91 is necessary to facilitate the export of organic products to the European Union. By facilitating access to high value export markets for organic crops and products, this service enhances the competitiveness and sustainability of Montana organic agriculture.

4.17.106 APPLICATION FEES AND FEES FOR SERVICES (1) through (1)(d) remain the same.

(e) an additional application fee is \$250 for each additional certification requested;

(e) through (e)(iii) remain the same but are renumbered (f) through (f)(iii).

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

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

(d) an additional application fee is \$150 for new applications for certification;  
and

(e) an additional application fee is \$250 for each additional certification requested; and

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

(3) through (9) remain the same.

AUTH: 80-11-601, MCA

IMP: 80-11-601, MCA

REASON: International Standards Organization Guide 65 accreditation requires a yearly program review and audit by the United States Department of Agriculture, Agricultural Marketing Service. In order to pay for the audit costs, approximately \$15,000 per audit, a fee is necessary to generate revenue to cover the costs of annual accreditation. Note that the fee is for each additional certification a producer or handler wishes to have. Currently, the department certifies producers and handlers to verify compliance with three other standards allowing producers and handlers to also access organic markets in Switzerland, Japan, and Quebec, Canada.

This administrative rule will primarily impact organic grain producers and handlers as grains are Montana's principle organic export product. There are currently 42 certified organic producers and handlers who may be impacted by the additional

application fee. Of these 42, perhaps 28 will seek European Union certification and possibly another 12 may seek other certifications (Switzerland, Japan, or Quebec, Canada) for a total of approximately 40 additional certifications.

It is anticipated that the department will receive eight requests for compliance for BioSuisse (Switzerland) certification, and four requests for compliance with the United States Department of Agriculture (USDA) Japanese Ministry of Agriculture, Food and Fisheries (MAFF) export arrangement. Currently, we do not have any requests for Quebec, Canada. Therefore, the financial impact is estimated to generate an additional \$10,000 of revenue for the department each year (European Union, 28 certifications x \$250 = \$7,000; BioSuisse, 8 certifications x \$250 = \$2,000; and Japan, 4 certifications x \$250 = \$1,000).

4.17.114 COMPLIANCE ENFORCEMENT AND PENALTIES (1) remains the same.

(a) the department and applicants for certification will follow procedures established in 7 CFR 205, subpart (e) in addressing ~~non-compliance~~ noncompliance issues under National Organic Program standards;

(b) the department and certified operations will follow procedures established in 7 CFR 205, subpart (g) in addressing ~~non-compliance~~ noncompliance issues under National Organic Program standards;

(c) the department's procedure for denying certification under National Organic Program standards will adhere to that established in 7 CFR 205, subpart (e); and

(d) any notice of denial of certification or proposed suspension or revocation of certification will state the person's right to mediation ~~as provided by 7 CFR 205.663~~. The department's mediation procedures will be consistent with that established in 7 CFR 205.663 and the department may incorporate procedures for mediation established by state statutes.

(2) through (6) remain the same.

AUTH: 80-11-601, MCA

IMP: 80-11-601, MCA

REASON: International Standards Organization Guide 65 requires those certified (producers and handlers) to the standard to be in compliance with the international standards and requires accredited certifiers and the Department of Agriculture to enforce the international standards. Amendment of this administrative rule indicates which standards the department will follow in compliance and enforcement activities.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Gregory H. Ames at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or e-mail: agr@mt.gov. Any comments must be received no later than August 23, 2007.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Gregory H. Ames at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or e-mail: agr@mt.gov. A written request for hearing must be received no later than August 23, 2007.

6. If the department receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are 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 has been determined to be 12 persons based on 120 organic operations certified by the department.

7. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or e-mail: agr@mt.gov or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

8. An electronic copy of this Notice of Proposed Amendment is available through the department's web site at [www.agr.mt.gov](http://www.agr.mt.gov), under the Administrative Rules section. The department strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department 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.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified on July 10, 2007 by regular mail. For previous rule projects involving the same bill, the primary sponsor was given appropriate notice.

DEPARTMENT OF AGRICULTURE

/s/ Joel A. Clairmont

Joel A. Clairmont, Acting Director

/s/ Gregory H. Ames

Gregory H. Ames, Administrator  
Rule Reviewer

Certified to the Secretary of State, July 16, 2007.

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 12.3.403 pertaining to ) PROPOSED AMENDMENT  
replacement licenses )

TO: All Concerned Persons

1. On August 15, 2007, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at 1420 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department 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., August 1, 2007, to advise us of the nature of the accommodation that you need. Please contact Mike Korn, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-2456; fax (406) 444-7894; or e-mail mkorn@mt.gov.

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

12.3.403 REPLACEMENT LICENSES (1) ~~Replacement licenses or permits may be issued by authorized agents if the original license is lost, stolen or destroyed.~~ A person may replace a department-issued hunting license or permit that is lost, stolen, or destroyed by signing an affidavit affirming that the license was lost, stolen, or destroyed. A person may obtain and submit the affidavit at a department office or any department license provider.

(2) To replace a lost, stolen, or destroyed license requiring a carcass tag the second time for the same species within a two-year period, the following apply:

(a) a carcass tag is that portion of a hunting license that a person is required to affix to the carcass of an animal;

(b) the two-year period shall run from March 1 of the year of license purchase through February 28, 24 months later;

(c) the person shall obtain, complete, and submit an affidavit affirming that the tag was lost, stolen, or destroyed;

(d) the person shall appear personally at a department regional or area office or at headquarters in Helena, Montana to obtain, complete, and submit the affidavit.

(3) A person may not replace a license requiring a carcass tag a third time for the same species within a two-year period. Subsection (2)(b) defines the two-year period.

~~(2)~~ (4) The fee for each replacement license or permit issued under this rule is not to exceed \$5.



AUTH: 87-2-104, MCA  
IMP: 87-2-104, MCA

4. The purpose of a replacement license is to assist a hunter who has legitimately lost or inadvertently destroyed a license, permit, or tag. The first section of the proposed rule amendment reflects the department's current process for issuing a replacement license.

The proposed rule amendment is necessary to prevent illegal use of replacement licenses. The number of replacement licenses issued has increased drastically over the last four years. For instance, the number of deer replacement licenses went from about 4500 in 2002 to over 8000 in the year 2006. A portion of the replacement licenses that have been issued multiple times have been used illegally. Department enforcement has discovered a number of cases and circumstances where a hunter obtains multiple licenses, permits, and/or tags and uses them to facilitate the crimes of hunting without a license (87-2-103, MCA), using a license, tag, or permit illegally (87-2-110, MCA), and possessing unlawfully-taken game animals (87-2-111, MCA). Generally, the illegal circumstances involve a person obtaining a replacement while still possessing or having used the original and then using the replacement to unlawfully take a second animal. Or, a person falsely replacing a game license or tag has made a "replacement" available to another person who is not licensed.

The use and presentation of a tag on a game animal carcass is the method by which a person can attempt to transport and possess an unlawfully taken game animal, unless and until an investigation reveals the illegalities involved. Thus, the illegal use of replacement tags plays a major part in enforcement's inability to initially detect (at game check stations, etc.) illegal taking of wildlife. Requiring that anyone who loses more than one license for the same species in the course of two license years to make replacement requests at regional, area, or state offices will substantially reduce the number of capricious duplicate licenses sold as well as provide means to reduce the number of duplicates in circulation for unlawful purposes.

The fee increase is necessary to offset department administrative costs for issuing duplicate licenses and to reduce the number of unnecessary duplicates sold. A maximum fee of \$5 for replacement licenses is permitted under 87-2-104, MCA. This fee increase will affect approximately 50,860 people based on the total number of replacement licenses issued in 2006. The fee increase will increase revenue from replacement licenses by approximately \$184,125.

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 Mike Korn, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-2456; fax (406) 444-7894; or e-mail mkorn@mt.gov. Any comments must be received no later than August 23, 2007.

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

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

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

/s/ M. Jeff Hagener

M. Jeff Hagener,  
Director  
Department of Fish, Wildlife and  
Parks

/s/ Robert N. Lane

Robert N. Lane  
Rule Reviewer

Certified to the Secretary of State July 16, 2007.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

|                                     |   |                    |
|-------------------------------------|---|--------------------|
| In the matter of the amendment of   | ) | NOTICE OF PROPOSED |
| ARM 18.4.110 through 18.4.115       | ) | AMENDMENT          |
| pertaining to acceptance and use of | ) |                    |
| electronic records and electronic   | ) | NO PUBLIC HEARING  |
| signatures                          | ) | CONTEMPLATED       |

TO: All Concerned Persons

1. On October 1, 2007, the Department of Transportation proposes to amend the above-stated rules.

2. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Transportation no later than 5:00 p.m. on August 3, 2007, to advise us of the nature of the accommodation that you need. Please contact Lisa Durbin, Department of Transportation, 2701 Prospect Ave, Helena, Montana, 59620-1001; telephone (406) 444-0453; fax (406) 444-7297; TDD (406) 444-7696 or 800-335-7592; or e-mail ldurbin@mt.gov.

3. For reasonable necessity, these rules are being amended because, on December 3, 2004, the Department of Transportation adopted the above-stated rules in order to implement the Montana Electronic Transactions with State Agencies and Local Government Units Act. Sections 2-20-101, et seq., MCA. That act was repealed by the Legislature during the 2007 legislative session. (HB 177, chapter No. 130.) HB 177 also amended section 30-18-118(2), MCA, allowing state agencies to adopt rules pursuant to that statute. The Department of Transportation proposes that the following amendments become effective on October 1, 2007, the effective date of chapter 130, Laws of 2007.

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

18.4.110 DEFINITIONS For the purposes of this subchapter, and unless the context expressly indicates otherwise:

~~(1) "Acceptable certification authorities" means a certification authority that meets the requirements of 2-20-109 and 2-20-110, MCA.~~

~~(2) "Approved list of certification authorities" means the list of certification authorities approved by the secretary of state to issue certificates for digital signature transactions involving public entities in Montana.~~

~~(3)~~(1) "Asymmetric cryptosystem" means a computer algorithm or series of algorithms which utilize two different keys with the following characteristics:

- (a) one key signs a given message;
- (b) one key verifies a given message; and

(c) the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

(2) "Certificate" means an electronic record that:

(a) identifies the certification authority issuing it;

(b) identifies its subscriber;

(c) contains a public key that corresponds to a private key under the control of the subscriber;

(d) specifies its operational period; and

(e) is digitally signed by the certification authority issuing it.

~~(4)~~(3) "Certification authority" means a person or entity that issues a certificate, or in the case of certain certification processes, certifies amendments to an existing certificate, or appears on the secretary of state's "approved list of certificate authorities".

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

(5) "Digital signature" means a type of electronic signature that encrypts a record by using a cryptosystem in a manner that a person who has the unencrypted record, the encrypted record, and the signer's key can accurately determine:

(a) whether the encryption of the record to an electronic record was created using the private key that corresponds to the signer's public key; and

(b) whether the record has been altered since the record was encrypted into an electronic record.

(6) remains the same.

(7) "Identification" means the document or documents presented to a certification authority to establish the identity of a subscriber.

(8) "Key" means a password or table used to decipher encrypted electronic data.

(9) "Key pair" means a private key and its corresponding public key in a cryptosystem, as part of which the public key verifies the signature made by the private key.

(7) through (9) remain the same but are renumbered (10) through (12).

(13) "Private key" is a key of a key pair used to create a digital signature.

(14) "Public key" is the key of a key pair used to verify a digital signature.

(15) "Record" includes any paper, correspondence, form, book, photograph, microfilm, map, drawing, or other document, including a copy of any of them, that has been made or received by a state agency in connection with the transaction of the official business of that entity and all other documents required by law to be filed with or kept by that agency.

(10) and (11) remain the same but are renumbered (16) and (17).

(18) "State agency" means a department, board, commission, authority, or other governmental entity of the executive branch of state government, including the Montana university system.

(12) remains the same but is renumbered (19).

(20) "Verify a digital signature" means to use the public key listed in a valid certificate, by means of a security procedure, to evaluate a digitally signed electronic record so that the evaluation concluded that:

(a) the digital signature was created using the private key corresponding to the public key listed in the certificate; and

(b) the electronic record has not been altered since its digital signature was created.

AUTH: ~~2-20-105~~ 30-18-118, MCA

IMP: ~~2-20-105, 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117,~~ MCA

REASON: The department has determined that it is necessary to amend these rules because, as noted above, the legislature has repealed section 2-20-105, MCA, which provided the statutory authority for the rules adopted on December 3, 2004. The Legislature, however, transferred that authority to section 30-18-118, MCA. Additionally, the repeal and amendments of the noted statutes made it necessary to change this definition section to take account of the statutory changes. Also, with the repeal of the former Act certain definitions were also repealed. As a result, for the purposes of continuity, it was necessary to adopt those definitions in the amended rule. The terms are used in the following proposed rules, and by providing definitions the rules are made easier to understand and more useful to the department as well as the public. The definitions found through the amended rules are necessary to achieve the goals of the Legislature in facilitating electronic communication and commerce.

18.4.111 SUBMISSION OF TRANSPORTATION CONSTRUCTION BID

(1) through (4) remain the same.

AUTH: ~~2-20-105~~ 30-18-118, MCA

IMP: ~~2-20-105, 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117,~~ MCA

REASON: For ARM 18.4.111 and ARM 18.4.112, the department has determined that it is necessary to amend these rules because, as noted above, the Legislature has repealed section 2-20-105, MCA, which provided the statutory authority for the rules adopted on December 3, 2004. The Legislature, however, transferred that authority to section 30-18-118, MCA.

18.4.112 ELECTRONICALLY TRANSMITTED BID (1) through (3) remain the same.

AUTH: ~~2-20-105~~ 30-18-118, MCA

IMP: ~~2-20-105, 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117,~~ MCA

18.4.113 ACCEPTABLE TECHNOLOGY (1) through (1)(b) remain the same.

(c) be under the sole control of the person using it; and

(d) be linked to the data in such a manner that if the data are changed, the digital signature is invalidated; and

~~(e) conform to Title 2, chapter 20, part 1 of the Montana Code Annotated.~~

(2) The technology known as public key infrastructure is an acceptable technology for use by persons conducting business with the department, provided that the digital signature is created consistent with ~~the provisions in Title 2, chapter 20, part 1, MCA, and these rules.~~

(3) remains the same.

AUTH: ~~2-20-105~~ 30-18-118, MCA

IMP: ~~2-20-105, 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117,~~ MCA

REASON: The department is amending 18.4.113 through 18.4.115 to delete references to Title 2, chapter 20, part 1, because that part of MCA was repealed.

18.4.114 PRIVATE AND PUBLIC KEYS (1) ~~Section 2-20-103, MCA~~ requires that a A digital signature must be "unique to the person using it". A public key based digital signature may be considered unique to the person using it, if:

(a) through (c) remain the same.

~~(2) Although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature.~~

~~(3)~~ (2) ~~Section 2-20-103, MCA requires that t~~ The digital signature remains "under the sole control of the person using it". Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, assumes a duty to exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature pursuant to the laws of Montana.

AUTH: ~~2-20-105~~ 30-18-118, MCA

IMP: ~~2-20-105, 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117,~~ MCA

REASON: Section (2) is being deleted because it is not applicable to the department's bidding procedure.

18.4.115 VERIFICATION (1) ~~Section 2-20-103, MCA requires that a A~~ digital signature must be "capable of verification". A public key based digital signature is capable of verification if:

(a) and (b) remain the same.

AUTH: ~~2-20-105~~ 30-18-118, MCA

IMP: ~~2-20-105, 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117,~~ MCA

REASON: The department has determined that it is necessary to amend these rules because, as noted above, the Legislature has repealed section 2-20-105, MCA, which provided the statutory authority for the rules adopted on December

3, 2004. The Legislature, however, transferred that authority to section 30-18-118, MCA.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Lisa Durbin, Department of Transportation, 2701 Prospect Ave., Helena, Montana, 59620-1001; telephone (406) 444-0453; fax (406) 444-7297; or e-mail [ldurbin@mt.gov](mailto:ldurbin@mt.gov), and must be received no later than 5:00 p.m., August 27, 2007.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Lisa Durbin at the above address no later than 5:00 p.m., August 10, 2007.

7. If the agency 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 has been determined to be 30 persons based on 300 companies who could be expected to bid on construction projects.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

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

10. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of HB 234 (2001) was notified on June 20, 2007 by U.S. Postal Service. The primary sponsor of HB 177 (2007) was notified on June 20, 2007, by U.S. Postal Service.

/s/ Lyle Manley  
Lyle Manley  
Rule Reviewer

/s/ James D. Currie  
James D. Currie  
Deputy Director, Dept. of Transportation

Certified to the Secretary of State July 16, 2007.



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

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of ARM 24.138.403 mandatory certification, ) ON PROPOSED AMENDMENT  
24.138.502 initial licensure of dentists by ) AND REPEAL  
examination, 24.138.503 initial licensure of )  
hygienists by examination, 24.138.505 dentist )  
licensure by credentials, 24.138.506 dental )  
hygienist licensure by credentials, 24.138.507 )  
dentist licensure by credentials for specialists, )  
24.138.508 dental hygiene local anesthetic )  
agent certification, 24.138.511 denturist )  
application requirements, 24.138.514 )  
application to convert an inactive status license )  
to an active status license, 24.138.518 )  
renewals, 24.138.525 reactivation of an )  
expired license, 24.138.530 licensure of retired )  
or nonpracticing dentist or dental hygienist for )  
volunteer service, and repeal of 24.138.524 )  
reactivation of a lapsed license )

TO: All Concerned Persons

1. On August 17, 2007, at 9:00 a.m., a public hearing will be held in room B-07, 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 Board of Dentistry (board) no later than 5:00 p.m., on August 10, 2007, to advise us of the nature of the accommodation that you need. Please contact Traci Collett, Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdden@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the periodic review of its administrative rules, the board is proposing revisions throughout the rules. Some of the proposed amendments are technical in nature, such as renumbering or amending punctuation within certain rules following amendment and to comply with ARM formatting requirements. Similar technical changes replace out-of-date terminology for current language, delete unnecessary or redundant sections, and amend rules for consistency, simplicity, and ease of use. Authority and implementation cites are being amended throughout to accurately

reflect all statutes implemented through the rule and to provide the complete sources of the board's rulemaking authority.

The board has determined it is reasonably necessary to amend the rules throughout and add pediatric advanced life support (PALS) certification to those certification types already accepted by the board for licensure. The board concluded that requiring active status licensees maintain any one of the three types of certification adequately and equally protects the public.

Accordingly, the board has determined that reasonable necessity exists to generally amend certain rules at this time. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.138.403 MANDATORY CPR CERTIFICATION (1) All licensed active status dentists, dental hygienists, and denturists shall possess a current cardiopulmonary resuscitation (CPR), ~~or advanced cardiac life support (ACLS), or pediatric advanced life support (PALS)~~ card.

(2) Licensees shall maintain a current CPR, ~~or ACLS, or PALS~~ card on the premises and provide a copy to the board upon request.

(3) Licensees shall affirm the expiration date of the CPR, ~~or ACLS, or PALS~~ card on the renewal. The board may audit a licensee for compliance of a current CPR, ~~or ACLS, or PALS~~ card. An active licensee who practices without a current CPR, ~~or ACLS, or PALS~~ card may be subject to disciplinary action by the board.

(4) remains the same.

AUTH: 37-1-131, 37-4-205, 37-29-201, MCA

IMP: 37-1-131, 37-4-307, 37-29-201, 37-29-401, MCA

24.138.502 INITIAL LICENSURE OF DENTISTS BY EXAMINATION (1) and (1)(a) remain the same.

(b) certification of successful passage of a board approved regional clinical practical examination. ~~The board accepts, in satisfaction of the practical part, successful completion of an examination administered by the Western Regional Examining Board (WREB) or by the Central Regional Dental Testing Service (CRDTS) taken after January 1, 2000. Both examinations~~ Examinations shall be valid for the purpose of initial licensure for a period of five years from the date of successful passage of the examination;

(c) remains the same.

(d) verification of graduation from a dental school accredited by the American Dental Association Commission on Dental Accreditation, or its successor. Verification must consist of an original dental school transcript and a diploma. The board may accept ~~or~~ a letter from the dean of the school of dentistry, program director, or the dean's equivalent attesting to the program of study, and that graduation status was attained to process the application; however, a license will not be issued until the transcript is received in the board office;

- (e) and (f) remain the same.
- (g) a copy of the applicant's current CPR, ~~or~~ ACLS, or PALS card;
- (h) through (4) remain the same.

AUTH: 37-1-131, 37-4-205, MCA  
IMP: 37-1-131, 37-4-301, MCA

REASON: It is reasonably necessary to amend this rule to align terminology with the statutory requirement of passage of a regional clinical examination at 37-4-301, MCA. A national dental clinical practical examination is currently under development in the United States, which is anticipated to eventually replace all individual regional clinical examinations. The board is amending this rule after determining that the regional examinations have already evolved into fundamentally the same clinical exam, and that it no longer matters which regional service administers the examination.

The board is amending this rule to replace the requirement of a diploma as part of the verification of an applicant's dental school graduation. This requirement was inadvertently stricken from the rule in a prior rulemaking notice. The board is further clarifying that the board accepts letters attesting to an applicant's graduation to begin processing an application, but that no license will be issued by the board until receipt of an official dental school transcript. This is not a new requirement or process, but is being clarified to address questions by dentist licensure applicants.

24.138.503 INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION (1) and (1)(a) remain the same.

(b) certification of successful passage of a board approved regional clinical practical examination. ~~The board accepts, in satisfaction of the practical part, successful completion of an examination administered by the Western Regional Examining Board (WREB) or by the Central Regional Dental Testing Service (CRDTS) taken on or after January 1, 2000. Both examinations~~ Examinations shall be valid for the purpose of initial licensure for a period of five years from the date of successful passage of the examination;

(c) remains the same.

(d) verification of graduation from a dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation, or its successor. Verification must consist of an original dental hygiene school transcript and a diploma. ~~The board may accept~~ or a letter from the dean of the school of dental hygiene, program director, or dean's equivalent attesting to the program of study, and that graduation status was attained to process the application; however, a license will not be issued until the transcript is received in the board office;

(e) and (f) remain the same.

(g) a copy of the applicant's current CPR, ~~or~~ ACLS, or PALS card;

(h) and (i) remain the same.

(2) The applicant shall not be physically or mentally impaired by use of addictive drugs, alcohol, or any other drugs or substances, or by mental or physical illness, which in the determination of the board renders the individual unfit or incapable of practicing dental hygiene.

(3) and (4) remain the same.

AUTH: 37-1-131, 37-4-205, MCA

IMP: 37-1-131, 37-4-401, 37-4-402, MCA

REASON: It is reasonably necessary to amend this rule to align terminology with the statutory requirement of passage of a regional clinical examination at 37-4-402, MCA. A national dental hygiene clinical practical examination is currently under development in the United States, which is anticipated to eventually replace all individual regional clinical examinations. The board is amending this rule after determining that the regional examinations have already evolved into fundamentally the same clinical exam, and that it no longer matters which regional service administers the examination.

The board is amending this rule to replace the requirement of a diploma as part of the verification of an applicant's dental hygiene school graduation. This requirement was inadvertently stricken from the rule in a prior rulemaking notice. The board is further clarifying that the board accepts letters attesting to an applicant's graduation to begin processing an application, but that no license will be issued by the board until receipt of an official dental hygiene school transcript. This is not a new requirement or process, but is being clarified to address questions by dental hygiene applicants.

24.138.505 DENTIST LICENSURE BY CREDENTIALS (1) The board shall ~~provide for licensing of~~ license a dentist without additional examination, except a jurisprudence examination, if the applicant meets each of the following:

(a) ~~submits an~~ a completed application ~~on a form provided by the board or its designee;~~

(b) pays the appropriate fees, including credentialing fee, jurisprudence exam fee, and application fee;

(c) and (c)(i) remain the same.

(ii) has successfully passed the national board dental examination and submits an original Joint Commission on National Dental Examinations score card; and

(iii) has successfully completed a board approved regional clinical practical examination for licensure ~~administered by the Western Regional Examining Board (WREB) or one which is substantially equivalent to the current WREB examination, or administered on or after January 1, 2000, by the Central Regional Dental Testing Service (CRDTS), or a combination of examinations which are substantially equivalent to the current WREB examination approved by the Montana Board of Dentistry. Applicants using any examination(s) other than WREB or CRDTS, as defined above, will be reviewed~~ or any state clinical practical examination. The board shall review all state clinical practical examinations on a case-by-case basis to determine approval for licensure. ;

(iv) ~~(d) is in good standing~~ submits license verifications from all jurisdictions where the applicant is licensed or has held a license. If the dentist is employed by the federal government, ~~the dentist must be in good standing~~ applicant shall submit a letter of explanation for any discipline with the employing federal agency;

~~(v)~~ (e) provides evidence that the applicant is currently engaged in the practice of clinical, direct patient care dentistry, and has been actively practicing within the last five years immediately preceding application, for a total accumulation of 3000 hours of experience, as demonstrated by any or all of the following information:

(A) through (D) remain the same but are renumbered (i) through (iv).

~~(E)~~ (v) documentation from a commanding officer regarding length of service, duties and responsibilities, and any adverse actions or restrictions, if the dentist is serving in the United States federal service;

~~(F)~~ (vi) documentation from the dean or appropriate administration of the institution regarding length and terms of employment, and ~~their~~ the applicant's duties and responsibilities, and any adverse actions or restrictions, if the dentist is employed by a dental school; ~~and or~~

~~(G)~~ (vii) proof of hours completed within a residency program, to be credited toward the dental practice requirement, if the dentist is practicing within a residency program; .

~~(vi)~~ (f) submits documentation of all unresolved or adverse decisions based on complaints, investigations, review procedures, or other disciplinary proceedings undertaken by a state, territorial, local, or federal dental licensing jurisdiction, dental society, or law enforcement agency relating to criminal or fraudulent activity, dental malpractice, or negligent dental care;

~~(vii)~~ (g) submits evidence the applicant has completed at least 60 hours of continuing education related to clinical dentistry in the three years immediately preceding application for a license in this state. Courses submitted must meet board approvals as defined in ARM 24.138.2102; ~~and~~

~~(viii)~~ (h) certifies that the applicant is not physically or mentally impaired by use of addictive drugs, alcohol, or any other drug or substance, or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dentistry;

~~(d)~~ (i) submits a current CPR, ACLS, or PALS card; ~~and~~

~~(e)~~ (j) provides affidavits from three persons not related to the candidate, ~~of~~ regarding the applicant's good moral character; ~~and .~~

~~(f)~~ submits copies of all other state professional licenses.

~~(2) The jurisprudence examination must be successfully passed once the application for licensure has been approved. Applicants must shall successfully pass the jurisprudence examination with a final grade of at least 75 percent, prior to issuance of a license.~~

AUTH: 37-1-131, 37-4-205, MCA

IMP: 37-1-131, 37-1-304, MCA

REASON: It is reasonably necessary to amend this rule to align terminology with the statutory requirement of passage of a regional clinical examination at 37-4-301, MCA. A national dental clinical practical examination is currently under development in the United States, which is anticipated to eventually replace all individual regional clinical examinations. The board is amending this rule after determining that the regional examinations have already evolved into fundamentally

the same clinical exam, and that it no longer matters which regional service administers the examination. Because the few remaining state-offered clinical exams may vary in both content and administration, the board will continue to review all state exams on a case-by-case basis.

The board is amending this rule to no longer require credentialing applicants submit proof of good standing in all jurisdictions where a dental license is held. The board has never denied licensure for the sole reason of having past discipline on another state's license. The board already requires license verifications from other jurisdictions, which include information on disciplinary actions taken. Following amendment, the board will also require that applicants explain any discipline received while under federal employment.

#### 24.138.506 DENTAL HYGIENIST LICENSURE BY CREDENTIALS

(1) through (1)(d) remain the same.

(e) proof that the applicant has practiced dental hygiene ~~continuously~~ for a minimum of ~~500~~ 1000 hours ~~during in the one-year immediately~~ two years prior to application;

(f) a copy of the applicant's current CPR, ACLS, or PALS card;

(g) affidavits from ~~three~~ two persons not related to the candidate, ~~of~~ regarding the applicant's good moral character;

(h) and (i) remain the same.

(2) The applicant may not be physically or mentally impaired by use of addictive drugs, alcohol, or any other drugs or substances, or by mental or physical illness, which in the determination of the board renders the individual unfit or incapable of practicing dental hygiene.

(3) and (4) remain the same.

AUTH: 37-1-131, 37-4-205, MCA

IMP: 37-1-131, 37-1-304, MCA

REASON: It is reasonable and necessary to amend the dental hygiene practice requirement for credentialing applicants. The board has determined that situations exist where an applicant may have difficulty practicing continuously for 500 hours in a single year. The board concluded that requiring 1000 hours of dental hygiene practice in the two years prior to application would ensure competency of applicants in current practices and adequately protect the public.

The board is also amending the rule to decrease the number of affidavits required to prove a credentialing applicant's good moral character. Following the amendment, the number of required affidavits will be the same for all dental hygiene licensure applicants, whether by examination or credentialing.

#### 24.138.507 DENTIST LICENSURE BY CREDENTIALS FOR SPECIALISTS

(1) remains the same.

(a) submits an a completed application ~~on a form provided by the board or its designee~~;

(b) pays the appropriate fees, including a credentialing fee, a jurisprudence exam fee, and an application fee;

(c) through (c)(iii) remain the same.

(A) a board approved general dentistry clinical ~~practice~~ practical examination for licensure ~~administered by a testing agency~~; and

(B) a specialty residency of at least two years accredited by CODA or its successor, or a specialty approved by the board; ~~;~~

~~(iv)~~ (d) provides license verifications from is in good standing in all jurisdictions where the applicant is licensed or has held a license. If employed by the federal government, the applicant shall ~~be in good standing~~ submit a letter of explanation for any discipline with the employing federal agency;

~~(v)~~ (e) provides evidence that the applicant is currently engaged in the practice of clinical, direct patient care dentistry; and has been actively practicing within the last five years immediately preceding application, for a total accumulation of 3000 hours of experience as demonstrated by any or all of the following:

(A) and (B) remain the same but are renumbered (i) and (ii).

~~(C)~~ certification of not less than 1000 hours per year in clinical direct patient care dentistry;

(D) and (E) remain the same but are renumbered (iii) and (iv).

~~(F)~~ (v) documentation from a commanding officer regarding length of service, duties and responsibilities, and any adverse actions or restrictions, if the applicant is serving in the United States federal service; ~~or~~

~~(G)~~ (vi) documentation from the dean or appropriate administration of the institution regarding length and terms of employment, and the applicant's duties, and responsibilities, and any adverse actions or restrictions, if the applicant is employed by a dental school; or

(vii) proof of hours completed within a residency program, to be credited toward the dental practice requirement, if the dentist is practicing within a residency program.

~~(vi)~~ (f) submits evidence the applicant has completed at least 60 hours of continuing education related to clinical dentistry in the three years immediately preceding application for a Montana license. Courses submitted must meet continuing education requirements as defined in board rule; ~~and~~

~~(vii)~~ (g) certifies that the applicant is not physically or mentally impaired by use of addictive drugs, alcohol, or any other drug or substance, or by mental or physical illness which, in the determination of the board, renders the applicant unfit or incapable of practicing dentistry;

~~(d)~~ (h) submits documentation of all unresolved or adverse decisions based on complaints, investigations, review procedures, or other disciplinary proceedings undertaken by a state, territorial, local, or federal dental licensing jurisdiction, dental society, or law enforcement agency relating to criminal or fraudulent activity, dental malpractice, or negligent dental care;

(e) remains the same but is renumbered (i).

~~(f)~~ (j) submits a current CPR, or ACLS, or PALS card; and

~~(g)~~ (k) provides affidavits from three persons not related to the applicant regarding the applicant's good moral character; ~~and~~ ~~;~~

~~(h)~~ submits copies of all other state professional licenses.

(2) A minimum Applicants shall successfully pass the jurisprudence examination with a final grade of at least 75 percent is required for passage of the jurisprudence examination prior to issuance of a license.

AUTH: 37-1-131, 37-4-205, MCA

IMP: 37-1-131, 37-1-304, ~~37-4-301~~, MCA

REASON: It is reasonably necessary to amend this rule to no longer require specialist credentialing applicants submit proof of good standing in all jurisdictions where a dental license is held. The board has never denied licensure for the sole reason of having past discipline on another state's license. The board already requires license verifications from other jurisdictions, which include information on disciplinary actions taken. Following amendment, the board will also require that applicants explain any discipline received while under federal employment.

It is reasonable and necessary to amend the dental practice requirement for specialist credentialing applicants to correspond with requirements for dentist credentialing applicants at ARM 24.138.505. The board has determined that it is not necessary to require that specialist credentialing applicants prove active practice of at least 1000 hours each year prior to application. The board concluded that requiring a total of 3000 hours of dental practice within the five years prior to application would still ensure operative competency of these applicants in current practices and continue to effectively protect the public.

The board is also amending this rule to allow specialist credentialing applicants to submit hours practiced within residency programs as part of the active practice requirement. The board already allows this for dentist credentialing applicants and determined it is reasonable and necessary to also permit specialist credentialing applicants to do the same.

#### 24.138.508 DENTAL HYGIENE LOCAL ANESTHETIC AGENT

CERTIFICATION (1) through (2)(a) remain the same.

(b) a copy of the applicant's current CPR, ~~or~~ ACLS, or PALS card;

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

(b) a copy of the applicant's current CPR, ~~or~~ ACLS, or PALS card;

(c) through (e) remain the same.

(i) a letter from the school with the school seal affixed (photocopies will not be accepted); ~~or~~

(ii) remains the same.

(iii) a notarized copy of the dental or dental hygiene transcript with the local anesthetic agent course recorded; ~~;~~

(f) through (4)(b) remain the same.

(c) submit a copy of the applicant's current CPR, ~~or~~ ACLS, or PALS card;

(d) remains the same.

(i) a letter from the school with the school seal affixed (photocopies will not be accepted); ~~or~~

(ii) remains the same.

(iii) a notarized copy of the dental or dental hygiene transcript with the local anesthetic agent course recorded; ~~;~~



(e) and (f) remain the same.

AUTH: 37-1-131, 37-4-205, 37-4-402, MCA

IMP: 37-1-131, 37-4-401, 37-4-402, MCA

24.138.511 DENTURIST APPLICATION REQUIREMENTS (1) through (2)(j) remain the same.

(k) a copy of a current CPR, ~~or~~ ACLS, or PALS card;

(l) affidavits from three persons not related to the candidate, ~~of~~ regarding the candidate's good moral character;

(m) through (5) remain the same.

AUTH: 37-1-131, 37-29-201, MCA

IMP: 37-1-131, 37-29-303, 37-29-306, MCA

24.138.514 APPLICATION TO CONVERT AN INACTIVE STATUS LICENSE TO AN ACTIVE STATUS LICENSE (1) and (2) remain the same.

(3) The board may consider a licensee request to convert an inactive status license to active status upon written request to the board if the applicant provides, ~~but is not limited to~~, the following:

(a) through (d)(ii) remain the same.

(iii) 36 hours of continuing education for a denturist, for the three most current renewal years; ~~;~~

(e) a current CPR, ~~or~~ ACLS, or PALS card; and

(f) remains the same.

(4) If the applicant has been out of practice for longer than five years, the applicant shall provide evidence of, ~~but not limited to~~, the following:

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

(ii) a board approved regional or state examination within the most recent five years; ~~;~~

(b) through (c)(ii) remain the same.

(iii) 36 hours of continuing education for a denturist for the three most current years; ~~;~~

(d) a current CPR, ~~or~~ ACLS, or PALS card; and

(e) and (5) remain the same.

AUTH: 37-1-131, 37-1-319, 37-4-205, 37-29-201, MCA

IMP: 37-1-131, 37-1-319, ~~37-4-307, 37-4-406, 37-29-201~~, MCA

24.138.518 RENEWALS (1) through (2)(c) remain the same.

(d) ~~all active licensees shall~~ submit a completed affirmation statement and the expiration date of the active licensees' current CPR, ~~or~~ ACLS, or PALS card.

(3) remains the same.

AUTH: 37-1-131, 37-1-141, 37-4-205, 37-29-201, MCA

IMP: 37-1-131, 37-1-141, ~~37-4-307, 37-4-406~~, 37-29-306, MCA

24.138.525 REACTIVATION OF AN EXPIRED LICENSE (1) remains the same.

- (a) a copy of a current CPR, ~~or~~ ACLS, or PALS card;
- (b) a license verification from all jurisdictions where the licensee is licensed or has held a license if the license has been expired longer than six months; and
- (c) through (c)(iii) remain the same.

AUTH: 37-1-131, 37-1-141, 37-4-205, 37-29-201, MCA

IMP: 37-1-131, 37-1-141, MCA

REASON: The board determined it is reasonably necessary to amend this rule to only require reactivating licensees submit license verifications when the expiration is longer than six months. Reactivation is available to licensees with expired licenses anywhere from 46 days to within two years past the renewal date. The board concluded that to require license verification only when a license is expired longer than six months will still protect the public and ensure that current information is obtained but will not place an inordinate and unnecessary burden upon board staff.

24.138.530 LICENSURE OF RETIRED OR NONPRACTICING DENTIST OR DENTAL HYGIENIST FOR VOLUNTEER SERVICE (1) through (1)(c)(i) remain the same.

(ii) if the applicant has been out of practice for longer than five years, the applicant shall provide, ~~but is not limited to~~:

- (A) remains the same.
- (B) a board approved regional or state examination within the most recent five years; ~~;~~
- (d) verification that the applicant has maintained for at least ten years prior to retirement, full licensure in good standing in Montana, another state or jurisdiction, Canada, or the United States armed forces;
- (e) remains the same.
- (f) a copy of a current CPR, ~~or~~ ACLS, or PALS card; and
- (g) through (4) remain the same.

AUTH: 37-1-131, 37-1-141, ~~37-4-204~~, 37-4-340, MCA

IMP: 37-1-131, 37-1-141, 37-4-340, MCA

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

24.138.524 REACTIVATION OF A LAPSED LICENSE found at ARM page 24-12061.

AUTH: 37-1-141, 37-4-205, 37-29-201, MCA

IMP: 37-1-141, MCA

REASON: It is reasonably necessary to repeal this rule as the board determined that the requirements at 37-1-141, MCA, and in department rule are

sufficient for reactivation of lapsed licenses. The board concluded that there is no need for additional requirements when licensees reactivate a license within 45 days of the renewal date and is repealing this rule as unnecessary.

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 Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdden@mt.gov](mailto:dlibsdden@mt.gov), and must be received no later than 5:00 p.m., August 27, 2007.

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.dentistry.mt.gov](http://www.dentistry.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 Board of Dentistry 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Dentistry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdden@mt.gov](mailto:dlibsdden@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. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY  
PAUL SIMS, D.D.S., 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 July 16, 2007

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

|                                       |   |                          |
|---------------------------------------|---|--------------------------|
| In the matter of the amendment of ARM | ) | NOTICE OF PUBLIC HEARING |
| 37.86.3607 pertaining to case         | ) | ON PROPOSED AMENDMENT    |
| management services for persons with  | ) |                          |
| developmental disabilities,           | ) |                          |
| reimbursement                         | ) |                          |

TO: All Interested Persons

1. On August 15, 2007, at 2:30 p.m., a public hearing will be held in the Sapphire Room, 2401 Colonial Drive, Helena, Montana to consider the proposed amendment of the above-stated rule.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on August 6, 2007, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.3607 CASE MANAGEMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, REIMBURSEMENT (1) Reimbursement for targeted case management services for persons with developmental disabilities 16 years of age or older is provided to the developmental disabilities program of the department in accordance with ~~(2) through (4)~~ as specified in Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures.

~~(a) This rule does not govern reimbursement provided to contract providers of case management services for the developmental disabilities program of the department.~~

~~(2) A unit of service is 1 contact in person or otherwise with or on behalf of the client.~~

~~(3) The interim reimbursement for each fiscal year is based on a per unit of service rate determined by dividing the estimated total costs on a statewide basis for the delivery of case management services for the fiscal year by the estimated total number of units of service to be delivered on a statewide basis during that fiscal year.~~

~~(4) The final reimbursement for each fiscal year is the actual total cost for~~

delivery of the service for the fiscal year.

(2) The department adopts and incorporates by this reference Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older, in effect July 1, 2007, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, and published by the department as the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older. A copy of section one of the manual may be obtained through the Department of Public Health and Human Services, Disability Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

AUTH: 56-6-113, MCA

IMP: 53-6-101, MCA

3. The department is proposing to amend ARM 37.86.3607, Case Management Services for Persons with Developmental Disabilities, Reimbursement, to establish in rule changes in the manner by which reimbursement is provided by the state for Medicaid funded developmental disabilities targeted case management services. The proposed rule change would implement a standard methodology for the adoption of a standard rate system of reimbursement for developmental disabilities targeted case management services.

This standard reimbursement is applicable for case management services delivered to Medicaid eligible and non-Medicaid eligible consumers. This proposed change is part of an overall effort by the department to reconfigure reimbursement for state funded developmental disabilities services. Previously, reimbursement for developmental disabilities targeted case management services had been based upon historical patterns of reimbursement that generally were derived from the historical circumstances of service development and the individualized cost basis needs of each contracted for provider of targeted case management services. The new standard rate system of reimbursement is being established to provide a common standard targeted case management service rate for all providers of this service based upon common cost factors affecting the cost of service delivery for the targeted case management providers. The new reimbursement methodology allows for a consistently applied rate for the delivery of the service without variations based upon nonessential or irrelevant historical factors.

The proposed rule change to ARM 37.86.3607 removes from the rule the historical rate methodology for developmental disabilities targeted case management services reimbursement and adopts the new rate of reimbursement based on a methodology incorporating studies of costs for service delivery. The new reimbursement methodology, along with the new rate of reimbursement, are presented in section one, "Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons 16 Years of Age or Older", published July 1, 2007, of the Developmental Disabilities Program Manual of Service Reimbursement

## Rates and Procedures.

The case management rate has been established through the methodology presented in the manual. The methodology involves first the calculation based on collected data of an hourly cost rate for case management service delivery. That rate encompasses costs calculated for four cost centers in service provision: 1) case manager average hourly wages; 2) employment related expenses for case managers such as social security, workers' compensation, and employment taxes; 3) program supervision expenses such as supervisory salaries; and 4) general and administrative expenses such as property related costs, services, and supplies. This base hourly rate is \$32.35. This rate then in turn is multiplied by the average of monthly case management service hours delivered on a per consumer basis which is 5.029 hours. The product of that calculation is then divided by a caseload vacancy factor of .97. The resulting product arrived at after rounding constitutes the monthly case management reimbursement rate of \$167.72.

The 2007 Legislature has approved funding that supports this case management reimbursement rate. The current number of consumers for targeted case management services is approximately 2,702. There are currently four case management services providers in addition to the state of Montana.

The existing provisions and language in ARM 37.86.3607 that set forth aspects of the previous reimbursement practice for targeted case management are proposed for deletion. These deletions are necessary to assure clear and consistent implementation of the new reimbursement rate for targeted case management.

The proposed rule changes provide for the incorporation by reference of section one of the manual of service reimbursement rates and procedures for the department's program of developmental disabilities services. The adoption and use of a comprehensive manual facilitates the implementation by the department of the extensive rate changes for developmental disabilities services that are to be phased in over several years. The implementation of the case management reimbursement methodology is the first measure in that effort. Section one of the manual, setting forth the case management rates along with the rate methodology, has an effective date of July 2007. Section one of the manual may be obtained through the Department of Public Health and Human Services, Developmental Disabilities Program at 111 N. Sanders St. in Helena, MT, or by writing to that program at P.O. Box 4210, Helena, MT 59604-4210. In addition, copies of this section of the manual will be available at the public hearing on the proposed rule adoption.

Reimbursement for developmental disabilities case management services has varied among the established providers. The existing methodology of reimbursement was based on the historical sums of monies made available on a provider specific basis. The department has been advised by consumers, providers, and the Centers for Medicare and Medicaid Services (CMS) to generally seek more equitable rates among the various providers of developmental disabilities services. The department therefore proceeded to obtain consultation and study towards the end of designing

and implementing a reimbursement methodology that would standardize reimbursement.

The options available to the department with respect to the status of targeted case management reimbursement are three. The previously established historical rates encompassing variations in reimbursement among the established targeted case management providers could have been maintained with the potential that the lower reimbursement levels provided to certain providers would impact some consumers adversely over time. CMS, acting in its federal oversight capacity for Medicaid expenditures, conducts reviews of state programs funded with Medicaid monies. In conducting a review of Medicaid funded developmental disabilities services in Montana, CMS directed the state to resolve inappropriate inequities in reimbursement. Thus the status quo approach had to be replaced and was not a feasible option.

The second option available to the department was to adopt, as presented in this proposed rule, a standard methodology rate system for reimbursement that is constructed on calculable factors that rationally reflect major aspects and averaged costs of service delivery and removes the prior inequities. It is easier to budget prospectively under a rate system of reimbursement.

The third option was to reimburse providers of targeted case management on a cost basis. This approach to reimbursement would have merit over the current historically varied reimbursements. Cost basis reimbursement, however, is an intensive reimbursement methodology to manage for both the program and the providers. As compared to the standard rate approach, it necessitates more intensive accounting and reporting by the providers and, in turn, review and auditing by the department to assure that costs are accounted for, correctly reported, and reimbursement appropriately paid out. It can be a more contentious process. The department did not desire to engage in this approach for those reasons.

Beginning in the late 1990s, the department began to explore options and processes to enable consumers of developmental disabilities services to have opportunity to access provider services of their individual choice. Reimbursement for service delivery was contractually based and in part reflected historical circumstances of each provider. Lacking consistency and uniformity in reimbursement, the cost of service delivery can vary as between two similarly situated consumers based upon differing providers. This made it difficult to foster consumer choice. The developmental disabilities program convened a series of work and advisory groups made up of program staff, providers, consumers, family members of consumers, advocacy organizations, members of the Montana legislature, and a legislative fiscal analyst. The principal advisory committee reached consensus that the department should develop standard reimbursement rates for developmental disabilities services. The recommendations arising out of these review processes supported the department's decision to implement the second option of a standardized methodology for reimbursement of services based on a rate system.

4. The bill sponsor notice requirements of 2-4-302, MCA, do not apply. This proposal notice does not initially implement new or amended legislation.

5. Upon adoption of the amendments, the department intends to apply the proposed amendments retroactively to July 1, 2007. No detrimental effects are anticipated as a result of the proposed retroactive application date.

6. Interested 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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on August 23, 2007. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

7. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/s/ Cary B. Lund  
Rule Reviewer

/s/ John Chappuis for  
Director, Public Health and  
Human Services

Certified to the Secretary of State July 16, 2007.



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

In the matter of the proposed )  
amendment of ARM 38.5.1902, )  
pertaining to cogeneration and )  
small power production )  
NOTICE OF PUBLIC  
HEARING ON PROPOSED  
AMENDMENT

TO: All Concerned Persons

1. On August 28, 2007, at 1:30 p.m., a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, 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 PSC no later than 5:00 p.m. on August 21, 2007, to advise us of the nature of the accommodation that you need. Please contact Connie Jones, commission secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618, e-mail conniej@mt.gov.

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

38.5.1902 GENERAL PROVISIONS

(1) through (4) remain the same.

Proposed Amendments -- Alternative A

(5) All purchases and sales of electric power between a utility and a qualifying facility shall be accomplished according to the terms of a written contract between the parties or in accordance with the standard tariff provisions as approved by the commission. A long-term contract for purchases and sales of energy and capacity between a utility and a qualifying facility greater than ~~3 MW~~ 10MW in size shall be contingent upon selection of the qualifying facility by a utility through an all-source competitive solicitation conducted in accordance with the provisions of ARM 38.5.2001 - through 38.5.2012. Between competitive solicitations, purchases<sub>1</sub> and sales of energy and capacity between a utility and a qualifying facility greater than ~~3 MW~~ 10MW in size shall be accomplished in accordance with the short-term standard avoided cost tariff approved by the commission or through negotiation of a short-term written contract. The utility shall recompute the short-term and long-term standard tariffed avoided cost rates following public review and comment on each least cost plan filing, ARM 38.5.2001 - through 38.5.2012. The recomputed avoided cost rates should reflect any amendments to the plan due to the comments of the commission and the public. If the qualifying facility is not selected, or does not

participate, in the first available competitive solicitation, purchases and sales of energy and capacity shall continue only according to the terms of a newly negotiated short-term written contract or in accordance with the newly computed, short-term standard tariffed avoided cost rates. Long-term contracts for purchases and sales of energy and capacity between a utility and a qualifying facility ~~3-MW~~ 10MW or less may be accomplished according to standard tariffed rates as approved by the commission. The contract shall specify:

(a) through (j) remain the same.

Proposed Amendments -- Alternative B

(5) All purchases and sales of electric power between a utility and a qualifying facility shall be accomplished according to the terms of a written contract between the parties or in accordance with the standard tariff provisions as approved by the commission. A long-term contract for purchases and sales of energy and capacity between a utility and a qualifying facility greater than ~~3-MW~~ 10MW in size shall be contingent upon selection of the qualifying facility by a utility through an all-source competitive solicitation conducted in accordance with the provisions of ARM 38.5.2001 - through 38.5.2012. Between competitive solicitations, purchases, and sales of energy and capacity between a utility and a qualifying facility greater than ~~3-MW~~ 10MW in size shall be accomplished in accordance with the ~~short-term standard avoided cost tariff approved by the commission or through~~ negotiation of a short-term written contract. The utility shall recompute the ~~short-term and long-term standard tariffed avoided cost rates~~ following public review and comment on each least cost plan filing, ARM 38.5.2001 - through 38.5.2012. The recomputed avoided cost rates should reflect any amendments to the plan due to the comments of the commission and the public. If the qualifying facility is not selected, or does not participate, in the first available competitive solicitation, purchases and sales of energy and capacity shall continue only according to the terms of a newly negotiated short-term written contract ~~or in accordance with the newly computed, short-term standard tariffed avoided cost rates~~. Long-term contracts for purchases and sales of energy and capacity between a utility and a qualifying facility ~~3-MW~~ 10MW or less may be accomplished according to standard tariffed rates as approved by the commission. The contract shall specify:

(a) through (j) remain the same.

Proposed Amendments -- Alternative C

(5) All purchases and sales of electric power between a utility and a qualifying facility shall be accomplished according to the terms of a written contract between the parties or in accordance with the standard tariff provisions as approved by the commission. A long-term contract for purchases and sales of energy and capacity between a utility and a qualifying facility ~~greater than 3MW~~ in size shall be contingent upon selection of the qualifying facility by a utility through an all-source competitive solicitation conducted in accordance with the provisions of ARM 38.5.2001 - through 38.5.2012. Between competitive solicitations, purchases, and sales of energy and capacity between a utility and a qualifying facility ~~greater than 3MW~~ in size shall be accomplished in accordance with the ~~short-term standard avoided cost tariff approved by the commission or~~ through negotiation of a short-

term written contract. The utility shall recompute the ~~short-term and~~ long-term standard tariffed avoided cost rates following public review and comment on each least cost plan filing, ARM 38.5.2001 - through 38.5.2012. The recomputed avoided cost rates should reflect any amendments to the plan due to the comments of the commission and the public. If the qualifying facility is not selected, or does not participate, in the first available competitive solicitation, purchases and sales of energy and capacity shall continue only according to the terms of a newly negotiated short-term written contract ~~or in accordance with the newly computed, short-term standard tariffed avoided cost rates.~~ Long-term contracts for purchases and sales of energy and capacity between a utility and a qualifying facility ~~3MW or less~~ may be accomplished according to standard tariffed rates as approved by the commission. The contract shall specify:

(a) through (j) remain the same.

(6) remains the same.

AUTH: 69-3-103, 69-3-604, MCA

IMP: 69-3-102, 69-3-602, 69-3-603, 69-3-604, MCA

4. Amendment of ARM 38.5.1902 is necessary because provisions within it (interlined) may be outdated from a public policy standpoint or may be inconsistent with current federal and state law. Formal discussion in this rulemaking setting appears to be the best forum for resolving those issues. Alternative amendments are necessary to provide a broad scope of proposals, which may eliminate the need to renounce the proposal.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than August 28, 2007, or may be submitted to the commission through the commission's web-based comment form at <http://psc.mt.gov> (go to "consumer assistance," "talk to us," "pending proceeding comments," then complete and submit the form) no later than August 28, 2007. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-07.05.2-RUL.")

6. The commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The commission maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the commission. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the

person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers, and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines, motor carriers, and rail carriers; and administrative procedures. Such written request may be mailed or delivered to Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Connie Jones at (406) 444-7618, e-mailed to [conniej@mt.gov](mailto:conniej@mt.gov), or may be made by completing a request form at any rules hearing held by the commission.

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

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

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

Certified to the Secretary of State, July 16, 2007.

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

In the matter of the adoption of New ) NOTICE OF DECISION ON  
Rule I pertaining to the purchase of ) PROPOSED RULE ACTION  
duplicate licenses )

TO: All Concerned Persons

1. On July 5, 2007, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-331 regarding a public hearing on the proposed adoption of the above-stated rule at page 912 of the 2007 Montana Administrative Register, Issue No. 13. This proposed rule incorporated current department procedure for issuing duplicate licenses into rule and changed requirements for issuing a duplicate license in some circumstances.

2. The department has decided to cancel the public hearing on the proposed rule that was scheduled for July 25, 2007, 6:00 p.m., at the Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana. The hearing is cancelled for the reasons stated in paragraphs three and four below.

3. After publishing notice of hearing on the above-stated rule, the department found that amending ARM 12.3.403, Replacement Licenses, to align with the new replacement license policy would be less confusing and less complicated than adopting a new rule.

4. Therefore the department has decided not to enact a new rule as originally proposed. Instead the department is proposing to amend ARM 12.3.403 to incorporate the new replacement license policy. MAR Notice No. 12-332, the Notice of Public Hearing on the rule amendment can be found in the Notice section of this issue of the Montana Administrative Register.

/s/ M. Jeff Hagener  
M. Jeff Hagener,  
Director  
Department of Fish, Wildlife and  
Parks

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

Certified to the Secretary of State July 16, 2007.

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

In the matter of the adoption of New ) NOTICE OF ADOPTION,  
Rules I through VI; the amendment of ) AMENDMENT, AND TRANSFER  
ARM 12.6.1601, 12.6.1602, and )  
12.6.1603; and the transfer of )  
12.6.1606 pertaining to game bird )  
farms, possession of captive-reared )  
game birds, and field trial permits )

To: All Concerned Persons

1. On June 7, 2007, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-327 regarding the proposed adoption, amendment, and transfer of the above-stated rules at page 743 of the 2007 Montana Administrative Register, Issue No. 11.

2. The department has adopted New Rules II (ARM 12.6.215), III (ARM 12.6.220), V (ARM 12.6.230), and VI (ARM 12.6.1610) as proposed.

3. The department has adopted New Rules I (ARM 12.6.206) and IV (ARM 12.6.225) with the following changes, stricken matter interlined and new matter underlined:

NEW RULE I (ARM 12.6.206) DEFINITIONS The following definitions apply to this subchapter:

(1) "Captive-reared birds" means live, upland game birds reared in captivity and purchased from a game bird farm.

(2) "Department" means the Department of Fish, Wildlife and Parks.

(3) "Dog training" means the ~~informal~~ handling, exercising, teaching, instructing, and disciplining of dogs in the skills and techniques of hunting and retrieving game birds characterized by absence of fees, judging, or awards, or any fees related to the shooting of captive-reared birds.

(4) "Permit" means a permit to use or possess live, captive-reared upland game birds.

AUTH: 87-4-913, MCA

IMP: 87-4-915, MCA

NEW RULE IV (ARM 12.6.225) PERMIT TO RELEASE RING-NECKED PHEASANTS FOR NONCOMMERCIAL PURPOSES

(1) through (3) remain as proposed.

(4) A permittee may release ring-necked pheasants only between March 1 and ~~August 31~~ September 15.

(5) remains as proposed.

AUTH: 87-4-913, MCA

IMP: 87-4-501, 87-4-902, 87-4-915, MCA

4. The department has amended ARM 12.6.1601 and 12.6.1603 as proposed.

5. The department has amended ARM 12.6.1602 with the following changes, stricken matter interlined and new matter underlined:

12.6.1602 PURCHASE AND SALE OF GAME BIRDS (1) No person may purchase live game birds from within the state except from the holder of a current game bird farm license. Licensees may sell live game birds within the state only if the prospective purchaser is legally entitled to possess live game birds as evidenced by any of the following:

(a) a permit to possess ~~live game~~ captive-reared birds for noncommercial use;

(b) through (f) remain as proposed.

(g) a permit to conduct a field trial; ~~or~~

(h) a game bird farm license; or

(i) an active Upland Game Bird Enhancement Program contract between the purchaser and the department for releasing ring-necked pheasants.

(2) remains the same.

AUTH: 87-4-913, MCA

IMP: 87-4-902, 87-4-915, MCA

6. The department has transferred ARM 12.6.1606 as follows:

OLD  
12.6.1606

NEW  
12.6.210

FIELD TRIAL PERMITS

7. The department received four comments. A summary of the comments appears below with the department's responses:

COMMENT 1: The department's Wildlife Division requested that the final date for the release of captive-reared ring-necked pheasants stated in New Rule IV (ARM 12.6.225) be extended to September 15. The September 15 date coincides with the date that captive-reared ring-necked pheasants may be released under the Upland Gamebird Release Program sponsored by the department.

RESPONSE: The department has changed the final release date in New Rule IV (ARM 12.6.225) to September 15 as recommended. This extension will reduce confusion concerning release of ring-necked pheasants by making ending dates the same.

COMMENT 2: The department's Wildlife Division requested that the language of ARM 12.6.1602 be changed to allow for individuals possessing an

active Upland Game Bird Enhancement Program contract between the purchaser and the department for releasing ring-necked pheasants.

RESPONSE: The department added language to the rule to allow for this circumstance. Individuals participating in the Upland Game Bird Enhancement Program were overlooked in the original rule revision. That category was also added to the listing in ARM 12.6.1602. Subsection (1)(a) was revised to be consistent with the definition provided in New Rule I (ARM 12.6.206).

COMMENT 3: The definition of dog training in New Rule I (ARM 12.6.206) used the word "informal" in the description of dog training and also stated that dog training is characterized by the absence of fees, judging, or awards. The definition could be interpreted to eliminate competitive or professional dog trainers from obtaining dog training permits.

RESPONSE: The definition of dog training was not intended to eliminate the professional or competitive dog trainers from obtaining dog training permits. The definition was intended to eliminate the charging of fees for the act of shooting captive-reared upland game birds since that activity is authorized only for shooting preserves licensed by the department. The department has reworded the definition of dog training in New Rule I (ARM 12.6.206).

COMMENT 4: One individual objected to the requirement that a streamer of surveyor tape be attached to the leg of captive-reared birds used in dog training as required in New Rule III (ARM 12.6.220). This person expressed that the tape would cause greater bird loss, take up time in training and trials, stress or injure the birds, or telegraph where each bird is in field trials.

RESPONSE: The requirement to tag all game birds used in a field trial is contained under 87-4-915, MCA, and must be adhered to in the administrative rules. In addition, the requirement is intended to protect any wild birds that may be in the training or field trial area since an untagged bird getting up in front of a dog would be easily recognizable due to the lack of a fluorescent streamer and would not be shot.

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Director  
Department of Fish, Wildlife and Parks

/s/ Bill Schenk  
Bill Schenk  
Rule Reviewer

Certified to the Secretary of State July 16, 2007.



BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
24.29.4315, relating to insurer reporting )  
requirements )

TO: All Concerned Persons

1. On May 24, 2007, the Department of Labor and Industry (department) published MAR Notice No. 24-29-217 regarding the public hearing on the proposed amendment of the above-stated rule at page 633 of the 2007 Montana Administrative Register, issue no. 10.

2. On June 22, 2007, the department held a public hearing to consider the proposed amendment of the above-stated rule. In addition, a written comment was received before the comment deadline.

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

COMMENT 1: The Montana State Fund commented that the amendment makes the rule clearer and more effective because the requirement that an employer must report its employer taxpayer identification number to its insurer is explicit. The Fund also commented that it believes this change will improve reporting compliance by insurers.

RESPONSE 1: The department acknowledges the comment.

4. The rule has been amended exactly as proposed.

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

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

Certified to the Secretary of State July 16, 2007

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

In the matter of the amendment of ) CORRECTED NOTICE OF  
ARM 24.180.401 fee schedule ) AMENDMENT

TO: All Concerned Persons

1. On April 26, 2007, the Board of Plumbers (board) published MAR Notice No. 24-180-44 regarding the proposed amendment of the above-stated rule, at page 498 of the 2007 Montana Administrative Register, issue no. 8. On July 5, 2007, the board published the notice of amendment of MAR Notice No. 24-180-44 at page 970 of the 2007 Montana Administrative Register, issue no. 13.

On November 22, 2006, the board published MAR Notice No. 24-180-43 regarding the proposed amendment of the above-stated rule, at page 2892 of the 2006 Montana Administrative Register, issue no. 22. On April 12, 2007, the board published the notice of amendment of MAR Notice No. 24-180-43 at page 471 of the 2007 Montana Administrative Register, issue no. 7.

On February 23, 2006, the board published MAR Notice No. 24-101-202 regarding the proposed amendment of the above-stated rule, at page 447 of the 2006 Montana Administrative Register, issue no. 4. On June 22, 2006, the board published the notice of amendment of MAR Notice No. 24-101-202 at page 1600 of the 2006 Montana Administrative Register, issue no. 12.

2. In preparing replacement pages for the third quarter of 2007, it was discovered there was a discrepancy between MAR Notice No. 24-180-44 and the replacement page that was submitted for MAR Notice No. 24-180-43 for the second quarter replacement pages. MAR Notice No. 24-180-44 inadvertently did not indicate that (11) remained the same. Upon further examination it was discovered that MAR Notice No. 24-180-43 listed 37-69-307, MCA, as an implementing citation. This repealed citation was previously deleted in MAR Notice No. 24-101-202. The rule, as corrected, reads as follows:

24.180.401 FEE SCHEDULE

|   |       |
|---|-------|
| (1) Application fee                                 | \$ 60 |
| (2) Examination fee                                 | 175   |
| (3) Reexamination fee                               | 175   |
| (4) Administration of examination on alternate date | 400   |
| (5) Initial license fee                             |       |
| (a) Journeyman                                      | 150   |
| (b) Master  | 250   |
| (6) Renewal fee                                     |       |
| (a) Journeyman                                      | 135   |
| (b) Master  | 225   |

|  |     |
|--|-----|
| (7) Medical gas endorsement application fee                        | 60  |
| (8) Medical gas endorsement renewal fee                            | 20  |
| (9) Out-of-state licensure fee                                     | 250 |
| (10) Temporary practice permit fee                                 | 100 |
| (11) Additional standardized fees are specified in ARM 24.101.403. |     |

AUTH: 37-1-134, 37-69-202, 37-69-401, MCA

IMP: 37-1-134, 37-1-141, 37-1-304, 37-1-305, 37-69-303, 37-69-306, 37-69-308, 37-69-401, MCA

3. The corrected replacement page indicating the deletion of 37-69-307, MCA, as an implementing cite was submitted to the Secretary of State's office on June 30, 2007. The replacement page noting the correction of the (11) omission will be submitted to the Secretary of State's office on September 30, 2007.

BOARD OF PLUMBERS  
TIM REGAN, 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 July 16, 2007

## **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 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.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute       | 2. Go to cross reference table at end of each Number and title which lists MCA section numbers and Department corresponding ARM rule numbers.                     |

## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2007. This table includes those rules adopted during the period April 1 through June 30, 2007, and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2007, 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 2006 and 2007 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.

### GENERAL PROVISIONS, Title 1

1.2.419        Scheduled Dates for the 2007 Montana Administrative Register,  
p. 2820, 3112

### ADMINISTRATION, Department of, Title 2

I                Retention of Credit Union Records, p. 1759, 3068  
2.4.401        and other rule - Single Audit Act, p. 552, 964  
2.21.3702     and other rules - Recruitment and Selection Policy, p. 1482, 2901, 33  
2.21.6606     and other rules - Employee Record Keeping Policy, p. 165, 612  
2.59.111      Retention of Bank Records, p. 1762, 3066, 183  
2.59.1501     and other rules - Definitions - Application Procedure Required to  
Engage in Deposit Lending - Reports - Schedule of Charges -  
Employees' Character and Fitness - Electronic Deductions - Income  
Verification, p. 375, 614, 1373, 184  
2.59.1705     and other rule - Licensing Examination and Continuing Education  
Provider Requirements - Records to be Maintained, p. 1498, 2104,  
186

(Public Employees' Retirement Board)

2.43.1002     and other rule - Investment Policy Statement for the Defined  
Contribution Retirement Plan - Investment Policy Statement for the  
457 Deferred Compensation Plan, p. 320, 677

(State Compensation Insurance Fund)

2.55.320 and other rule - Classifications of Employments - Individual Loss Sensitive Dividend Plans, p. 2440, 3065

AGRICULTURE, Department of, Title 4

4.12.3013 Seed Civil Penalties Matrix, p. 2996, 187

4.17.102 Organic Certification Program, p. 71, 295

STATE AUDITOR, Title 6

I-IX Military Sales Practices, p. 902

(Classification Review Committee)

6.6.8301 Updating References to the NCCI Basic Manual for New Classifications for Various Industries, p. 400

COMMERCE, Department of, Title 8

I Administration of the 2007-2008 Federal Community Development Block Grant (CDBG) Program, p. 2999, 501

8.99.803 (Grant Review Committee) Submission and Review of Applications for Workforce Training Grants, p. 740

8.99.901 and other rules - Award of Grants and Loans under the Big Sky Economic Development Program, p. 1, 346

8.119.101 Tourism Advisory Council, p. 323, 617

EDUCATION, Title 10

(Superintendent of Public Instruction)

10.7.106 and other rules - General Fund: Quality Educator Payments - At Risk Student Payments - Indian Education for All Payments - American Indian Achievement Gap Payments - School Finance, p. 2728, 3070

10.16.3007 and other rules - Access to Instructional Materials - Procedural Safeguards - Special Education Data Collection and Reporting - Resolution Process - Expedited Due Process Hearing Resolution Process - Response to Scientific, Research Based Intervention in Learning Disability Identification - Severe Discrepancy in Learning Disability Identification - Documentation Requirements in Learning Disability Identification - Extended School Year Services - Special Education, p. 220, 678

(Board of Public Education)

I Assignment of Persons Providing Instruction to Braille Students, p. 2869, 188

10.55.602 and other rules - Accreditation Standards, p. 169, 692

10.55.716 Substitute Teachers, p. 173, 504



10.58.102 and other rules - Educator Preparation Programs, p. 2198, 190

FISH, WILDLIFE, AND PARKS, Department of, Title 12

I Purchase of Duplicate Licenses, p. 912  
12.6.1601 and other rules - Game Bird Farms - Possession of Captive-Reared Game Birds - Field Trial Permits, p. 743

(Fish, Wildlife, and Parks Commission)

12.3.185 Adding Three New Species to the Annual Lottery of Hunting Licenses, p. 565, 965  
12.6.2203 and other rules - Exotic Species, p. 560, 632  
12.8.211 and other rules - Commercial Use of Lands under the Control of the Department, p. 1779, 88  
12.9.1105 Hunting Season Extensions, p. 750  
12.11.3205 No Wake Zone at White Sandy Recreation Area on Hauser Lake, p. 326, 776

ENVIRONMENTAL QUALITY, Department of, Title 17

17.50.213 Motor Vehicle Recycling and Disposal - Reimbursement Payments for Abandoned Vehicle Removal, p. 2444, 2961  
17.53.105 Hazardous Waste - Incorporation by Reference of Current Federal Regulations into the Hazardous Waste Program, p. 2288, 3074  
17.56.101 and other rules - Underground Storage Tanks - Management of Underground Storage Tanks - Incorporation by Reference - Assessment of Administrative Penalties, p. 915  
17.74.350 and other rules - Asbestos Control - Incorporation by Reference of Current Federal Regulations into the Asbestos Control Program - Definitions - Asbestos Project Control Measures, and Clearing Asbestos Projects, p. 2291, 2962  
17.74.401 and other rules - Asbestos - Asbestos Control Program Fees, p. 942  
17.74.502 and other rules - Methamphetamine Cleanup Program - Incorporation by Reference of Current Federal Regulations into the Methamphetamine Cleanup Rules and Clearance Sampling, p. 2285, 2963  
17.85.101 and other rules - Alternative Energy Revolving Loan Program, p. 1678, 3075, 34

(Board of Environmental Review)

17.8.102 and other rules - Air Quality - Incorporation by Reference of Current Federal Regulations and Other Materials into Air Quality Rules, p. 800  
17.8.501 and other rules - Air Quality - Definitions - Air Quality Operation Fees - Open Burning Fees, p. 795  
17.30.617 and other rule - Water Quality - Outstanding Resource Water Designation for the Gallatin River, p. 2294, 328  
17.30.630 Water Quality - Temporary Water Quality Standards, p. 1981, 3072

17.30.1303 and other rule - Water Quality - Incorporations by Reference - Concentrated Animal Feeding Operations, p. 3002, 201

CORRECTIONS, Department of, Title 20

I-XIX Regional Correctional Facilities, p. 2872, 36

JUSTICE, Department of, Title 23

23.4.201 and other rules - Definitions - Field Certification-Breath Analysis Instruments - Lab Certification - Qualification-Breath Analysis Location - Personnel Qualifications - Recertification-Breath Test Personnel - Blood Sample Collections - Preliminary Alcohol Screening Tests, p. 330, 618

23.12.103 and other rules - Responsibility for Costs - Criminal History Records Program, p. 2477, 2959

(Gambling Control Division)

23.16.209 and other rules - Display of Antique Illegal Gambling Devices - Dealer License Application Process - Temporary Dealer Licenses - Possession of Dealer License - Card Game Tournament Rules - Card Dealer Restrictions - House Player Restrictions - Rake Restrictions - Casino Night Requirements, p. 567, 848, 966

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order following the department rules.

I Insurer Reporting Requirements, p. 337, 697

I Board of Personnel Appeals - Summary Judgment Practice and Procedure, p. 2311, 3077

I-V Country of Origin Placarding for Beef, Pork, Poultry, and Lamb, p. 2469, 454

24.7.201 and other rules - Board of Labor Appeals - Procedural Rules, p. 813

24.17.127 Prevailing Wage Rates for Public Works Projects - Building Construction Services - Heavy and Highway Construction Services - Nonconstruction Services, p. 404, 851, 968

24.29.1401 and other rules - Allowable Medical Service Billing Rates for Workers' Compensation Claims, p. 2759, 260

24.29.1416 and other rule - Allowable Charges for Prescription Drugs Under a Workers' Compensation Claim, p. 753

24.29.4315 Insurer Reporting Requirements, p. 633

24.30.102 Occupational Safety Matters in Public Sector Employment, p. 823

24.301.131 and other rules - Building Codes, p. 2319, 112, 300

(Board of Alternative Health Care)

24.111.401 and other rules - General Provisions - Certification for Specialty Practice of Naturopathic Childbirth Attendance - Licensing and Scope of Practice for Direct-entry Midwifery - Continuing Education - Unprofessional Conduct - Additional Recommended Screening Procedures - Nonroutine Applications, p. 3006, 263

(Board of Barbers and Cosmetologists)

24.121.407 and other rule - Premises and General Requirements - Restrooms, p. 4, 859

(Board of Dentistry)

24.138.301 and other rules - General Provisions - Licensing - Renewals and Continuing Education - Unprofessional Conduct - Screening Panel - Anesthesia - Professional Assistance Program - Reactivation of a Lapsed License - Reactivation of an Expired License - Definition of Nonroutine Application - Fee Abatement - Reinstatement of License for Nonpayment of Renewal Fee - Denturist License Reinstatement - Complaint Procedure, p. 1795, 43

(Board of Hearing Aid Dispensers)

24.150.401 and other rules - Fees - Examination Pass/Fail Point - Traineeship Requirements and Standards - Transactional Document Requirements - Form and Content - Exceptions - Fee Abatement, p. 175, 468

(Board of Medical Examiners)

24.101.413 and other rule - With the Department of Labor and Industry - Renewal Dates and Requirements - Renewals, p. 11, 505

24.156.901 and other rules - Fees - Applications - Approval of Schools - Reciprocity Licenses - Renewals Pertaining to Osteopathic Physicians, p. 8, 506

24.156.2701 and other rule - Definitions - Scope of Practice - Emergency Medical Technicians, p. 180, 507

(Board of Occupational Therapy Practice)

24.165.404 and other rules - Applications - Supervision - Instruction - Training - Modalities - Unprofessional Conduct, p. 757

(Board of Optometry)

24.168.301 and other rules - Definitions - General Provisions - Diagnostic Permissible Drugs - Therapeutic Pharmaceutical Agents - Continuing Education - Screening Panel - Fee Abatement - Examinations - Approved Courses and Examinations - New Licensees - Applicants for Licensure - Therapeutic Pharmaceutical Agents-Complaint Procedure, p. 2450, 296

(Board of Outfitters)

24.171.401 and other rules - Fees - Inactive License - Transfer of River-use Days - Unprofessional Conduct and Misconduct - Guide Logs, p. 2769, 298, 347

(Board of Pharmacy)

24.174.301 and other rules - Definitions - Internship - Fee Schedules - Examination - Transfer - Vaccines - Collaborative Practice - Preceptor Requirements - General Licensure - Ownership - Ambulatory Facilities - Wholesale Licensing - Pharmacy Closure - Change in Location - Change in Ownership - Medical Gas - Foreign Interns - Technicians - Centralized Prescription and Drug Orders - Central Filling by Hub Pharmacies, p. 636

(Board of Plumbers)

24.180.401 Fee Schedule, p. 498, 970

24.180.401 and other rules - General Provisions - Licensing and Scope of Practice - Reciprocity Licensure - Temporary Exemptions - Reciprocity, p. 2892, 471

(Board of Professional Engineers and Professional Land Surveyors)

24.101.413 and other rules - Renewal Dates - Fees - Applications - Application Disposal - Examination Procedures - Grant and Issue Licenses - Inactive Status - Teaching Engineering Subjects - Certificate of Authorization, p. 762

(Board of Psychologists)

24.189.301 and other rules - Definitions - Fee Schedule - Use of Title - Required Supervised Experience, p. 2461, 348

24.189.401 and other rule - Fees - Minimum Standards, p. 771

(Board of Radiologic Technologists)

24.204.401 and other rules - Fee Schedule - Limited Permit Holder Fees - Continuing Education - Unprofessional Conduct, p. 2314, 202

(Board of Real Estate Appraisers)

24.207.401 and other rules - Fees - Adoption of USPAP by Reference - Appraisal Review - Mentor Requirements, p. 3022, 203

24.207.506 and other rules - Qualifying Education Requirements for Residential Certification - Qualifying Experience - Trainee Requirements - Continuing Education - Scope of Practice, p. 75, 472

(Board of Realty Regulation)

24.101.413 and other rules - Renewal Dates and Requirements - Definitions - General Provisions - Brokers and Salespersons - Property Management - Inactive Status - Continuing Education - Application of

- 24.210.401 Rules - Investigations Committee - Application for Examination - Nonresident License - Application for Examination, p. 407 and other rules - Fees - Unprofessional Conduct - Continuing Education - Timeshare Course - Timeshare Exam - Timeshare Renewal - Fee Schedule, p. 947
- 24.210.602 Examination, p. 1824, 46

(Board of Respiratory Care Practitioners)

- 24.101.413 and other rules - Renewal Dates and Requirements - Fee Schedule - Application for Licensure - Renewals - Inactive Status - Continuing Education Requirements - Traditional Education by Nonsponsored Organizations - Waiver of Continuing Education Requirement - Temporary Permit, p. 574

(Board of Sanitarians)

- 24.216.402 and other rules - Fee Schedule - Minimum Standards for Licensure - Examination, p. 953

#### LIVESTOCK, Department of, Title 32

- 32.3.104 and other rules - Disease Control, p. 2775, 204

(Board of Horse Racing)

- I-VII Match Bronc Rides Under the Parimutuel System, p. 340, 620

#### NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36.12.101 Reinstatement of Municipal Use Definition per Court Order, p. 508
- 36.12.101 and other rule - Definitions - Reservoir Standards, p. 456, 774

(Board of Oil and Gas Conservation)

- 36.22.1308 and other rule - Plugging and Restoration Bond - Financial Responsibility, p. 82, 350

#### PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- I Determining Unenforceable Case Status in Child Support Cases, p. 2898, 118
- 37.5.103 and other rules - Fair Hearing Procedures and Temporary Assistance for Needy Families (TANF), p. 2784, 47
- 37.5.125 and other rules - Older Blind Program, p. 1987, 48, 475
- 37.12.401 Laboratory Testing Fees, p. 581, 973
- 37.30.102 Vocational Rehabilitation IPE Care Requirements, p. 18, 474
- 37.30.404 and other rule - Vocational Rehabilitation Program Financial Need Standards and Payment for Services, p. 458, 860
- 37.40.307 and other rules - Medicaid Nursing Facility Reimbursement, p. 826
- 37.62.101 and other rules - Child Support Guidelines, p. 2476, 117

- 37.70.305 and other rules - Low Income Energy Assistance Program (LIEAP) - Low Income Weatherization Assistance Program (LIWAP), p. 584, 974
- 37.78.102 and other rules - Temporary Assistance for Needy Families (TANF), p. 597, 976
- 37.78.102 and other rule - Temporary Assistance for Needy Families (TANF) Incorporation of Policy Manuals, p. 3026, 301
- 37.80.101 and other rules - Child Care Assistance Program, p. 1555, 2964
- 37.82.101 and other rules - Medicaid Assistance, p. 21, 302
- 37.85.207 and other rules - Inpatient Hospital, Outpatient Hospital, and Rural Health Clinic (RHC) Services, p. 957
- 37.85.212 Resource Based Relative Value Scale (RBRVS), p. 462
- 37.85.406 and other rules - Medicaid Reimbursement of Hospitals, Provider Based Entities, and Birthing Centers, p. 2793, 3078, 206
- 37.86.3701 and other rules - Case Management Services for Youth With Serious Emotional Disturbance, p. 660
- 37.86.5201 and other rules - Disease Management Program, p. 656, 978
- 37.108.507 Components of Quality Assessment Activities, p. 14, 303
- 37.112.101 and other rules - Tattooing and Body Piercing, p. 2339, 351

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38.2.5001 and other rules - Protective Orders - Protection of Confidential Information, p. 833
- 38.5.2202 and other rules - Pipeline Safety - National Electrical Safety Code, p. 2372, 2966
- 38.5.3301 and other rules - Telecommunications Service Standards, p. 1844, 2967

REVENUE, Department of, Title 42

- I Tax Benefit Rule - Individual Income Taxes, p. 257, 485
- I & II Taxpayer Qualifications for the 2006 Property Tax Refund, p. 845
- I & II Hospital Utilization Fee for Inpatient Bed Days, p. 2562, 3109
- 42.2.621 and other rule - Final Agency Decisions, p. 254, 477
- 42.3.101 and other rules - Waiver of Penalties and Interest, p. 3051, 509
- 42.11.104 and other rules - Liquor Vendors, Purchasing, and Distribution, p. 3031, 478
- 42.13.101 and other rules - Regulations of Liquor Licensees, p. 3044, 483, 512
- 42.18.107 and other rules - General Provisions and Certification Requirements for Appraising Property, p. 2520, 3101
- 42.19.401 and other rules - Low Income Property - Disabled Veterans Tax Exemptions - Energy Related Tax Incentives - New Industrial Property, p. 2555, 3102
- 42.20.101 and other rules - Valuation of Real Property - Classification of Nonproductive Patented Mining Claims, Agricultural Land, and Forest Land, p. 2533, 3103, 56, 119
- 42.21.113 and other rules - Personal, Industrial, and Centrally Assessed Property Taxes, p. 2375, 2979

- 42.21.116 and other rules - Personal Property, p. 2529, 3108, 122  
42.31.102 and other rules - Tobacco Products and Cigarettes, p. 1943, 124

SECRETARY OF STATE, Title 44

- 1.2.419 Scheduled Dates for the 2007 Montana Administrative Register,  
p. 2820, 3112

(Commissioner of Political Practices)

- 44.12.204 Payment Threshold--Inflation Adjustment for Lobbyists, p. 2400, 2982

## 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 June 2007 appear. Vacancies scheduled to appear from August 1, 2007, through October 31, 2007, 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 July 1, 2007.

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 JUNE 2007**

| <u>Appointee</u>  | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|---|---------------------|-----------------|-----------------------------|
| <b>Acting Director of the Department of Agriculture (Agriculture)</b>   |                     |                 |                             |
| Mr. Joel Clairmont<br>Helena<br>Qualifications (if required): none specified  | Governor            | Peterson        | 6/23/2007<br>0/0/0          |
| <b>Alternative Livestock Advisory Council (Governor)</b>  |                     |                 |                             |
| Mr. James Bouma<br>Choteau<br>Qualifications (if required): alternative livestock industry representative           | Governor            | Mesaros         | 6/28/2007<br>1/1/2008       |
| Mr. Stan Frasier<br>Helena<br>Qualifications (if required): sportsperson  | Governor            | Rauch           | 6/28/2007<br>1/1/2008       |
| Ms. Linda Nielsen<br>Nashua<br>Qualifications (if required): Board of Livestock representative                      | Governor            | reappointed     | 6/28/2007<br>1/1/2009       |
| Mr. Don E. Woerner<br>Laurel<br>Qualifications (if required): veterinarian  | Governor            | Yarborough      | 6/28/2007<br>1/1/2008       |
| Mr. Victor Workman<br>Whitefish<br>Qualifications (if required): Fish, Wildlife and Parks Commission representative | Governor            | reappointed     | 6/28/2007<br>1/1/2009       |

**BOARD AND COUNCIL APPOINTEES FROM JUNE 2007**

| <u>Appointee</u>   | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|--|---------------------|-----------------|-----------------------------|
| <b>Board of Horse Racing</b> (Livestock)   |                     |                 |                             |
| Ms. Susan Austin<br>Kalispell<br>Qualifications (if required): resident of district 5      | Governor            | reappointed     | 6/12/2007<br>1/20/2010      |
| Mr. C.A. (Al) Carruthers<br>Butte<br>Qualifications (if required): industry representative | Governor            | reappointed     | 6/12/2007<br>1/20/2010      |
| Mr. John Ostlund<br>Billings<br>Qualifications (if required): resident of district 2       | Governor            | Koch            | 6/12/2007<br>1/20/2010      |
| Mr. John Tooke<br>Miles City<br>Qualifications (if required): industry representative      | Governor            | Clark           | 6/12/2007<br>1/20/2010      |
| <b>Board of Medical Examiners</b> (Labor and Industry)                                     |                     |                 |                             |
| Mr. Patrick Boylan<br>Corvallis<br>Qualifications (if required): public representative     | Governor            | Gomez           | 6/29/2007<br>9/1/2009       |
| Dr. Dean Center<br>Bozeman<br>Qualifications (if required): doctor of medicine             | Governor            | Kubicka         | 6/20/2007<br>9/1/2008       |

## BOARD AND COUNCIL APPOINTEES FROM JUNE 2007

| <u>Appointee</u>  | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|---|---------------------|-----------------|-----------------------------|
| <b>Board of Psychologists</b> (Labor and Industry)                        |                     |                 |                             |
| Dr. Marla Lemons<br>Butte   | Governor            | Palmatier       | 6/20/2007<br>9/1/2011       |
| Qualifications (if required): public health psychologist                  |                     |                 |                             |
| <b>Library Commission</b> (State Library)                                 |                     |                 |                             |
| Ms. Marsha Hinch<br>Choteau   | Governor            | Bitz            | 6/12/2007<br>5/22/2010      |
| Qualifications (if required): public representative                       |                     |                 |                             |
| <b>Montana Historical Society Board of Trustees</b> (Historical Society)  |                     |                 |                             |
| Mr. Kent Kleinkopf<br>Missoula  | Governor            | reappointed     | 6/20/2007<br>7/1/2012       |
| Qualifications (if required): public member                               |                     |                 |                             |
| Ms. Katherine Lee<br>Glendive   | Governor            | reappointed     | 6/20/2007<br>7/1/2012       |
| Qualifications (if required): public member                               |                     |                 |                             |
| Mr. Steve Lozar<br>Polson   | Governor            | reappointed     | 6/20/2007<br>7/1/2012       |
| Qualifications (if required): public member                               |                     |                 |                             |
| <b>Montana State University Local Executive Board</b> (University System) |                     |                 |                             |
| Mr. Jay Bentley<br>Bozeman  | Governor            | Leigland        | 6/28/2007<br>4/15/2009      |
| Qualifications (if required): public representative                       |                     |                 |                             |

**BOARD AND COUNCIL APPOINTEES FROM JUNE 2007**

| <u>Appointee</u>  | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|---|---------------------|-----------------|-----------------------------|
| <b>Montana State University Local Executive Board</b> (University System) cont.                             |                     |                 |                             |
| Ms. Sharon McDonald<br>Melville   | Governor            | Taylor          | 6/28/2007<br>4/15/2010      |
| Qualifications (if required): public representative   |                     |                 |                             |
| <b>Montana State University-Great Falls College of Technology Local Executive Board</b> (University System) |                     |                 |                             |
| Ms. Joan Bennett<br>Great Falls   | Governor            | Humble          | 6/28/2007<br>4/15/2010      |
| Qualifications (if required): public representative   |                     |                 |                             |
| Mr. Bryan Dunn<br>Great Falls   | Governor            | Love            | 6/28/2007<br>4/15/2009      |
| Qualifications (if required): public representative   |                     |                 |                             |
| <b>Motorcycle Safety Advisory Commission</b> (Commissioner of Higher Education)                             |                     |                 |                             |
| Captain Clancy King<br>Kalispell  | Governor            | Paulson         | 6/20/2007<br>7/1/2011       |
| Qualifications (if required): peace officer   |                     |                 |                             |
| Mr. Dal Smilie<br>Helena  | Governor            | reappointed     | 6/20/2007<br>7/1/2011       |
| Qualifications (if required): cycle group member  |                     |                 |                             |
| <b>Petroleum Tank Release Compensation Board</b> (Environmental Quality)                                    |                     |                 |                             |
| Mr. Greg Cross<br>Billings  | Governor            | reappointed     | 6/30/2007<br>6/30/2010      |
| Qualifications (if required): representative of the independent petroleum marketing industry                |                     |                 |                             |

## BOARD AND COUNCIL APPOINTEES FROM JUNE 2007

| <u>Appointee</u>   | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|--|---------------------|-----------------|-----------------------------|
| <b>Petroleum Tank Release Compensation Board</b> (Environmental Quality) cont.       |                     |                 |                             |
| Mr. Karl Hertel<br>Moore   | Governor            | Peterson        | 6/30/2007<br>6/30/2010      |
| Qualifications (if required): insurance industry representative                      |                     |                 |                             |
| Mr. A.J. King<br>Kalispell   | Governor            | Boucher         | 6/30/2007<br>6/30/2008      |
| Qualifications (if required): banker   |                     |                 |                             |
| Mr. Roger A. Noble<br>Kalispell  | Governor            | reappointed     | 6/30/2007<br>6/30/2010      |
| Qualifications (if required): representative of the petroleum services industry      |                     |                 |                             |
| <b>Reserved Water Rights Compact Commission</b> (Natural Resources and Conservation) |                     |                 |                             |
| Mr. Chris D. Tweeten<br>Helena   | Attorney General    | reappointed     | 6/1/2007<br>6/1/2009        |
| Qualifications (if required): none specified   |                     |                 |                             |
| <b>State Compensation Insurance Fund Board</b> (Administration)                      |                     |                 |                             |
| Mr. Thomas R. Heisler<br>Great Falls   | Governor            | Bee             | 6/12/2007<br>4/28/2009      |
| Qualifications (if required): private enterprise                                     |                     |                 |                             |
| <b>State Emergency Response Commission</b> (Military Affairs)                        |                     |                 |                             |
| Mr. Ron Jendro<br>Helena   | Governor            | Earnhardt       | 6/20/2007<br>10/1/2007      |
| Qualifications (if required): Department of Fish, Wildlife and Parks representative  |                     |                 |                             |

**BOARD AND COUNCIL APPOINTEES FROM JUNE 2007**

| <u>Appointee</u>  | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|---|---------------------|-----------------|-----------------------------|
| <b>State Emergency Response Commission (Military Affairs) cont.</b>                                 |                     |                 |                             |
| Ms. Cheryl Richman<br>Helena  | Governor            | Hyatt           | 6/20/2007<br>10/1/2007      |
| Qualifications (if required): Department of Transportation representative                           |                     |                 |                             |
| <b>Statewide Interoperability Executive Advisory Council (Administration)</b>                       |                     |                 |                             |
| Captain Dick Lewis<br>Missoula  | Governor            | Power           | 6/20/2007<br>9/7/2008       |
| Qualifications (if required): municipal law enforcement representative                              |                     |                 |                             |
| <b>University of Montana Local Executive Board (University System)</b>                              |                     |                 |                             |
| Ms. Ann Boone<br>Missoula   | Governor            | Breum           | 6/28/2007<br>4/15/2010      |
| Qualifications (if required): public representative   |                     |                 |                             |
| Mr. Bill Woody<br>Missoula  | Governor            | Frandsen        | 6/28/2007<br>4/15/2008      |
| Qualifications (if required): public representative   |                     |                 |                             |
| <b>University of Montana-Helena College of Technology Local Executive Board (University System)</b> |                     |                 |                             |
| Ms. Pam Carlson<br>Helena   | Governor            | Hays            | 6/28/2007<br>4/15/2009      |
| Qualifications (if required): public representative   |                     |                 |                             |
| Mr. Pat Clinch<br>Helena  | Governor            | Mercer          | 6/28/2007<br>4/15/2010      |
| Qualifications (if required): public representative   |                     |                 |                             |

**BOARD AND COUNCIL APPOINTEES FROM JUNE 2007**

| <u>Appointee</u>  | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|---|---------------------|-----------------|-----------------------------|
| <b>University of Montana-Montana Tech Local Executive Board</b> (University System)                         |                     |                 |                             |
| Ms. Anna Gallus<br>Butte  | Governor            | Vega            | 6/28/2007<br>4/15/2009      |
| Qualifications (if required): public representative   |                     |                 |                             |
| Sen. Jesse Laslovich<br>Anaconda  | Governor            | Dale            | 6/28/2007<br>4/15/2010      |
| Qualifications (if required): public representative   |                     |                 |                             |
| <b>Workforce Investment Board</b> (Labor and Industry)  |                     |                 |                             |
| Director Keith Kelly<br>Helena  | Governor            | not listed      | 6/7/2007<br>7/1/2007        |
| Qualifications (if required): representative of military veterans and a representative of the public sector |                     |                 |                             |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>   | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <b>Alternative Health Care Board</b> (Labor and Industry)<br>Dr. Michael Bergkamp, Helena<br>Qualifications (if required): naturopath        | Governor            | 9/1/2007        |
| Dr. Kathleen Stevens, Billings<br>Qualifications (if required): physician  | Governor            | 9/1/2007        |
| <b>Board of Barbers and Cosmetologists</b> (Labor and Industry)<br>Ms. Maggie Burton-Blize, Missoula<br>Qualifications (if required): barber | Governor            | 10/1/2007       |
| Ms. Darlene Battaiola, Butte<br>Qualifications (if required): cosmetologist  | Governor            | 10/1/2007       |
| Ms. Sharon Richie, Hamilton<br>Qualifications (if required): barber  | Governor            | 10/1/2007       |
| <b>Board of Medical Examiners</b> (Governor)<br>Dr. Daniel Alzheimer, Helena<br>Qualifications (if required): doctor of medicine             | Governor            | 9/1/2007        |
| Dr. James D. Upchurch, Crow Agency<br>Qualifications (if required): doctor of medicine   | Governor            | 9/1/2007        |
| <b>Board of Outfitters</b> (Labor and Industry)<br>Mr. Kelly Flynn, Townsend<br>Qualifications (if required): hunting and fishing outfitter  | Governor            | 10/1/2007       |



**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>   | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <p><b>Board of Psychologists</b> (Labor and Industry)<br/>                     Ms. Pat Colberg, Billings<br/>                     Qualifications (if required): public member</p>            | Governor            | 9/1/2007        |
| <p><b>Corrections Advisory Council</b> (Corrections)<br/>                     Rep. Dorothy Bradley, Bozeman<br/>                     Qualifications (if required): public representative</p> | Governor            | 9/8/2007        |
| <p>Sen. Mike Cooney, Helena<br/>                     Qualifications (if required): public representative</p>   | Governor            | 9/8/2007        |
| <p>Judge Joe L. Hegel, Forsyth<br/>                     Qualifications (if required): public representative</p>  | Governor            | 9/8/2007        |
| <p>Rep. William T. "Red" Menahan, Anaconda<br/>                     Qualifications (if required): public representative</p>  | Governor            | 9/8/2007        |
| <p>Sen. Jim Shockley, Victor<br/>                     Qualifications (if required): public representative</p>  | Governor            | 9/8/2007        |
| <p>Lt. Governor John Bohlinger, Helena<br/>                     Qualifications (if required): public representative</p>  | Governor            | 9/8/2007        |
| <p>Sen. Trudi Schmidt, Great Falls<br/>                     Qualifications (if required): public representative</p>  | Governor            | 9/8/2007        |
| <p>Ms. Valarie Weber-Rasch, Billings<br/>                     Qualifications (if required): public representative</p>  | Governor            | 9/8/2007        |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>  | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| <b>Corrections Advisory Council</b> (Corrections) cont.<br>Rep. Gail Gutsche, Missoula<br>Qualifications (if required): public representative | Governor            | 9/8/2007        |
| Sen. Steve Gallus, Butte<br>Qualifications (if required): public representative   | Governor            | 9/8/2007        |
| Sen. Larry Jent, Bozeman<br>Qualifications (if required): public representative   | Governor            | 9/8/2007        |
| Rep. Tim Callahan, Great Falls<br>Qualifications (if required): public representative   | Governor            | 9/8/2007        |
| Ms. Gloria Edwards, Bozeman<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Rep. Veronica Small-Eastman, Lodge Grass<br>Qualifications (if required): public representative   | Governor            | 9/8/2007        |
| Mr. Allan Underdal, Shelby<br>Qualifications (if required): public representative   | Governor            | 9/8/2007        |
| Mr. Robert Ross, Billings<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Ms. Mikie Baker-Hajek, Great Falls<br>Qualifications (if required): victims' advocate   | Governor            | 9/8/2007        |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>  | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| <b>Corrections Advisory Council</b> (Corrections) cont.<br>Ms. Emily Matt Salois, Missoula<br>Qualifications (if required): public representative                   | Governor            | 9/8/2007        |
| Mr. Dave Castle, Great Falls<br>Qualifications (if required): public representative   | Governor            | 9/8/2007        |
| County Attorney George Corn, Hamilton<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Chief William Dial, Whitefish<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Commissioner Adam Gartner, Glendive<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Mr. Emery Jones, Missoula<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Mr. Carl Venne, Crow Agency<br>Qualifications (if required): public representative  | Governor            | 9/8/2007        |
| Ms. Penny Kipp, Pablo<br>Qualifications (if required): having competency in addressing problems facing youth  | Governor            | 9/8/2007        |
| <b>Montana Wheat and Barley Committee</b> (Agriculture)<br>Ms. Janice Mattson, Chester<br>Qualifications (if required): representative of District 3 and a Democrat | Governor            | 8/20/2007       |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>   | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <p><b>Montana Wheat and Barley Committee</b> (Agriculture) cont.<br/>                     Mr. Donald L. Fast, Glasgow<br/>                     Qualifications (if required): representative of District 2 and a Republican</p> | Governor            | 8/20/2007       |
| <p><b>State Emergency Response Commission</b> (Military Affairs)<br/>                     Sen. Barry "Spook" Stang, Helena<br/>                     Qualifications (if required): representing Trucking Association</p>        | Governor            | 10/1/2007       |
| <p>Mr. Mike Tooley, Helena<br/>                     Qualifications (if required): representing Montana Department of Justice</p>   | Governor            | 10/1/2007       |
| <p>Ms. Linda Williams, Fort Benton<br/>                     Qualifications (if required): representing DES Association</p>   | Governor            | 10/1/2007       |
| <p>Mr. Daniel Dennehy, Butte<br/>                     Qualifications (if required): representing Local Emergency Planning Committee</p>  | Governor            | 10/1/2007       |
| <p>Mr. Tom Ellerhoff, Helena<br/>                     Qualifications (if required): representing Department of Environmental Quality</p>   | Governor            | 10/1/2007       |
| <p>Mr. Bill Rhoads, Butte<br/>                     Qualifications (if required): representing a Utility Company</p>  | Governor            | 10/1/2007       |
| <p>Sheriff Clifford Brophy, Columbus<br/>                     Qualifications (if required): representing a Law Enforcement Association</p>   | Governor            | 10/1/2007       |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>   | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <b>State Emergency Response Commission</b> (Military Affairs) cont.<br>Mr. Seldon Weedon, Great Falls<br>Qualifications (if required): representing Fire Training School | Governor            | 10/1/2007       |
| Mr. Jim Greene, Helena<br>Qualifications (if required): representing Disaster and Emergency Services   | Governor            | 10/1/2007       |
| Mr. Royce A. Shipley, Great Falls<br>Qualifications (if required): representing Malmstrom Air Force Base   | Governor            | 10/1/2007       |
| Mr. Steve Larson, Helena<br>Qualifications (if required): representing Fire Service Association  | Governor            | 10/1/2007       |
| Mr. Jim Johnson, Missoula<br>Qualifications (if required): representing a Railroad Company   | Governor            | 10/1/2007       |
| Mr. Tim Burton, Helena<br>Qualifications (if required): representing League of Cities and Towns  | Governor            | 10/1/2007       |
| Ms. Jolene Jacobson, Polson<br>Qualifications (if required): representing Tribal Emergency Response Committee  | Governor            | 10/1/2007       |
| Ms. Sally Buckles, Boulder<br>Qualifications (if required): representing Emergency Management Association  | Governor            | 10/1/2007       |
| Mr. Stephen Brueske, Great Falls<br>Qualifications (if required): representing National Weather Service  | Governor            | 10/1/2007       |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>   | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <b>State Emergency Response Commission</b> (Military Affairs) cont.<br>Commissioner Ed Tinsley, Helena<br>Qualifications (if required): representing Montana Association of Counties | Governor            | 10/1/2007       |
| Mr. Mike Vogel, Bozeman<br>Qualifications (if required): representing the University System  | Governor            | 10/1/2007       |
| Ms. Sally Johnson, Helena<br>Qualifications (if required): representing Department of Public Health and Human Services   | Governor            | 10/1/2007       |
| Mr. Joe Marcotte, Billings<br>Qualifications (if required): representing Hospitals   | Governor            | 10/1/2007       |
| Mr. Jim DeTienne, Helena<br>Qualifications (if required): Department of Public Health and Human Services   | Governor            | 10/1/2007       |
| Major Don Emerson, Helena<br>Qualifications (if required): Montana National Guard Representative   | Governor            | 10/1/2007       |
| Mr. Ted Mead, Missoula<br>Qualifications (if required): Department of Natural Resources and Conservation representative  | Governor            | 10/1/2007       |
| Mr. D.L. Moore M.D., Billings<br>Qualifications (if required): public health representative  | Governor            | 10/1/2007       |
| Ms. Sheena Wilson, Helena<br>Qualifications (if required): Governor's office representative  | Governor            | 10/1/2007       |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>   | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <b>State Emergency Response Commission</b> (Military Affairs) cont.<br>Ms. Cheryl Richman, Helena<br>Qualifications (if required): Department of Transportation representative | Governor            | 10/1/2007       |
| Mr. Ron Jendro, Helena<br>Qualifications (if required): Department of Fish, Wildlife and Parks representative  | Governor            | 10/1/2007       |
| <b>Water and Waste Water Operators' Advisory Council</b> (Environmental Quality)<br>Mr. Donald Coffman, Harlem<br>Qualifications (if required): water treatment plant operator | Governor            | 10/16/2007      |
| <b>Youth Justice Council</b> (Justice)<br>Mr. Dennis Dronen, Great Falls<br>Qualifications (if required): juvenile probation officer   | Governor            | 8/15/2007       |
| Judge Pedro Hernandez, Billings<br>Qualifications (if required): representative of the local court system  | Governor            | 8/15/2007       |
| Mr. Ted Lechner, Billings<br>Qualifications (if required): volunteer who works with delinquents or potential delinquents   | Governor            | 8/15/2007       |
| Ms. Cathy Kendall, Helena<br>Qualifications (if required): ex-officio member   | Governor            | 8/15/2007       |
| Ms. Katie Yother, Bozeman<br>Qualifications (if required): youth representative  | Governor            | 8/15/2007       |

**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>  | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| <b>Youth Justice Council</b> (Justice) cont.<br>Ms. Beth McLaughlin, Helena<br>Qualifications (if required): ex-officio member                      | Governor            | 8/15/2007       |
| Mr. Steve Gibson, Helena<br>Qualifications (if required): ex-officio member   | Governor            | 8/15/2007       |
| Mr. Rick Robinson, Lame Deer<br>Qualifications (if required): having competency in addressing problems facing youth                                 | Governor            | 8/15/2007       |
| Ms. Karin Billings, Helena<br>Qualifications (if required): ex-officio member   | Governor            | 8/15/2007       |
| Ms. Bonnie Wallem, Kalispell<br>Qualifications (if required): representative of a nonprofit organization with special emphasis on youth development | Governor            | 8/15/2007       |
| Ms. Jennifer Kistler, Helena<br>Qualifications (if required): youth representative  | Governor            | 8/15/2007       |
| Mr. Dale Four Bear, Poplar<br>Qualifications (if required): involved with programs that are alternatives to incarceration                           | Governor            | 8/15/2007       |
| Mayor Pam Kennedy, Kalispell<br>Qualifications (if required): local elected official  | Governor            | 8/15/2007       |
| Father Jerry Lowney, Helena<br>Qualifications (if required): having competency in addressing problems facing youth                                  | Governor            | 8/15/2007       |



**VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2007 through OCTOBER 31, 2007**

| <u>Board/current position holder</u>  | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| <b>Youth Justice Council</b> (Justice) cont.  |                     |                 |
| Ms. Emily Matt Salois, Missoula<br>Qualifications (if required): having competency in addressing problems facing youth  | Governor            | 8/15/2007       |
| Mr. Wayne Stanford, Stevensville<br>Qualifications (if required): having competency in addressing problems facing youth | Governor            | 8/15/2007       |
| Ms. Teri Young, Great Falls<br>Qualifications (if required): juvenile parole officer                                    | Governor            | 8/15/2007       |
| Ms. Penny Kipp, Pablo<br>Qualifications (if required): having competency in addressing problems facing youth            | Governor            | 8/15/2007       |
| Ms. Donnalyn Strangeowl, Ashland<br>Qualifications (if required): youth representative                                  | Governor            | 8/15/2007       |
| Ms. Sarah Royston, Helena<br>Qualifications (if required): youth representative   | Governor            | 8/15/2007       |