

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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

In the matter of the amendment) NOTICE OF PROPOSED
of ARM 12.11.501 pertaining to) AMENDMENT
the list of water bodies (index)
rule)) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On January 19, 2006, the Fish, Wildlife and Parks Commission (commission) proposes to amend ARM 12.11.501 pertaining to the list of water bodies (index rule).

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than December 6, 2005, to advise us of the nature of the accommodation that you need. Please contact Brandi Fisher, Fish, Wildlife and Parks, 1420 East Sixth Ave., P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; email brfisher@mt.gov.

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

12.11.501 LIST OF WATER BODIES ~~(1)~~ The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

(a) through (g) remain the same, but are renumbered (1) through (7).

~~(h)~~ (8) Beaverhead River ARM 12.11.202,
12.11.205, &
12.11.206,
12.11.207, &
12.11.215

(i) remains the same, but is renumbered (9).

~~(j)~~ (10) Big Hole River ARM 12.11.601,
12.11.202,
12.11.210, &
12.11.211,
12.11.212, &
12.11.220

(k) through (m) remain the same, but are renumbered (11) through (13).

~~(n)~~ (14) Blackfoot River ARM 12.11.615,
12.11.6501,
12.11.6505,
12.11.6510,
12.11.6515,
12.11.6520,

12.11.6525,
12.11.6530,
12.11.6535,
12.11.6540,
12.11.6545,
12.11.6550,
12.11.6555,
12.11.6560,
12.11.6565,
12.11.6570, &
12.11.6575

(o) through (ar) remain the same, but are renumbered (15) through (44).

(45) Georgetown Lake

ARM 12.11.1901 &
12.11.2710

(as) through (de) remain the same, but are renumbered (46) through (110).

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

4. ARM 12.11.501 acts as an index rule so that individuals can locate a body of water alphabetically and find all the restrictions on that body of water in one place. The purpose of this rule amendment is to add new water rules that have been recently adopted to the index rule so that the index rule is complete and rules can be easily located. Rulemaking on the Beaverhead and Big Hole rivers and rulemaking on the Blackfoot River recently took place. This index rule was not amended concurrently with these rulemaking processes as these proposals were long, involved, and controversial. The commission did not wish to confuse the public by adding the amendment of the index rule to the mix. Additionally, a new no wake rule on Georgetown Lake was recently adopted and that rule also has been added to ARM 12.11.501.

5. Concerned persons may submit their data, views or arguments concerning the proposed amendment in writing to Rebecca Price, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701, or email them to beprice@mt.gov. Any comments must be received no later than December 22, 2005.

6. If persons who are directly affected by the proposed actions wish to express their data, views and 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 Rebecca Price, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701. A written request for hearing must be received no later than December 22, 2005.

7. If the department receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, 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 6631 persons based on 66,309 watercraft registered with the State of Montana as of October 11, 2005.

8. 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 which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Steve Doherty
Steve Doherty
Chairman, Fish, Wildlife and
Parks Commission

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

Certified to the Secretary of State November 14, 2005

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF EXTENSION OF
of ARM 17.30.670 and)	COMMENT PERIOD ON PROPOSED
17.30.1202 pertaining to)	AMENDMENT AND ADOPTION
nondegradation requirements)	
for electrical conductivity)	(WATER QUALITY)
(EC) and sodium adsorption)	
ratio (SAR) and definitions)	
for technology-based effluent)	
limitations, and the adoption)	
of new rules I through X)	
pertaining to minimum)	
technology-based controls and)	
treatment requirements for the)	
coal bed methane industry)	

TO: All Concerned Persons

1. On October 6, 2005, the Board of Environmental Review published MAR Notice No. 17-231 regarding a notice of public hearing on the proposed amendment and adoption of the above-stated rules at page 1844, 2005 Montana Administrative Register, issue number 19. Public hearings were scheduled for November 9 and 10, and December 1, 2005, with the public comment period closing December 2, 2005. In response to a request received at the hearing held on November 10, 2005, the Board has determined that the comment period should be extended. Accordingly, the notice is being amended to extend the comment period until January 27, 2006.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., December 27, 2005, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email ber@mt.gov.

3. The Board 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 that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and

loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, emailed to the Board Secretary at ber@mt.gov, or may be made by completing a request form at any rules hearing held by the Board.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North

JOHN F. NORTH
Rule Reviewer

By: /s/ Joseph W. Russell

JOSEPH W. RUSSELL, M.P.H.,
Chairman

Certified to the Secretary of State November 14, 2005.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.17.127) ON PROPOSED AMENDMENT
pertaining to prevailing)
wage rates for public works)
projects - nonconstruction)
services and heavy and)
highway construction services)

TO: All Concerned Persons

1. On December 14, 2005, at 1:00 p.m., a public hearing will be held in the first floor conference room (Room 104) of the Walt Sullivan Building, 1327 Lockey, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department by no later than 5:00 p.m., December 9, 2005, to advise us of the nature of the accommodation that you need. Please contact the Research and Analysis Bureau, Workforce Services Division, Attn: Eric Johnson, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-4503; TTY (406) 444-0532; fax (406) 444-2638; or via e-mail at erjohnson@mt.gov.

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

24.17.127 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

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

(f) The current non-construction services rates are contained in the ~~2003~~ 2005 version of "The State of Montana Prevailing Wage Rates - Nonconstruction Services Occupations" publication.

(g) The current heavy and highway construction services rates are contained in the ~~2003~~ 2005 revised version of "The State of Montana Prevailing Wage Rates - Heavy and Highway Construction Services" publication.

(2) and (3) remain the same.

AUTH: 2-4-307, 18-2-409, 18-2-431 and 39-3-202, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-406, 18-2-411, 18-2-412, 18-2-422 and 18-2-431, MCA

REASON: There is reasonable necessity to amend ARM 24.17.127 to update the nonconstruction services rates consistent with the Department's biennial wage survey. There is reasonable necessity to amend the prevailing wages for nonconstruction services, which were last updated in 2003. In addition, there is

reasonable necessity to update the prevailing wage rates for heavy and highway construction services to track with recently adopted federal Davis-Bacon Act heavy construction services rates (adopted September 9, 2005) and highway construction services rates (adopted October 7, 2005). Use of prevailing wage rates is required in public contracts by 18-2-422, MCA.

4. Interested parties 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:

Eric Johnson
Research and Analysis Bureau
Workforce Services Division
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

and must be received by no later than 5:00 p.m., December 21, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department's site on the internet at <http://dli.mt.gov/calendar.htm>, under the Calendar of Events, Administrative Rule Hearings section. Interested persons may make comments on the proposed rules via the comment forum, <http://forums.dli.mt.gov>, linked to the Notice of Public Hearing, but those comments must be posted to the comment forum by 5:00 p.m., December 21, 2005. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the comment forum do not excuse late submission of comments.

6. A copy of the proposed 2005 publications, identified as "preliminary nonconstruction rates" and "preliminary revised heavy and highway construction rates", is available and can be accessed on-line via the internet at: <http://rad.dli.mt.gov/pw>.

A printed version of the proposed 2005 publications is also available by contacting Eric Johnson, at the address or telephone numbers listed in paragraph 2.

7. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the mailing 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 any specific topic or topics over which the Department has rulemaking authority. Such written request may be delivered to Mark Cadwallader, 1327 Lockey St., room 412, Helena, Montana, mailed to Mark Cadwallader, P.O. Box 1728, Helena, MT 59624-1728, faxed to the office at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or made by completing a request form at any rules hearing held by the Department.

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

9. The Hearings Bureau of the Centralized Services Division of the Department has been designated to preside over and conduct the hearing.

/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: November 14, 2005

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC
adoption of NEW RULES I through) HEARING ON PROPOSED
XVIII pertaining to the elevator) ADOPTION
services occupational licensing)
program)

TO: All Concerned Persons

1. On December 15, 2005, at 9:00 a.m., a public hearing will be held in room 489, Park Avenue Building, 301 South Park, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Labor and Industry 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 Elevator Licensing Program no later than 5:00 p.m. on December 9, 2005, to advise us of the nature of the accommodation that you need. Please contact George Edwards, Elevator Licensing Program, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdel@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2005 Montana legislature passed Senate Bill 412, which was signed into law by Governor Schweitzer on April 19, 2005, and enrolled as Chapter 303, Laws of 2005. This new set of laws essentially revamped and significantly expanded Montana's regulation of elevator installation, repair, and operation. Among the provisions enacted by this law are various licensing requirements, which the Department of Labor and Industry is mandated to administer, and the Department was granted rule-writing authority and directed to adopt rules.

Since this area of regulation featured licensing requirements for an industry in which the Department had no previous licensing experience, the Department looked to various sources to determine what was most advisable in terms of licensing qualifications, classifications, and other similar considerations. For example, the Department looked to its other licensing programs such as electrical and plumbing to identify specific types of licenses that might also apply to the elevator industry. The Department also consulted with its apprenticeship and training program as part of its efforts to define training and experience standards. It additionally reviewed administrative regulations adopted in other states with an eye toward using them as models for the structure and content of Montana's administrative rules pertaining to licensing within the elevator industry.

The Department believes it is appropriate for the Department to use this approach in developing the proposed administrative rules because it provided the best way to efficiently identify essential areas of regulatory concern, as well as the more proven and generally acceptable means of addressing them. Thus, the Department believes the following proposed administrative rules are reasonable because they mirror to a great extent administrative rules that are currently effective in Montana and in other states. The proposed rules are necessary because they identify, define, and address the essential elements of elevator licensing and, thereby, implement Chap. 303, L. of 2005, and give practical meaning to the underlying statutes for those who are involved in or affected by Montana's elevator industry. This general statement of reasonable necessity applies to each of the proposed new rules. This general statement may be supplemented by additional reasons where a given rule may need clarification as to the reasonableness of its proposal.

4. The proposed new rules provide as follows:

NEW RULE I GENERAL (1) Any person, firm, company, or other entity wishing to engage in the business of conveyance work that is regulated by the department must be a licensed elevator contractor.

(2) Any person wishing to perform conveyance work that is regulated by the department must be a licensed elevator mechanic employed by a licensed elevator contractor.

(3) Any person wishing to perform elevator inspections services in Montana must be licensed as an inspector by the department to perform elevator inspections and testing.

AUTH: 37-1-101, 37-73-102, 50-60-203, MCA

IMP: 37-73-102, 37-73-201, 37-73-203, 37-73-208, 37-73-212, 37-73-216, MCA

NEW RULE II DEFINITIONS For the purposes of this chapter, the following definitions apply:

(1) "Alteration" means a change of original design or operation through modernization, replacement of components or assemblies, or upgrade to existing equipment.

(2) "ANSI" means the American national standard institute.

(3) "ASI" means the American safety institute.

(4) "ASME" means the American society of mechanical engineers.

(5) "Apprentice" means an individual who is working with and receiving training from an elevator mechanic licensed under this chapter and who is registered by an appropriate governmental unit.

(6) "Conveyance" means and is synonymous with "elevator" and includes, but is not limited to:

(a) escalators;

- (b) inclined elevators;
- (c) dumbwaiters;
- (d) platform hoists;
- (e) material lifts;
- (f) moving walks;
- (g) platform or wheelchair lifts; and
- (h) chair lifts.

(7) "Electrical equipment" means any device or group of components that are connected to a source of electrical power. Such devices include, but are not limited to:

- (a) electro-mechanical switches;
- (b) controllers;
- (c) motors;
- (d) car and hall fixtures;
- (e) lighting fixtures; or
- (f) any other component that has exposed electrical parts or connections, either by design or when protective covers are removed.

(8) "Elevator code" means the code contained in [NEW RULE I, proposed in MAR Notice No. 24-301-191, found at page 2021, 2005 Montana Administrative Register, issue no. 20, published on October 27, 2005].

(9) "Equipment testing" means safety tests required by the adopted safety standard performance of properly licensed elevator inspectors.

(10) "Interactive testing and maintenance" means activity which requires human interaction with the technical components of controllers and machinery. Interactive testing includes, but is not limited to:

- (a) car and counterweight safety tests;
- (b) pressure relief tests;
- (c) buffer tests;
- (d) brake tests;
- (e) unintended car movement tests; and
- (f) ascending car overspeed tests.

(11) "Limited elevator contractor" means any person, firm, partnership, company, or entity that is engaged in the business of installing, altering, servicing, replacing or maintaining residential elevators or other conveyances in private residences.

(12) "Limited elevator mechanic" means any person who is engaged in the installation, alteration, servicing, replacing, or maintaining residential elevators or other conveyances in private residences only.

(13) "Lockout" means the placement of a locking device on an energy isolating device, in accordance with an established procedure, to ensure that the energy isolating device and the equipment being controlled by it cannot be operated until the lockout device is removed.

(14) "Maintenance" means the renewal of operating parts, cleaning, lubricating and adjusting existing elevator equipment to ensure proper and safe operation as required by code. The term includes, but is not limited to:

- (a) cleaning and lubricating equipment;

- (b) relamping and repairing car lighting fixtures; and
- (c) regular monitoring of hydraulic oil levels.

(15) "Operational testing" means, but is not limited to, those activities which require measurement or observation, but which does not require any form of conveyance disassembly. These activities include, but are not limited to:

- (a) fire service tests;
- (b) step/skirt index tests;
- (c) starting and stopping of equipment through normal means; or
- (d) smoke and heat detectors tests.

(16) "Repair" means the restoration of an elevator to its original intended design, but does not include changing its operation or intended use.

(17) "Residential elevator" means a powered or passenger conveyance which is installed in a private residence or multiple unit dwelling as a means of access to private residences, where the access to or control of the elevator is restricted to the residents of the residence or multiple unit dwelling.

(18) "Responsible elevator mechanic" means a designated individual employed by a licensed elevator contractor who is hired on a fulltime basis to ensure all work performed by the mechanic's employer is code compliant.

(19) "Tagout" means the temporary placement of a printed notice on an energy isolating device, in accordance with an established procedure, to indicate that the energy isolating device and the equipment it controls may not be operated until the printed notice is removed by the person who attached it to the isolating device.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-102, 37-73-201, 37-73-202, 37-73-203, 37-73-204, 37-73-208, 37-73-212, 37-73-216, MCA

NEW RULE III EXCEPTIONS (1) Elevator mechanic licenses issued by the department are not required for individuals who do not require access to the pit, hoist way, or top of the car to install:

- (a) signal systems;
- (b) fans;
- (c) electric light fixtures;
- (d) illuminated thresholds; and
- (e) feeder wires to the terminals on the elevator main line control.

(2) Elevator mechanic licenses are not required for operational testing and maintenance work that is performed on conveyances when the appropriate lockout and tagout procedures have been performed by the person doing that work. The department must be notified of and must approve the scope of work on a form provided by the department prior to it being performed.

(a) Except where allowed by law, interactive testing and maintenance checks may only be performed by licensed elevator personnel.

(3) Elevator contractor licenses issued by the department are not required for:

(a) an owner or employee of the owner performing only operational testing and maintenance on conveyances; or

(b) a public agency that employs licensed elevator mechanics to perform maintenance.

(4) The construction or modification of hoistway enclosure or machine room enclosure that does not involve alteration, repair or maintenance of an elevator does not require an elevator contractor's license. However, the alteration to these structures must comply with all other applicable sections of the currently adopted building regulations.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-1-104, 37-73-102, 37-73-201, 37-73-203, 37-73-208, 37-73-212, MCA

REASON: There is reasonable necessity to identify the types of work for which licensure is not required, in order to clarify the types of elevator work that may lawfully be performed by unlicensed personnel such as owners and their employees. In addition, there is reasonable necessity to identify the circumstances when an employer's private use of employees who are licensees does not rise to the level of when an elevator contractor's license is needed to protect the public health, safety and welfare.

NEW RULE IV APPRENTICE REGISTRATION (1) Elevator mechanic licenses are not required for individuals who provide evidence of apprenticeship registration from:

(a) the department's apprenticeship and training program;

(b) a recognized state apprenticeship registration agency; or

(c) the federal bureau of apprenticeship, United States department of labor.

(2) An apprentice shall work under the direction, control, and supervision of a licensed elevator mechanic at all times while the apprentice is performing or learning to perform elevator mechanic duties and functions.

(3) Licensed elevator contractors shall be responsible for assuring that all apprentices under their general direction and supervision comply with the requirements of this rule.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-202, MCA

NEW RULE V LICENSEE RESPONSIBILITIES (1) Licensed elevator mechanics, limited elevator mechanics, elevator

contractors, limited elevator contractors, or elevator inspectors shall have their licenses available on job sites at all times when employed in these capacities. Elevator mechanic apprentices shall have their registration card, issued by the department, on their persons at all times when so employed. A licensed elevator mechanic, limited elevator mechanic, elevator contractor, limited elevator contractor, elevator inspector or elevator mechanic apprentice who does not have the required proof of licensure or apprenticeship registration while working in one of those capacities is subject to the issuance of a licensing citation in accordance with 37-73-225, MCA.

(2) A licensed limited elevator mechanic shall:

(a) perform work only in the employment of a licensed elevator contractor; and

(b) perform work only on residential elevator construction.

(3) A licensed elevator mechanic shall perform work only in the employment of a licensed elevator contractor.

(4) A licensed elevator contractor shall not allow any person to perform elevator installation or repair work unless the person is:

(a) properly licensed;

(b) in lawful possession of a valid temporary practice permit; or

(c) registered as an apprentice, as provided in [NEW RULE IV].

(5) Elevator contractors are responsible for obtaining any permit required by the state of Montana or a certified local building code enforcement authority relating to elevator equipment and are responsible for ensuring that work performed complies with permitting requirements of the state of Montana.

(6) Elevator contractors, limited elevator contractors, elevator mechanics or limited elevator mechanics may not allow their license to be used by other individuals, firms, corporations or businesses for the purpose of obtaining elevator permits or for performing elevator work.

(7) Elevator contractors may not erect, construct, install or alter an elevator, dumbwaiter, escalator, or other equipment subject to the provisions of Title 50, chapter 60, MCA, unless they have first obtained a permit to do so from the department.

(8) An elevator contractor, limited elevator contractor, elevator mechanic, or limited elevator mechanic may not perform work beyond the scope of the individual's license.

(9) All licensees are responsible for obtaining continuing education training as required by [NEW RULE XV].

(10) Any violation of these licensing responsibilities will be deemed "unprofessional conduct" in addition to conduct described in 37-1-410, MCA and are subject to sanctions as provided by 37-1-406, MCA.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-1-406, 37-1-410, 37-73-102, 37-73-201, 37-73-203, 37-73-208, 37-73-212, 37-73-220, MCA

REASON: There is reasonable necessity to adopt this rule to clearly and concisely inform licensees and applicants of the responsibilities, constraints, and sanctions which are attached to each type of licensure within Montana's elevator industry.

NEW RULE VI FEE SCHEDULE (1) Examination fees are set by the testing agency or the department and vary by examination type.

(2) Application for license by examination \$150
(applies to all categories and includes original license fee)

(3) Contractor - original license fee 150

(4) Biennial renewal fee for all categories 100
of licensure

(5) Application for license by endorsement 100
or reciprocity (includes original license fee)

(6) Temporary permit 50

(7) Exam review fee 100

(8) Apprentice registration 25

(9) License renewal 150

(10) Continuing education course curriculum 75
approval

(11) All fees are nonrefundable.

AUTH: 37-1-101, 37-73-102, MCA

IMP: 17-2-302, 17-2-303, 37-1-101, 37-1-134, 37-73-102, 37-73-201, 37-73-204, 37-73-208, 37-73-212, 37-73-216, 37-73-221, MCA

REASON: There is reasonable necessity to establish these fees because pursuant to 37-1-134 and 37-73-221, MCA, this regulatory program must be self-sufficient in terms of funding their operational costs. Based upon discussions with industry representatives who currently do business in Montana, the Department believes approximately 90 people will seek one or more forms of elevator licensure as a result of the state's newly enacted licensing requirements. The Department anticipates that the fees established by this rule will thus generate approximately \$13,000.00 in revenue during the first two-year licensing cycle. Accordingly, the Department believes the fees established by this rule are reasonable because they will produce revenue sufficient to operate the elevator services occupational licensing program.

NEW RULE VII DOCUMENTATION OF SUITABLE TRAINING AND EXPERIENCE (1) An applicant for a license must provide documentation that the applicant has suitable training and experience required for the class of license sought by the applicant.

(2) Acceptable proof of suitable training and experience includes, but is not limited to:

(a) completed department-approved forms to document years of experience; or

(b) one or more of the following documents:

(i) affidavits;

(ii) letters from previous employers;

(iii) declarations of experience;

(iv) education credits;

(v) copies of contractor registration information; or

(vi) certificates of training.

(3) Additional documentation may be requested by the department to verify the information provided with the application.

AUTH: 37-73-102, MCA

IMP: 37-1-104, 37-73-102, 37-73-201, 37-73-203, 37-73-208, 37-73-212, MCA

REASON: There is reasonable necessity to adopt this rule to clearly inform applicants of the types of documentation the Department will accept, if an applicant is claiming qualification for licensing on the basis of experience and/or training.

NEW RULE VIII ELEVATOR MECHANIC LICENSURE QUALIFICATIONS

(1) An applicant for an elevator mechanic's license shall furnish evidence satisfactory to the department that the applicant has:

(a) passed a written examination or certification approved by the department; or

(b) performed three years verifiable conveyance work which:

(i) is at least 70% construction or maintenance based; and

(ii) does not rely upon residential experience to comprise more than 30% of the total three year requirement.

(2) An applicant for a limited elevator mechanic's license shall furnish evidence satisfactory to the department that the applicant has:

(a) passed a written examination or certification approved by the department; or

(b) three years of verifiable work experience in performing residential conveyance work.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-1-104, 37-73-102, 37-73-201, 37-73-204, 50-60-203, MCA

REASON: There is reasonable necessity to adopt this rule in order to distinguish between construction, maintenance, and residential work in defining what types of work experience are acceptable as prerequisites for elevator mechanic licensing. Based upon its inquiries among industry representatives and

other elevator regulators, the Department believes that comprehensive experience in elevator construction must be present first before meaningful experience in elevator maintenance can be obtained. Additionally, the Department believes that since nonresidential construction is generally more complicated and demanding in terms of mechanical expertise and ability than is residential elevator work, that at least 70% of the requisite construction or maintenance experience should be of a nonresidential nature. The Department believes the practical experience requirements set forth in this rule are reasonable because it believes that both residential and maintenance elevator work are subsets of nonresidential elevator work and, therefore, that emphasis on nonresidential elevator experience as a licensing requirement (as an alternative to a licensing examination) is reasonable.

NEW RULE IX ELEVATOR INSPECTOR QUALIFICATIONS --
TRANSITION PERIOD (1)

Applicants for elevator inspectors licenses shall provide evidence satisfactory to the department that they possess certification as such from one or more of the following entities:

- (a) ANSI;
- (b) ASA; or
- (c) ASME.

(2) Inspectors currently approved to inspect elevators in Montana will have six months from the date this rule becomes effective to become certified in accordance with this rule.

AUTH: 37-73-102, 50-60-203, MCA
IMP: 37-73-102, 37-73-201, 37-73-208, MCA

REASON: There is reasonable necessity for the Department to identify the national standards and qualifications that the Department recognizes for elevator inspection purposes. The Department believes that a six-month transition period is reasonable to allow those individuals currently authorized to inspect elevators in Montana to obtain certification in elevator inspection from any of the three national standards organizations, and balances the implementation of the new laws with the need for currently employed inspectors to continue employment while obtaining certification.

NEW RULE X ELEVATOR MECHANIC APPLICATIONS (1) An applicant shall have one year from the date of department approval to take the examination for which application was approved. If the examination is not taken within that one-year period, the applicant will be required to submit a new application, provide written verification of experience and pay the applicable fees.

(2) All applications shall be approved or disapproved on a case-by-case basis, as the department may deem proper, according to the following criteria:

- (a) complete application submitted;

(b) fees paid;
(c) acceptable work experience verified; and
(d) past disciplinary actions reviewed and considered, if applicable.

(3) Applicants who can, under oath, provide verifiable proof of employment as an elevator mechanic for at least three years prior to October 1, 2005, and who also possess the requisite experience for licensure may be licensed without examination upon payment of the application fee.

AUTH: 37-1-105, 37-73-102, 50-60-203, MCA

IMP: 37-1-105, 37-73-102, 37-73-201, 37-73-203, 37-73-204, 37-73-221, MCA

NEW RULE XI ELEVATOR CONTRACTOR APPLICATIONS (1) An applicant for an original license or renewal of an elevator contractor license shall submit:

(a) a completed application;
(b) the appropriate fee; and
(c) proof of the following:
(i) a general contractor registration to engage in the business of installing, repairing, or altering powered conveyances;

(ii) a currently dated certified copy of a liability insurance policy issued to the business name listed on the application which includes the insurance policy number, and which complies with the requirements of 50-60-716, MCA; and

(iii) a current certificate of existence or a current certificate of fact, issued by the Montana secretary of state's office.

(2) The department shall issue a limited elevator contractor license to an applicant who:

(a) submits the documentation required in (1); and
(b) employs a licensed limited elevator mechanic, named on a form provided by the department, as the elevator mechanic responsible for code compliance on all work performed under that contractor license.

(3) The department shall issue an unlimited elevator contractor license to an applicant who:

(a) submits the required documentation listed in (1); and

(b) employs a licensed elevator mechanic, named on a form prescribed by the department, as the elevator mechanic responsible for code compliance on all work performed under that contractor license.

(4) An owner of an unlimited elevator contracting business not licensed as an elevator mechanic shall employ an elevator mechanic to perform all work done under that contractor's license. No holder of an elevator mechanic's license can be named as the responsible elevator mechanic for more than one elevator contractor at any given time.

(5) An owner of a limited elevator contracting business not licensed as a limited elevator mechanic shall employ a limited elevator mechanic to perform all work done under that

contractor's license. No holder of a limited elevator mechanic's license can be named as the responsible elevator mechanic for more than one elevator contractor at any given time.

(6) A responsible elevator mechanic who leaves the employment of a licensed elevator contractor, for whatever reason, must provide written notification to the department of that fact within 10 working days. The licensed elevator contractor must notify the department within 10 working days, on a provided form, of the change of responsible elevator mechanic.

(a) Failure to name another responsible elevator mechanic within 10 working days is cause for disciplinary action, including suspension or revocation of the elevator contractor's license.

(7) A licensed elevator mechanic or limited elevator mechanic may be relieved from further responsibility under any application or permit if the elevator mechanic or limited elevator mechanic has left or been discharged from the employment of an elevator contractor or owner, provided the elevator mechanic or limited elevator mechanic sends a notice in writing to that effect within 10 working days of the last day of employment to the department or the state or local building code enforcement entity, whichever is applicable.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-1-104, 37-73-102, 37-73-201, 37-73-212, 50-60-203, 50-60-716, MCA

REASON: There is reasonable necessity to adopt this rule in order to clarify various matters pertaining to elevator contractor licensing. Since Montana has two contractor categories, the Department believes that listing the items which must be submitted with completed application forms for each type of license will facilitate more speedy processing of these applications because applicants will know in advance what they are required to submit, rather than having the process delayed while the department requests and receives any unsubmitted information it needs before processing applications.

Sections (2) and (3) require both types of elevator contractors to hire an appropriately licensed elevator mechanic and to designate that person as the individual responsible for code compliance on all work performed under the contractors' licenses. The Department believes this designation requirement is necessary because it provides the department with a definite chain of accountability through which the department can ensure that acceptable levels of public safety are being achieved and maintained throughout the elevator industry in Montana. The Department believes the ability it gains through these sections to trace accountability for safety and code compliance is especially important in situations where contractors are involved in

multiple construction projects and/or maintenance contracts that, typically, require employment of several elevator mechanics to work on one or more of those projects or contracts.

The Department believes (4) and (5) are necessary because they enable persons who personally are not trained or qualified for licensure as elevator mechanics to establish or operate businesses within Montana's elevator industry.

The Department believes (6) and (7) are necessary in order to maintain accurate records of "responsible elevator mechanic" designations for each licensed contractor and affected elevator mechanic in Montana. The Department believes that the requirements set forth in (6) and (7) are necessary in order for the Department (and local building code enforcement authorities) to be made aware in a timely manner of any changes that occur relating to designated individuals.

NEW RULE XII TEMPORARY PRACTICE PERMIT (1) In the event of an emergency or disaster, as defined in 10-3-103, MCA, the department may issue a temporary practice permit for an elevator mechanic or limited elevator mechanic. A temporary practice permit will not be issued until the department:

(a) verifies information provided by a licensed elevator contractor that the contractors' employee, who is the applicant, may be qualified to perform elevator mechanic work without direct supervision; and

(b) determines that the training, education, and/or experience of the applicant seeking temporary practice permits is sufficient to allow that person to perform unsupervised elevator mechanic work without creating a risk to public health, safety, and well-being.

(2) Documentation of the training, education, and/or experience required in (1) for a temporary practice permit must include the following:

(a) a sworn affidavit from a licensed contractor stating an employee/applicant seeking a temporary practice permit has sufficient elevator installation experience to perform specific types of elevator work without supervision by a licensed mechanic;

(b) certified submission of relevant training or coursework successfully completed by the applicant; and

(c) in the case of an apprentice seeking a temporary practice permit, documentation from a state apprenticeship and training bureau or program that the apprentice has completed no less than 70% of the apprentice's required term and is completely current with related instruction. An apprentice's work done under a temporary practice permit must be physically examined on a daily basis by a licensed elevator mechanic for correctness.

(3) The department will verify the information described in (2) as it deems necessary to determine if acceptable

standards of public health, safety, and well-being can be maintained by issuing temporary permits to specific applicants. Indicators used to evaluate acceptable levels of competency include, but are not limited to:

- (a) satisfactory completion of relevant course work;
- (b) amount of relevant on the job training;
- (c) relevant military training and experience;
- (d) relevant on the job training and experience from related trades; and
- (e) trade school certificates.

(4) A temporary practice permit issued pursuant to (1) is valid for 30 days.

(a) Subsequent temporary practice permits will only be issued if the emergency or disaster condition still exists.

(5) In the event the department determines that a shortage of licensed elevator mechanics exists to the extent that, if left uncorrected, it could have a materially adverse impact on public health, safety, and well-being, the department may issue a temporary practice permit for an elevator mechanic or limited elevator mechanic.

(a) A licensed elevator contractor may submit written notification to the department that a shortage of licensed elevator mechanics exists. The elevator contractor must be in good standing with the department and have no active complaints against the licenses of the contractor or the contractor's employees before the contractor is eligible to declare a shortage of elevator mechanics for the contractor's business. Sufficient proof of a bona fide shortage of licensed elevator mechanics must accompany the written notification and must include:

(i) a detailed description of the nature of the claimed shortage which particularly explains why the shortage was unforeseeable;

(ii) a description of all the projects affected by the claimed shortage, including the location of each project; and

(iii) evidence of the need for immediate action by an elevator contractor, especially as it may relate to healthcare issues or accessibility for disabled persons.

(6) Upon consideration and subsequent finding by the department that a contractor's claimed shortage of elevator mechanics is bona fide to the extent that, if left uncorrected, an adverse material impact on public health, safety, and well-being will result, the department will issue temporary practice permits as it deems prudent and appropriate to temporarily remedy the elevator mechanic shortage.

(7) A temporary practice permit issued pursuant to (5) is valid for 30 days and only at the locations noted in (5)(a)(ii).

(a) Subsequent temporary practice permits will be issued only if continued monitoring by the department indicates a bona fide elevator mechanic shortage continues to exist.

(8) For good cause and upon notice, the department may revoke any temporary practice permit as it believes is prudent

and necessary to best serve the interests of ensuring or maintaining public health, safety, and well-being.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-102, 37-73-201, 37-73-216, 50-60-203, MCA

REASON: There is reasonable necessity to adopt this rule in order to describe the instances and circumstances in which temporary practice permits will be issued, and to notify those who may seek such permits of the requirements that must be satisfied prior to issuance. Additionally, the rule is necessary because it requires the Department to confirm that applicants for temporary practice permits actually have the training, education, and experience they claim before being issued temporary permits and allowed to perform mechanical work on elevators which, if not done properly, would endanger people who use them or other similar conveyances.

The Department believes this rule is reasonable and necessary because it acknowledges the necessary role that elevator mechanics play in maintaining public health, safety, and well-being and that, in a limited number of circumstances, legitimate shortages of fully trained and licensed mechanics may occur in the elevator industry. This rule accommodates contractors who must, despite such shortages, continue to install and service elevators in response to the public's need for and reliance upon such conveyances.

NEW RULE XIII EXAMINATIONS (1) Examinations are held at locations and times considered appropriate by the department. The department will provide reasonable notice to qualified applicants of the date, time, and location of examinations, or of approved vendors that administer the examination.

(2) A person who has failed to pass any examination may, upon the payment of the appropriate fee, take the next scheduled examination. Failure of examination means receiving a test score below 70%. Applicants who fail the test a second time may not take the test again within a two-month period after the last failed exam.

(3) In the event an applicant fails to pass any examination three times, the applicant must wait at least one year from the last failed exam before taking the exam again, after reapplying to the department and paying the required application fee.

(4) An applicant who has failed the elevator mechanic examination two or more times is not prohibited from taking the limited elevator mechanic's licensing examination. Applicants must submit a request in writing to the department requesting the lower level examination at any subsequent time.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-102, 37-73-201, 37-73-204, MCA

REASON: There is reasonable necessity to adopt a rule that provides for an examination to objectively assess the mechanical, electrical, safety, and other similar competencies that applicants claim to possess relating to the duties and responsibilities they will be expected to assume if they became licensed as elevator mechanics. Testing provides the Department with objectively quantifiable justification to grant or deny licensure to applicants.

The Department believes the proposed approach to subsequent testing is preferable to one which would allow applicants to simply keep taking tests until they pass one as opposed to using unsuccessful testing experiences as a learning tool and improving their knowledge base accordingly. The Department believes the provisions of this rule are reasonable because they are very similar or identical to rules regulating examinations of applicants for licensure into other similar occupations in Montana. This approach to examining applicants has proven workable, understandable, and successful in these other programs and, consequently, the Department believes it reasonable to implement them in its elevator licensure program.

NEW RULE XIV LICENSURE BY RECIPROCITY OR ENDORSEMENT

(1) The department may, on a case-by-case basis, enter into reciprocity agreements with other states or jurisdictions whose requirements are substantially equivalent to or greater than the standards of this state as a basis to issue elevator mechanic or limited elevator mechanic licenses.

(2) Where no reciprocity agreement is applicable, mechanics licensed in other states may apply for licensure by endorsement in Montana. As used in this rule, "licensure by endorsement" means a formal reciprocal licensure agreement has not been signed with another specific state, but the qualifications for licensure in that state are similar to or greater than Montana's qualifications for the same level of licensure.

(3) The department may issue a license by endorsement to an applicant licensed in another state provided that the applicant is seeking a license comparable to the predicate license, and the applicant:

(a) submits a completed application with the required fees;

(b) holds a comparable current, valid license to practice in another state or jurisdiction;

(c) supplies a copy of the laws and rules in effect at the time of application to this state which shows that the standards in the other state are equivalent to or greater than the standards in effect in this state, as determined solely by the department; and

(d) provides official written or electronic verification directly from the other state(s) or jurisdiction(s) that the applicant's license is in good standing.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-102, 37-73-201, 37-73-203, 37-73-204, MCA

REASON: There is reasonable necessity to adopt a rule that allows qualified elevator mechanics from other jurisdictions to become licensed in Montana without requiring them to pass a written examination. As a result of discussions with industry representatives, the Department has become aware that spot shortages of qualified elevator mechanics are not uncommon on an industry-wide basis. With this knowledge in mind, the Department believes it necessary to provide a means by which licensed elevator mechanics from other jurisdictions can become more easily licensed in Montana and then be able to work in this state as necessary during shortages. The Department also believes it necessary to adopt this rule so that Montana's licensed elevator mechanics will not be unnecessarily restricted from working in other states or jurisdictions at times when they are needed or when the demand in Montana for their skills is at a cyclical low.

NEW RULE XV CONTINUING EDUCATION SPONSORS AND COURSES

(1) The department has the authority to approve continuing education sponsors and courses.

(2) Any person or entity may be a continuing education course sponsor. A sponsor may be a for-profit entity or a not-for-profit entity. As examples, a membership association or an organized labor training program may become a continuing education course sponsor.

(a) An entity wanting to be approved as a continuing education course sponsor must submit to the department a completed application.

(b) A sponsor must keep uniform records, for a period of 10 years, of attendance of licensees and these records must be available for inspection by the department at its request. Those records must include:

- (i) course title;
- (ii) course topic;
- (iii) course number;
- (iv) course credit hours;
- (v) date of course; and
- (vi) an attendance roster with the individual's license number(s).

(c) Course sponsors are responsible for the security of all attendance records or certificates of completion. Failure to do so constitutes grounds for suspension or revocation of the sponsor's approval.

(3) Continuing education course sponsors seeking course curriculum approval must submit a complete application as prescribed by the department and pay the required fee.

(a) To be approved, the course curriculum must conform to and reflect current standards and requirements governing the operation, construction, installation, alteration, inspection and repair of elevators and other conveyances.

(b) All course approvals expire May 1st of each renewal year.

(c) The department may withdraw its approval of any course if it determines the course material or sponsor is no longer in compliance with the requirements of this rule. If the department withdraws its approval of a course, it will give the sponsor written notification of the withdrawal, specifying the reasons for its decision.

(d) Representatives of the department may attend and monitor approved courses without charge, but without obtaining continuing education course credit.

(4) A course sponsor is responsible for ensuring that instructors are suitably qualified regarding the subject matter the instructor will present.

(5) Course sponsors must provide completion certificates to licensees. Course completion certificates must contain the following:

- (a) course sponsor name;
- (b) course title;
- (c) course number;
- (d) course credit hours; and
- (e) name of person completing the course.

(6) Course sponsors must submit a list of names and license numbers of the attendees to the department as prescribed by the department no later than 30 days after the date of course completion.

AUTH: 37-73-102, MCA
IMP: 37-73-102, 37-73-220, MCA

REASON: The Department believes it reasonable and necessary to adopt proposed NEW RULES XV and XVI to establish requirements for continuing education among Montana's elevator mechanic licensees and the sponsors of such continuing education courses. The department believes these rules are reasonable because they are very comparable with other department continuing education rules that have proven workable and understandable among those affected by them.

NEW RULE XVI CONTINUING EDUCATION CREDITS REQUIRED

(1) In order to renew any class of elevator mechanic license or elevator inspector license, the licensee must have completed at least eight hours of approved continuing education during the two-year license period immediately preceding the renewal.

(2) Licensees must present valid completion certificates to the department upon request by the department.

AUTH: 37-73-102, MCA
IMP: 37-73-102, 37-73-220, MCA

NEW RULE XVII RENEWALS (1) Renewal dates are biennial. The first two-year renewal cycle will commence on April 1, 2008. Renewal is the responsibility of the licensee and

although the department may send reminder notices to the last known address of the licensee, failure to receive such notices does not relieve licensees of their responsibility of renewal.

(2) The renewal form will contain a declaration made under the penalty of perjury of the laws of Montana attesting to having obtained the requisite continuing education.

(3) An audit of continuing education hours will be conducted by the department for each renewal cycle. Failure to obtain the requisite continuing education hours is grounds for license suspension or revocation.

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-220, MCA

NEW RULE XVIII LICENSE DISCIPLINE (1) The department will follow all statutes, rules, and policies relating to discipline of licensees under this chapter and 37-1-410, MCA.

(2) In addition to the activities set forth in 37-1-410, MCA, the following activities are also deemed by the department to be unprofessional conduct:

(a) uncorrected violations of the Montana state elevator code as adopted by the department of labor and industry's building codes bureau;

(b) failing to comply with all provisions of state law relating to workers' compensation insurance, unemployment insurance and independent contracting; and

(c) failure to comply with continuing education requirements set forth in [NEW RULE XVI].

(3) Upon findings of unprofessional conduct as defined in (1) and determined in accordance with the Montana Administrative Procedure Act, the department may impose sanctions including, but not limited to, those allowed by or listed in 37-1-406, MCA.

AUTH: 37-73-102, MCA

IMP: 37-1-402, 37-1-403, 37-1-404, 37-1-405, 37-1-406, 37-1-409, 37-1-410, 37-73-102, 37-73-225, 37-73-226, 37-73-227, MCA

REASON: The Department believes that this rule is reasonable and necessary as a means of expressly notifying and informing elevator contractor and mechanic licensees and elevator industry consumers that it intends to fully utilize the quasi-judicial authority it is granted in and by Title 37, chapter 1, part 1, MCA. The department believes the rule is necessary for due process purposes to identify other specific bases for imposing licensing discipline.

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 the Elevator Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdel@mt.gov, and must be received no later than 5:00 p.m., December 22, 2005.

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

7. The Elevator Licensing Program maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Program. 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 Elevator Licensing Program administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Elevator Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdel@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

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

9. Bernie Jacobs, attorney, has been designated to preside over and conduct this hearing.

/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 November 14, 2005

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.144.411) ON PROPOSED AMENDMENT
fees, and ARM 24.144.2102)
renewal of license or)
endorsement)

TO: All Concerned Persons

1. On December 15, 2005, at 1:00 p.m., a public hearing will be held in room B-07 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact the Fire Prevention Licensing Program no later than 5:00 p.m., December 9, 2005, to advise us of the nature of the accommodation you need. Please contact Wayne Johnston, Fire Prevention Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdfpl@mt.gov.

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

24.144.411 PROCESSING FEE AND PRORATED FEES (1) ~~In the year of first application, the applicant shall pay an application processing fee in the amount of \$100 for a license and \$25 for an endorsement. The processing fee shall be in addition to the annual license and/or endorsement fee, and shall not be prorated.~~

~~(2) Annual license and endorsement fees in the first year of license or endorsement shall be prorated as follows:~~

~~(a) for new applications postmarked or hand delivered prior to September 1 of the license year in question, the annual fee will be charged as set forth in 50-39-105, MCA;~~

~~(b) for new applications postmarked or hand delivered on September 1 through November 30, inclusive, of the license year in question, the annual fee will be charged at 75% of the fee set forth in 50-39-105, MCA;~~

~~(c) for new applications postmarked or hand delivered on December 1 through April 15, inclusive, of the license year in question, the annual fee will be charged at 50% of the fee set forth in 50-39-105, MCA; and~~

~~(d) for applications postmarked or hand delivered after April 15 and before May 31 of the license year in question, the annual fee will be charged as set forth in 50-39-105, MCA, and will cover the remainder of the licensing year in which~~

~~application is made, as well as the license year immediately following the year in which application is made.~~

<u>(1) Endorsement to sell, service, or install fire alarm systems</u>	<u>\$100</u>
<u>(2) Endorsement to sell, service, or install special agent fire suppression systems</u>	<u>100</u>
<u>(3) Endorsement to sell, service, or install fire extinguishing systems</u>	<u>100</u>
<u>(4) Business entity license</u>	<u>200</u>
<u>(5) One-time processing fee in year of first application for endorsement</u>	<u>25</u>
<u>(6) One-time processing fee in year of first application for license</u>	<u>100</u>
<u>(7) Renewal of endorsement (per endorsement)</u>	<u>100</u>
<u>(8) Renewal of license</u>	<u>200</u>

AUTH: 50-39-107, MCA
IMP: 50-39-102, ~~50-39-105~~, MCA

REASON: The 2005 Montana Legislature enacted Chapter 467, Laws of 2005 (House Bill 182), an act generally revising and consolidating professional and occupational licensing laws and distinguishing between department and board or program duties regarding licensure, examination and fees. The bill was signed by the Governor on April 28, 2005 and became effective on July 1, 2005.

It is reasonable and necessary for the Department to amend ARM 24.144.411 in order to place the Fire Prevention Licensing Program's (Program) fee structure into rule as a result of the 2005 repeal of the Program's fee statute, 50-39-105, MCA, via House Bill 182. Pursuant to 37-1-134, MCA, the Department is required to set fees commensurate with costs. Amendment of this rule is necessary to prevent the Program from operating without a critical income source thus resulting in a significant cash deficit. This rule amendment will fund existing services only, as no new services are proposed at this time.

The current total Program revenue for FY 2005 was \$64,560.00; the beginning cash balance in FY 2005 was \$25,084.25; the cash balance at the end of FY 2005 was \$39,022.39; and the total expenditures for FY 2005 were \$54,948.63.

The majority of the Program license, endorsement and application processing fees remain unchanged from the fees formerly in statute. Renewal fees were not previously enunciated in the statute, but the fees charged by the Program for renewals remain unchanged. The prorated fee structure is being deleted in order to simplify the application process and standardize the Program's fee structure. An estimated annual increase in revenue of \$1,250.00 is anticipated as a result of the deletion of the prorated fee structure. This increase is based upon an estimated 50 applicants having an average annual fee increase of \$25.00 per applicant.

Implementation cites are being amended to accurately reflect the statute implemented through the rule and to delete reference to a repealed statute.

24.144.2102 RENEWAL OF LICENSE OR ENDORSEMENT (1) through (3) remain the same.

~~(4) For licenses and endorsements that were scheduled for a renewal date other than May 31 prior to March 22, 1996, the department will reduce the 1996 annual license fee on a pro-rated basis, 1/12th of the annual fee per month (1/12th reduction for licenses or endorsements scheduled to renew in June of 1996, 2/12ths reduction for licenses or endorsements scheduled to renew in July of 1996, and so on), according to the month in which the license or endorsement was previously scheduled to renew.~~

~~(5) (4) Upon receipt of the application, the department shall grant a renewal of the license or endorsement if it appears that the applicant meets all of the requirements under the provisions of Title 50, chapter 39, part 1, MCA, and these rules, has committed no act which would constitute grounds for suspension or revocation under 50-39-104 37-1-406, MCA, and remains properly equipped and staffed to provide the services intended to be performed.~~

~~(6) (5) Except for applications for the 1996 annual license covered under (4) above, each application Applications for renewal must be accompanied by the fee(s) specified under 50-39-105, MCA ARM 24.144.411.~~

AUTH: 50-39-107, MCA

IMP: 50-39-102, ~~50-39-105~~, MCA

REASON: It is reasonable and necessary for the Department to amend ARM 24.144.2102 to delete outdated language pertaining to 1996 renewals that is no longer applicable to the Program. The amendment is necessary to correctly reference the proposed location of the fee schedule in rule, following the repeal in 2005 of the former fee statute, 50-39-105, MCA, pursuant to House Bill 182. An erroneous statutory citation to 50-39-104, MCA, repealed in 1997, is also being corrected.

Implementation cites are being amended to accurately reflect the statute implemented through the rule and to delete reference to a repealed statute.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to: Wayne Johnston, Fire Prevention Licensing Program, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdfpl@mt.gov and must be received no later than 5:00 p.m., December 23, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department's web site on the World Wide Web at <http://fireprotectionlicense.mt.gov>, in the Rules Notices

section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

8. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

DEPARTMENT OF LABOR AND INDUSTRY
Fire Prevention and Fireworks
Wholesalers Program

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

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

Certified to the Secretary of State November 14, 2005.

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

In the matter of the proposed)	NOTICE OF PROPOSED
amendment of ARM 36.12.101,)	AMENDMENT
pertaining to the municipal)	
use of water)	NO PUBLIC HEARING
)	CONTEMPLATED

To: All Concerned Persons

1. On December 23, 2005, the Department of Natural Resources and Conservation proposes to amend ARM 36.12.101 pertaining to the above-stated rule.

2. The Department of Natural Resources and Conservation 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 no later than 5:00 p.m., December 14, 2005, to advise us of the nature of the accommodation that you need. Please contact Kim Overcast, Department of Natural Resources and Conservation, 1424 Ninth Avenue, Helena MT 59620-1601; telephone (406) 444-6999; fax (406) 444-5918; or email to kovercast@mt.gov.

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

36.12.101 DEFINITIONS Unless the context requires otherwise, to aid in the implementation of the Montana Water Use Act and as used in these rules:

(1) through (38) remain the same.

~~(39) "Municipal use" means water appropriated by and provided for those in and around a municipality or an unincorporated town.~~

(40) through (78) remain the same, but are renumbered (39) through (77).

AUTH: 85-2-113, MCA

IMP: 85-2-113, 85-2-301 through 85-2-319, 85-2-321 through 85-2-323, 85-2-329, through 85-2-331, 85-2-335 through 85-2-338, 85-2-340 through 85-2-344, 85-2-350, 85-2-351, 85-3-401, 85-2-402, 85-2-407, 85-2-408, 8-52-410 through 85-2-413, 85-2-415 through 85-2-419, 85-2-436, 85-2-437, 85-2-439, 85-2-501 through 85-2-514, 85-2-518, 85-2-520, MCA

4. The purpose of the proposed amendment is to eliminate a section that may conflict with applicable law. The definition was revised as of January 1, 2005. The Department is repealing the section pending further study. A new section will be adopted at a later date.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendment in writing to Kim Overcast, Department of Natural Resources and Conservation, 1424 Ninth Avenue, Helena, MT 59620-1601; fax (406) 444-5918; or email kovercast@mt.gov on or before December 21, 2005.

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 they have to Kim Overcast, Department of Natural Resources and Conservation, 1424 Ninth Avenue, Helena, MT 59620-1601; fax (406) 444-5918; or email kovercast@mt.gov. A written request for hearing must be received on or before December 21, 2005.

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 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 no 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 25 based on the number of water rights permits received.

8. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources or combination thereof. Such written request may be mailed or delivered to Legal Unit, Department of Natural Resources and Conservation, P.O. Box 201601, 1625 11th Avenue, Helena, MT 59620-1601, faxed to the office at (406) 444-2684, or may be 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.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/ Mary Sexton
MARY SEXTON
Director

/s/ Anne Yates
ANNE YATES
Rule Reviewer

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

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

In the matter of the)	NOTICE OF PUBLIC HEARING
amendment of ARM 37.86.1105)	ON PROPOSED AMENDMENT
pertaining to medicaid)	
outpatient drugs, pharmacy)	
reimbursement for Medicare)	
Part D dual eligibles)	

TO: All Interested Persons

1. On December 16, 2005, at 11:00 a.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, 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 December 5, 2005, 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; Email 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.

37.86.1105 OUTPATIENT DRUGS, REIMBURSEMENT (1) remains the same.

(2) The dispensing fee for filling prescriptions shall be determined for each pharmacy provider annually.

(a) The dispensing fee is based on the pharmacy's average cost of filling a prescriptions. The average cost of filling a prescription will be based on the direct and indirect costs that can be allocated to the cost of the prescription department and that of filling a prescription, as determined from the Montana dispensing fee questionnaire. A provider's failure to submit, upon request, the dispensing fee questionnaire properly completed will result in the assignment of the minimum dispensing fee offered. A copy of the Montana dispensing fee questionnaire is available upon request from the department.

(b) through (d) remain the same.

(3) In-state pharmacy providers that are new to the Montana medicaid program will be assigned an interim \$3.50 dispensing fee until a dispensing fee questionnaire, as provided in (2) ~~above~~, can be completed for six months of operation. At that time, a new dispensing fee will be assigned which will be

the lower of the dispensing fee calculated in accordance with (2) for the pharmacy or the \$4.70 dispensing fee. Failure to comply with the six months dispensing fee questionnaire requirement will result in assignment of a dispensing fee of \$2.00.

(4) through (5)(b) remain the same.

(6) Dual eligible recipients qualify for pharmaceutical drug coverage under medicare Part D prescription drug plans (PDPs) on January 1, 2006 under 42 USC 1302, 1395w-101 through 1395w-152 (2005), the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA). The MMA allows PDPs to exclude from coverage the drug classes listed in 42 USC 1396r-8(d)(2) (2005). Montana medicaid may also exclude these drugs and has chosen to do so except for limited nonprescription drugs, barbiturates, and benzodiazepines identified on the department's drug formulary. On January 1, 2006, Montana Medicaid's reimbursement for outpatient drugs provided to dually eligible recipients, for which third party payment is not available, will be limited to barbiturates, benzodiazepines, and nonprescription drugs identified on the department's drug formulary.

AUTH: Sec. 53-2-201 and 53-6-113, MCA

IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

3. Beginning January 1, 2006, Medicare prescription drug plans (PDPs) will be available to people with Medicare coverage. This is a federal program created by the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA) 42 USC 1302, 1395w-101 through 1395w-152, and 1395hh. The PDPs are also referred to as "Medicare Part D benefits".

"Dual eligibles" are individuals who are entitled to Medicare Part A and/or Part B and are eligible for some form of Medicaid benefit. Medicare Part A coverage pays for hospitalization costs. Medicare Part B coverage pays for physician services, lab and x-ray services, durable medical equipment, and outpatient and other services. Under the MMA, dual eligibles will also automatically qualify for Medicare Part D benefits.

The Federal Government, acting through the Centers for Medicare and Medicaid Services (CMS), automatically and randomly enrolls dual eligible individuals in a PDP if they do not choose a plan. CMS will notify these individuals which Medicare PDP they will be enrolled in on January 1, 2006, if they take no action prior to December 31, 2005.

This rule change is necessary to coordinate the state Medicaid pharmaceutical benefit with this change in the Federal Medicare program. As of January 1, 2006, dual eligible individual's pharmaceutical coverage will be provided by a PDP.

In addition to establishing Medicare PDPs and automatically enrolling dual eligibles, the MMA allows insurers to exclude certain drugs from PDP coverage. Federal law also allows state

Medicaid plans to exclude these drugs. Montana Medicaid has excluded all the drugs it may exclude except some nonprescription drugs, barbiturates, and benzodiazepines identified on the department's drug formulary. The Montana Medicaid program currently covers these drugs. It will continue to provide these drugs to dual eligibles because the drugs will not be covered under a PDP. All other pharmaceutical benefits will be provided through PDP coverage.

The Department chooses to require people eligible for Medicare who do not have other creditable prescription drug coverage to enroll in a Medicare PDP in order that available state funds will be used to provide benefits to the most people in the most cost-effective manner.

In addition, the department pays to Medicare a monthly state contribution for each person in the state who has Medicaid and Medicare, to pay for prescription drug coverage. Medicaid therefor cannot continue to pay for prescription drug coverage after December 31, 2005, for people with both Medicaid and Medicare. There will no longer be federal match available for Medicare Part D covered drugs under Montana Medicaid, other than the limited drug classes that the Department will continue to cover.

Other alternative considered

One alternative to the proposed amendment would be to leave the rule as it stands. This alternative was rejected as too costly and an inefficient use of available funds.

The second alternative would be to require Medicare beneficiaries to enroll in a Medicare approved PDP while Medicaid continues to pay for prescription drugs not covered by the beneficiaries' PDP. This alternative was rejected because the Medicare prescription drug benefit is comprehensive and has built-in beneficiary protections with oversight by CMS. CMS assures that Medicare beneficiaries will have access to all medically necessary prescription drugs and access to quick and efficient exceptions and appeals processes.

There is no fiscal impact as a result of the proposed changes.

4. These rule changes will be applied retroactively to January 1, 2006.

5. 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 December 22, 2005. Data, views or arguments may also be submitted by facsimile to (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.

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

Russ Cater
Rule Reviewer

Joan Miles
Director, Public Health and
Human Services

Certified to the Secretary of State November 14, 2005.

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 38.5.2202 and) ON PROPOSED AMENDMENT
38.5.2302, pertaining to pipeline)
safety)

TO: All Concerned Persons

1. On December 23, 2005, at 9:00 a.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 rules.

2. The PSC 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 December 16, 2005, to advise us of the nature of the accommodation that you need. Please contact Connie Jones, PSC 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 rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

38.5.2202 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS (1) The commission adopts and incorporates by reference the U.S. Department of Transportation (DOT) Pipeline Safety Regulations, Code of Federal Regulations (CFR), Title 49, chapter 1, subchapter D, parts 191, 192, and 193, including all revisions and amendments enacted by DOT on or before ~~October 31, 2004~~ October 31, 2005. A copy of the referenced regulations may be obtained from United States Department of Transportation, Office of Pipeline Safety, Western Region, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA
IMP: 69-3-207, MCA

38.5.2302 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS -- DRUG AND ALCOHOL TESTING AND PREVENTION PROGRAMS (1) Except as otherwise provided in this subchapter, the commission adopts and incorporates by reference the DOT Pipeline Safety Regulations, Drug and Alcohol Testing, 49 CFR 199, including all revisions and amendments enacted by DOT on or before ~~October 31, 2004~~ October 31, 2005. A copy of the referenced CFRs is available from the United States Department

of Transportation, Office of Pipeline Safety, Western Region, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA

IMP: 69-3-207, MCA

4. Amendment (annual update) of ARM 38.5.2202 and 38.5.2302 is necessary to allow the PSC to administer the most recent version of federal rules applicable in the PSC's administration of all federal aspects of Montana's pipeline safety programs.

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 December 23, 2005, or may be submitted to the PSC through the PSC'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 December 23, 2005. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-05.11.5-RUL").

6. The PSC, 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 PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. 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; 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, or may be made by completing a request form at any rules hearing held by the PSC.

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

/s/ Greg Jergeson
Greg Jergeson, Chairman

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

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

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
adoption of New Rule I) ON PROPOSED ADOPTION
relating to manufactured homes)
and real property taxes)

TO: All Concerned Persons

1. On December 19, 2005, at 1:00 p.m., a public hearing will be held in the Director's Office (Fourth Floor) Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the adoption of the above-stated rules relating to real property taxes.

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

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Revenue no later than 5:00 p.m., December 12, 2005, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-3696; or e-mail canderson@mt.gov.

3. The proposed new rule does not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rule provides as follows:

NEW RULE I CLASSIFICATION CHANGE FOR MANUFACTURED HOMES

(1) To change the status of the tax classification of a manufactured home, as required by 15-1-116 and 15-1-118, MCA, an owner of a manufactured home may obtain a form titled "statement of intent to declare a manufactured home real property" or "statement of reversal of declaration" from the county clerk and recorder.

(2) The owner of record of a manufactured home must provide the department with a copy of either of the documents in (1), which have been certified by the clerk and recorder, in order to change the tax status of a manufactured home from real to personal property or from personal to real property.

(3) For tax purposes, the classification change becomes effective the January following notification of completion by the department of its review and approval.

AUTH: 15-1-201, MCA

IMP: 15-1-116 and 15-1-118, MCA

REASONABLE NECESSITY: The department is proposing to adopt

New Rule I because the 59th legislature enacted a change in the law through Senate Bill 261 to allow taxpayers to elect to change the classification of a manufactured home to real property. New Rule I clarifies where a taxpayer may obtain the forms to change the tax classification of a manufactured home. It also explains that a copy of the form requesting the change must be filed with the department. The department will review the request and advise the taxpayer of the change. The classification change will become effective the January after the department receives and approves the request.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to:

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 7701
Helena, Montana 59604-7701

and must be received no later than December 23, 2005.

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

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

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

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

Certified to Secretary of State November 14, 2005

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

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 12.5.201 pertaining to)
removing the peregrine falcon)
from the state endangered)
species list)

TO: All Concerned Persons

1. On October 6, 2005, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-316 regarding the public hearing on the proposed amendment of the above-stated rule at page 1841 of the 2005 Montana Administrative Register, Issue Number 19.

2. The department has amended ARM 12.5.201 exactly as proposed.

3. The following comment was received and appears with the department's response:

Comment 1: The Montana Falconers Association stated that it wholeheartedly supports the state delisting of the falcon to make the state endangered species list consistent with the federal list. The organization also supports state management and monitoring of the falcon population. The delisting of the falcon is one of the most successful endangered species stories. The success is due to the hard work of the Peregrine Falcon Recovery Team and department biologists.

Response: The department concurs and thanks the individuals and organizations whose efforts made this accomplishment possible.

By: /s/ Larry G. Peterman for By: /s/ John F. Lynch
Director Rule Reviewer
Department of Fish,
Wildlife and Parks

Certified to the Secretary of State November 14, 2005

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

In the matter of the repeal) NOTICE OF REPEAL
of ARM 12.9.211 pertaining to)
the abandonment of Teton-)
Spring Creek Bird Preserve)

TO: All Concerned Persons

1. On September 8, 2005, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-315 regarding the repeal of the above-stated rule at page 1646 of the 2005 Montana Administrative Register, Issue Number 17.

2. The commission repealed ARM 12.9.211 as proposed.

3. No comments or testimony were received.

By: /s/ Tim Mulligan
Vice Chairman
Fish, Wildlife and Parks
Commission

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

Certified to the Secretary of State November 14, 2005

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

In the matter of the) NOTICE OF ADOPTION
adoption of a new rule)
pertaining to a no wake)
zone on Georgetown Lake)

TO: All Concerned Persons

1. On September 8, 2005, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-314 regarding the public hearing on the proposed adoption of the above-stated rule at page 1644 of the 2005 Montana Administrative Register, Issue Number 17.

2. The commission has adopted the new rule as proposed. Since the recreational water rules are organized by counties and Georgetown Lake extends into two different counties, the new rule was placed in two different subchapters. In the Granite County subchapter, the new rule was numbered ARM 12.11.1901. In the Deer Lodge County subchapter the new rule was numbered ARM 12.11.2710. ARM 12.11.1901 and 12.11.2710 are identical.

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

COMMENT 1: Five individuals expressed support for the proposed no wake zone. For all of these individuals, public safety was the main concern. These individuals believed that a no wake zone is needed to protect anglers/float anglers from being struck by motorized watercraft. There was considerable concern about the amount of traffic that may occur due to the department's development in Stuart Mill Bay, thus the no wake zone seemed a wise preventative measure.

RESPONSE: The commission concurs and appreciates the support of this rule.

/s/ Steve Doherty
Steve Doherty
Chairman, Fish, Wildlife and
Parks Commission

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

Certified to the Secretary of State November 14, 2005

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION
of New Rules I through V pertaining)
to the administration of the)
address confidentiality program)

TO: All Concerned Persons

1. On September 22, 2005, the Department of Justice published MAR Notice No. 23-15-172 regarding the public hearing on the proposed adoption of the above-stated rules at page 1731, 2005 Montana Administrative Register, Issue No. 18.

2. The Department has adopted New Rules I through V (23.15.401 through 23.15.405) as proposed.

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

COMMENT 1: The department received written comment supporting the rules as written.

RESPONSE 1: No response seems necessary.

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

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State November 14, 2005.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT
of ARM 23.16.102, 23.16.1716,)	
23.16.1914, 23.16.1915,)	
23.16.1916, and 23.16.2001,)	
concerning the effective date)	
for forms relating to gambling)	
operator licenses, sports tab)	
game seller licenses,)	
distributor's licenses, route)	
operator's licenses,)	
manufacturer's licenses, and)	
manufacturer of illegal gambling)	
devices licenses)	

TO: All Concerned Persons

1. On October 6, 2005, the Department of Justice published MAR Notice No. 23-16-173 regarding the public hearing on the proposed amendment of the above-stated rules at page 1860, 2005 Montana Administrative Register, Issue Number 19.

2. The Department has amended ARM 23.16.102, 23.16.1716, 23.16.1914, 23.16.1915, 23.16.1916, and 23.16.2001 exactly as proposed.

3. A public hearing was held on November 2, 2005. No comments or testimony were received.

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

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State November 14, 2005.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 1.2.419)
regarding the scheduled dates)
for the 2006 Montana)
Administrative Register and)
1.2.420 regarding submission)
dates for replacement pages)

TO: All Concerned Persons

1. On October 6, 2005, the Secretary of State published MAR Notice No. 44-2-130 regarding the public hearing on the proposed amendment of the above-stated rules at page 1903 of the 2005 Montana Administrative Register, issue number 19.

2. The Secretary of State has amended the rules exactly as proposed.

3. No comments or testimony were received.

/s/ Brad Johnson
BRAD JOHNSON
Secretary of State

/s/ Mark Simonich
MARK SIMONICH
Rule Reviewer

Dated this 14th day of November 2005.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

and

- < Office of Economic Development.

Education and Local Government Interim Committee:

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

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

- < Department of Public Health and Human Services.

Law and Justice Interim Committee:

- < Department of Corrections; and
- < Department of Justice.

Energy and Telecommunications Interim Committee:

< Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

< Department of Revenue; and

< Department of Transportation.

State Administration, and Veterans' Affairs Interim Committee:

< Department of Administration;

< Department of Military Affairs; and

< Office of the Secretary of State.

Environmental Quality Council:

< Department of Environmental Quality;

< Department of Fish, Wildlife, and Parks; and

< Department of Natural Resources and Conservation.

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2005. This table includes those rules adopted during the period July 1, 2005 through September 30, 2005 and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2005, 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 2004 and 2005 Montana Administrative Registers.

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

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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in October 2005 appear. Vacancies scheduled to appear from December 1, 2005, through February 28, 2006, 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 November 1, 2005.

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

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2005

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Barbers and Cosmetologists (Labor and Industry)			
Ms. Maxine Collins Helena	Governor	reappointed	10/13/2005 10/1/2008
Qualifications (if required): manicurist			
Ms. Delores Lund Plentywood	Governor	reappointed	10/13/2005 10/1/2008
Qualifications (if required): public representative			
Board of Realty Regulation (Labor and Industry)			
Mr. Dudley L. Tyler Livingston	Governor	Hammond	10/6/2005 5/9/2009
Qualifications (if required): real estate salesperson			
Capitol Complex Advisory Council (Administration)			
Ms. Sandi Miller Helena	Governor	Etchart	10/6/2005 0/0/0
Qualifications (if required): public representative			
Corrections Advisory Council (Corrections)			
Mr. Allan Underdal Shelby	Governor	not listed	10/4/2005 9/8/2007
Qualifications (if required): public representative			
Electronic Government Advisory Council (Administration)			
Mr. Shannon Hanson Whitefish	Governor	Mackay	10/5/2005 6/18/2007
Qualifications (if required): public representative			
Mr. Rick McIntyre Billings	Governor	Hagener	10/5/2005 6/18/2007
Qualifications (if required): agency representative			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2005

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Electronic Government Advisory Council (Administration) cont.			
Ms. Jeanne Murphy Wolf Creek	Governor	Keating	10/5/2005 6/18/2007
Qualifications (if required): agency representative			
Ms. Cheryl Patton Great Falls	Governor	Vuckovich	10/5/2005 6/18/2007
Qualifications (if required): public representative			
Ms. Vickie Zeier Missoula	Governor	Reno	10/5/2005 6/18/2007
Qualifications (if required): local government official			
Judicial Standards Commission (Justice)			
Mr. John Murphy Great Falls	Governor	Evans	10/27/2005 7/1/2009
Qualifications (if required): public representative			
Lewis and Clark Bicentennial Commission (Historical Society)			
Mr. Darrell Kipp Browning	Governor	reappointed	10/4/2005 12/31/2007
Qualifications (if required): Tribal representative			
Mr. Homer Staves Billings	Governor	reappointed	10/4/2005 12/31/2007
Qualifications (if required): public representative			
Ms. Betty Stone Glasgow	Governor	reappointed	10/4/2005 12/31/2007
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2005

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
MSU Billings Executive Board (University System)			
Ms. Tauzha Rukstad Shepherd	Governor	Oven	10/13/2005 4/15/2008
Qualifications (if required): public representative			
MSU Great Falls College of Technology Executive Board (University System)			
Mr. Dave Warner Great Falls	Governor	King	10/13/2005 4/15/2008
Qualifications (if required): public representative			
MSU Northern Local Executive Board (University System)			
Ms. Pamela Hillery Havre	Governor	Henry	10/13/2005 4/15/2008
Qualifications (if required): public representative			
Montana Consensus Council (Administration)			
Mr. Nick Murnion Jordan	Governor	Wert	10/13/2005 7/1/2007
Qualifications (if required): public representative			
Mr. LeRoy Not Afraid Crow Agency	Governor	reappointed	10/13/2005 7/1/2007
Qualifications (if required): public representative			
Mr. Van Wolverton Alberton	Governor	Denton	10/13/2005 7/1/2007
Qualifications (if required): public representative			
Ms. Eleanor Yellowrobe Havre	Governor	Sesso	10/13/2005 7/1/2007
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2005

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Public Safety Communications Council (Administration)			
Commissioner Kathy Bessette Havre	Governor	Blattie	10/31/2005 6/14/2006
Qualifications (if required): local government representative			
Mr. Chuck Lee Baker	Governor	Ellis	10/31/2005 6/14/2006
Qualifications (if required): representative of the 9-1-1 community			
Montana State University Executive Board (University System)			
Mr. Bill Bryan Bozeman	Governor	Oldenburger	10/13/2005 4/15/2008
Qualifications (if required): public representative			
Telecommunications Advisory Council Services for Persons with Disabilities (Public Health and Human Services)			
Ms. Kristen Bruner-Kober Billings	Governor	Harris	10/12/2005 7/1/2008
Qualifications (if required): audiologist			
Mr. Charles Charette Lame Deer	Governor	Van Tighem	10/12/2005 7/1/2008
Qualifications (if required): hearing disabled			
Ms. Colette Custer Plentywood	Governor	Sterling	10/12/2005 7/1/2008
Qualifications (if required): independent local exchange company representative			
Ms. Char Harasymczuk Billings	Governor	reappointed	10/12/2005 7/1/2008
Qualifications (if required): hearing disabled			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2005

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
UM Helena College of Technology Executive Board (University System)			
Mr. Ray Peck Helena	Governor	Schindler	10/13/2005 4/15/2008
Qualifications (if required): public representative			
UM Montana Tech Executive Board (University System)			
Mr. Doug Peoples Butte	Governor	Berube	10/13/2005 4/15/2008
Qualifications (if required): public representative			
UM Western Executive Board (University System)			
Ms. Mary Ann Sharon Dillon	Governor	Wilkerson	10/13/2005 4/15/2008
Qualifications (if required): public representative			
University of Montana Executive Board (University System)			
Ms. Deborah Frandsen Missoula	Governor	Roberts	10/13/2005 4/15/2008
Qualifications (if required): public representative			
Vocational Rehabilitation Council (Public Health and Human Services)			
Mr. Dan Burke Missoula	Governor	Tompkins	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			
Ms. Jacqueline Colombe Basin	Governor	Clasby	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			
Ms. Faith Dawson Missoula	Governor	Hermanson	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2005

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Vocational Rehabilitation Council (Public Health and Human Services) cont.			
Ms. Dalayna Faught Missoula	Governor	Varnum	10/4/2005 10/1/2008
Qualifications (if required): vocational rehabilitation counselor			
Mr. Kermit Horn Harlem	Governor	Wagner	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			
Ms. Sharla LaFountain Lewistown	Governor	not listed	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			
Mr. Dan Miles Butte	Governor	Beaudry	10/4/2005 10/1/2008
Qualifications (if required): Workforce Investment Board member			
Mr. Paul Pearson Anaconda	Governor	Elliott	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			
Ms. Arlene Templer Pablo	Governor	Albert	10/4/2005 10/1/2008
Qualifications (if required): Section 121 representative			
Ms. Michelle Williamson Pablo	Governor	not listed	10/4/2005 10/1/2008
Qualifications (if required): representative of the disabilities community			

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alternative Livestock Advisory Council (Fish, Wildlife, and Parks) Dr. Deborah Yarborough, Kalispell Qualifications (if required): veterinarian	Governor	1/1/2006
Ms. Rebecca Mesaros, Cascade Qualifications (if required): representative of the alternative livestock industry	Governor	1/1/2006
Mr. Stanley Rauch, Victor Qualifications (if required): sportsperson	Governor	1/1/2006
Appellate Defender Commission (Administration) Judge Richard A. Simonton, Glendive Qualifications (if required): district judge	Governor	1/1/2006
Mr. Mike Sherwood, Missoula Qualifications (if required): attorney	Governor	1/1/2006
Board of Chiropractors (Labor and Industry) Dr. Pamela Blanchard, Great Falls Qualifications (if required): chiropractor	Governor	1/1/2006
Ms. Jo Ausk, Terry Qualifications (if required): public member	Governor	1/1/2006
Board of Horse Racing (Livestock) Mr. Tim Donnelly, Miles City Qualifications (if required): representative of District 1	Governor	1/20/2006
Ms. Barbara Cole, Shelby Qualifications (if required): representative of District 3	Governor	1/20/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Occupational Therapy Practice (Labor and Industry) Ms. Danette Rasmussen, Antelope Qualifications (if required): public member	Governor	12/31/2005
Board of Pardons and Parole (Corrections) Ms. Roxanne Wilson, Busby Qualifications (if required): public member with knowledge of Indian culture	Governor	1/1/2006
Mr. Darryl Dupuis, Polson Qualifications (if required): auxiliary member with knowledge of American Indian culture and problems	Governor	1/1/2006
Ms. Margaret Hall, Pablo Qualifications (if required): Indian culture knowledge	Governor	1/2/2006
Board of Public Education (Education) Rep. Gay Ann Masolo, Townsend Qualifications (if required): Republican from District 1	Governor	2/1/2006
Mr. Randal Morris, Butte Qualifications (if required): representative of District 2 and an Independent	Governor	2/1/2006
Board of Regents of Higher Education (Education) Ms. Lynn Morrison-Hamilton, Havre Qualifications (if required): representative of District 3 and a Democrat	Governor	2/1/2006
Board of Speech-Language Pathologists and Audiologists (Labor and Industry) Ms. Marilyn Thaden, Butte Qualifications (if required): speech-language pathologist	Governor	12/31/2005
Ms. Jennifer L. Hartze, Belgrade Qualifications (if required): audiologist	Governor	12/31/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capital Finance Advisory Council (Administration)		
Mr. Dick Anderson, Helena Qualifications (if required): representative of the Board of Investments	Governor	2/9/2006
Sen. Bea McCarthy, Anaconda Qualifications (if required): legislator	Governor	2/9/2006
Sen. Chuck Swysgood, Helena Qualifications (if required): representative of the Budget Office	Governor	2/9/2006
Sen. Royal C. Johnson, Billings Qualifications (if required): legislator	Governor	2/9/2006
Mr. Jim Currie, Helena Qualifications (if required): representative of the Department of Transportation	Governor	2/9/2006
Mr. Bob Thomas, Stevensville Qualifications (if required): representative of the Board of Housing	Governor	2/9/2006
Mr. Mark A. Simonich, Helena Qualifications (if required): representative of the Department of Commerce	Governor	2/9/2006
Mr. W. Ralph Peck, Helena Qualifications (if required): representative of the Department of Agriculture	Governor	2/9/2006
Mr. Bud Clinch, Helena Qualifications (if required): representative of the Department of Natural Resources and Conservation	Governor	2/9/2006
Mr. Mark Semmens, Great Falls Qualifications (if required): representative of the Board of Regents	Governor	2/9/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capital Finance Advisory Council (Administration) cont.		
Ms. Jan Sensibaugh, Helena Qualifications (if required): representative of the Department of Environmental Quality	Governor	2/9/2006
Ms. Michelle Barstad, Helena Qualifications (if required): representative of the Montana Facility Finance Authority	Governor	2/9/2006
Department of Corrections Advisory Council (Corrections)		
Rep. Dorothy Bradley, Bozeman Qualifications (if required): public member	Governor	12/12/2005
Sen. Mike Cooney, Helena Qualifications (if required): public member	Governor	12/12/2005
Sen. Jim Shockley, Victor Qualifications (if required): public member	Governor	12/12/2005
Sen. Steve Gallus, Butte Qualifications (if required): public member	Governor	12/12/2005
Ms. Gloria Edwards, Bozeman Qualifications (if required): public member	Governor	12/12/2005
Ms. Carol Stratemeyer, Hamilton Qualifications (if required): public member	Governor	12/12/2005
Developmental Disabilities Planning and Advisory Council (Commerce)		
Ms. Sylvia Danforth, Miles City Qualifications (if required): advocacy program representative	Governor	1/1/2006
Mr. Dan McCarthy, Helena Qualifications (if required): agency representative	Governor	1/1/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Commerce) cont. Dr. R. Timm Vogelsberg, Missoula Qualifications (if required): advocacy program representative	Governor	1/1/2006
Ms. Bernadette Franks-Ongoy, Helena Qualifications (if required): advocacy program representative	Governor	1/1/2006
Ms. Kimm Evermann, Helena Qualifications (if required): agency representative	Governor	1/1/2006
Mr. Dennis Moore, Billings Qualifications (if required): advocacy program representative	Governor	1/1/2006
Ms. JoAnn Dotson, Helena Qualifications (if required): agency representative	Governor	1/1/2006
Mr. Jeff Sturm, Helena Qualifications (if required): agency representative	Governor	1/1/2006
Governor's Council on Worklife Wellness (Public Health and Human Services) Mr. John Pipe, Wolf Point Qualifications (if required): Tribal Health Government Representative	Governor	12/2/2005
Ms. Diane West, Helena Qualifications (if required): State Agency Representative	Governor	12/2/2005
Ms. Maggie Bullock, Helena Qualifications (if required): State Agency Representative	Governor	12/2/2005
Ms. Jill Young, Missoula Qualifications (if required): Health Care Representative	Governor	12/2/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Worklife Wellness (Public Health and Human Services) cont.		
Mr. Brad Roy, Kalispell Qualifications (if required): Health Care Representative	Governor	12/2/2005
Mr. Kurt Keller, Bozeman Qualifications (if required): Higher Education Representative	Governor	12/2/2005
Mr. James Lindsey, Helena Qualifications (if required): Insurer	Governor	12/2/2005
Ms. Gail Mooney, Helena Qualifications (if required): Public School Staff	Governor	12/2/2005
Mr. Cas Sprouffske, Helena Qualifications (if required): Retail Sales Service Representative	Governor	12/2/2005
Mr. Jim Kaiser, Bismarck Qualifications (if required): Retail Sales Service Representative	Governor	12/2/2005
Ms. Vonda Lancaster, Billings Qualifications (if required): Special Interest Group Representative	Governor	12/2/2005
Mr. Cliff Christian, Helena Qualifications (if required): Special Interest Group Representative	Governor	12/2/2005
Mr. Garfield Littlelight, Billings Qualifications (if required): Indian Health Service Representative	Governor	12/2/2005
Ms. Kate Wilson, Helena Qualifications (if required): Health Care Representative	Governor	12/2/2005
Ms. LaDonna Grotbo, Helena Qualifications (if required): State Agency Representative	Governor	12/2/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Worklife Wellness (Public Health and Human Services) cont.		
Ms. Lynda Blades, Helena Qualifications (if required): State Agency Representative	Governor	12/2/2005
Dr. Mary Albright, Helena Qualifications (if required): representative of an insurer	Governor	12/1/2005
Mr. Pete Shatwell, Bozeman Qualifications (if required): representative of employee wellness	Governor	12/1/2005
Ms. Carol Strasheim, Billings Qualifications (if required): representative of Indian Health Service	Governor	12/1/2005
Ms. Catherine Ipsen, Missoula Qualifications (if required): representative of persons with disabilities	Governor	12/1/2005
Mr. Jay Strever, Billings Qualifications (if required): representative of retail sales and service	Governor	12/1/2005
Independent Living Council (Public Health and Human Services)		
Ms. June Hermanson, Billings Qualifications (if required): none specified	Director	12/2/2005
Judicial Nomination Commission (Justice)		
Judge Ted O. Lympus, Kalispell Qualifications (if required): district judge	Governor	12/31/2005
Mr. James Mockler, Helena Qualifications (if required): public member	Governor	1/1/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Alfalfa Seed Committee (Agriculture)		
Mr. James Whitmer, Glendive	Governor	12/21/2005
Qualifications (if required): representative of the alfalfa seed growers industry and alfalfa leaf cutting bee industry		
Mr. John Mehling, Hardin	Governor	12/21/2005
Qualifications (if required): representative of the alfalfa seed growers industry		
Mr. Rod Leafdale, Billings	Governor	12/21/2005
Qualifications (if required): representative of the alfalfa seed processing industry		
Montana Children's Trust Fund Board (Public Health and Human Services)		
Ms. Jani McCall, Billings	Governor	1/1/2006
Qualifications (if required): public member		
Ms. Ann (Punky) Bullis, Crow Agency	Governor	1/1/2006
Qualifications (if required): public member		
Montana Correctional Enterprises Ranch Advisory Council (Corrections)		
Mr. Don Davis, Deer Lodge	Governor	2/25/2006
Qualifications (if required): public member		
Mr. Ray Lybeck, Kalispell	Governor	2/25/2006
Qualifications (if required): public member		
Rep. Robert Thoft, Stevensville	Governor	2/25/2006
Qualifications (if required): public member		
Sen. Chuck Swysgood, Helena	Governor	2/25/2006
Qualifications (if required): public member		
Sen. Thomas Beck, Helena	Governor	2/25/2006
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Correctional Enterprises Ranch Advisory Council (Corrections) cont. Rep. Edward (Ed) J. Grady, Canyon Creek Qualifications (if required): public member	Governor	2/25/2006
Sen. Bill Tash, Dillon Qualifications (if required): public member	Governor	2/25/2006
Sen. Gerald Pease, Lodge Grass Qualifications (if required): public member	Governor	2/25/2006
Rep. Allen Rome, Garrison Qualifications (if required): public member	Governor	2/25/2006
Sen. Sherm Anderson, Deer Lodge Qualifications (if required): public member	Governor	2/25/2006
Montana Council on Developmental Disabilities (Commerce) Rep. Don Roberts, Billings Qualifications (if required): legislator	Governor	1/1/2006
Sen. Carol Williams, Missoula Qualifications (if required): legislator	Governor	1/1/2006
Montana Grass Conservation Commission (Natural Resources and Conservation) Mr. Gary Unruh, Chinook Qualifications (if required): grazing district director	Governor	1/1/2006
Mr. Larry Brence, Baker Qualifications (if required): public member	Governor	1/1/2006
Montana High School Association Board of Control (Governor) Mr. Gail Peterson, Sidney Qualifications (if required): public member	Governor	1/1/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Statewide Independent Living Council (Public Health and Human Services)		
Ms. Cecilia C. Cowie, Helena	Director	1/5/2006
Qualifications (if required): none specified		
Mr. John Pipe, Wolf Point	Director	1/5/2006
Qualifications (if required): none specified		
Mr. Tom Tripp, Butte	Director	1/5/2006
Qualifications (if required): none specified		
Mr. Robert D. Liston, Missoula	Director	1/5/2006
Qualifications (if required): none specified		
Ms. Carol LaRocque, Great Falls	Director	1/5/2006
Qualifications (if required): none specified		
Ms. Donna M. Scott, Billings	Director	1/5/2006
Qualifications (if required): none specified		
Montana Vocational Rehabilitation Council (Public Health and Human Services)		
Rep. Carol Lambert, Broadus	Director	1/1/2006
Qualifications (if required): Statewide Independent Living Council position		
Mr. Dick Trerise, Helena	Director	1/1/2006
Qualifications (if required): Office of Public Instruction position		
Noxious Weed Seed Free Forage Advisory Council (Agriculture)		
Mr. W. Ralph Peck, Helena	Director	2/11/2006
Qualifications (if required): Director of the Department of Agriculture		
Mr. Dennis Cash, Bozeman	Director	2/11/2006
Qualifications (if required): ex officio		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont. Mr. Ray Ditterline, Bozeman Qualifications (if required): ex officio	Director	2/11/2006
Mr. Clay Williams, Livingston Qualifications (if required): weed districts	Director	2/11/2006
Mr. Tim Schaff, Fishtail Qualifications (if required): forage producer	Director	2/11/2006
Mr. Keith Kirscher, Townsend Qualifications (if required): forage producer	Director	2/11/2006
Mr. John Kelly, Great Falls Qualifications (if required): livestock/agriculture	Director	2/11/2006
Ms. Sharon Scognamiglio, Anaconda Qualifications (if required): weed districts	Director	2/11/2006
Peace Officers Standards and Training Advisory Council (Justice)		
Mr. Mike Batista, Helena Qualifications (if required): representative of the Montana Law Enforcement Academy	Governor	2/9/2006
Col. Paul K. Grimstad, Helena Qualifications (if required): representative of the Montana Highway Patrol	Governor	2/9/2006
Mayor Jim Smith, Helena Qualifications (if required): representative of the League of Cities and Towns	Governor	2/9/2006
Ms. Elaine Allestad, Big Timber Qualifications (if required): representative of the Crime Control Board	Governor	2/9/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Peace Officers Standards and Training Advisory Council (Justice) cont.		
Mr. Christopher Miller, Deer Lodge	Governor	2/9/2006
Qualifications (if required): representative of the Montana Attorneys Association		
Mr. Dennis McCave, Billings	Governor	2/9/2006
Qualifications (if required): representative of the Montana Detention Officers Association		
Dr. Raymond Murray, Missoula	Governor	2/9/2006
Qualifications (if required): representative of the public		
Mr. John Ramsey, Helena	Governor	2/9/2006
Qualifications (if required): representative of the Department of Fish, Wildlife, and Parks		
Captain Bill Dove, Bozeman	Governor	2/9/2006
Qualifications (if required): representative of the Police Protective Association		
Ms. Winnie Ore, Helena	Governor	2/9/2006
Qualifications (if required): representative of the Department of Corrections		
Ms. Shanna Bulik-Chism, Great Falls	Governor	2/9/2006
Qualifications (if required): representative of juvenile detention administrators		
Ms. Anne Kindness, Billings	Governor	2/9/2006
Qualifications (if required): representative of 9-1-1 services		
Chief Mark Tymrak, Bozeman	Governor	2/9/2006
Qualifications (if required): representative of the Police Chiefs Association		
Captain Greg Hintz, Missoula	Governor	2/9/2006
Qualifications (if required): representative of the Deputy Sheriff's Association		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Peace Officers Standards and Training Advisory Council (Justice) cont. Mr. Jack Wiseman, Helena Qualifications (if required): representative of the Department of Livestock	Governor	2/9/2006
Sheriff Bill Troutwine, Winnett Qualifications (if required): representative of the Sheriff's Association	Governor	2/9/2006
Sheriff John Grainger, Wolf Point Qualifications (if required): representative of the Montana Sheriff and Peace Officers Association	Governor	2/9/2006
Commissioner Albert Brown, Red Lodge Qualifications (if required): representative of MACO	Governor	2/9/2006
Small Business Health Insurance Pool Board (Auditor) Ms. Connie Welsh, Helena Qualifications (if required): management-level individual with knowledge of state employee health benefit plans	Governor	1/1/2006
State Employees' Charitable Giving Campaign Steering Committee (Administration) Ms. Joy McGrath, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Alicia Pichette, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Mary Dalton, Helena Qualifications (if required): none specified	Director	1/31/2006
Mr. Ed Caplis, Helena Qualifications (if required): none specified	Director	1/31/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employees' Charitable Giving Campaign Steering Committee (Administration) cont.		
Ms. Mary Wright, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Adeline Miller, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Marcia Armstrong, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Karen Shipley, Butte Qualifications (if required): none specified	Director	1/31/2006
Mr. Tim McCauley, Helena Qualifications (if required): none specified	Director	1/31/2006
Mr. Jack Lynch, Helena Qualifications (if required): none specified	Director	1/31/2006
Mr. Rick Bush, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Jeanine McCarthy, Helena Qualifications (if required): none specified	Director	1/31/2006
Mr. Wilbur Rehmann, Helena Qualifications (if required): none specified	Director	1/31/2006
Ms. Beki Glyde Brandborg, Helena Qualifications (if required): none specified	Director	1/31/2006

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Lottery Commission (Commerce)		
Mr. Thomas M. Keegan, Helena Qualifications (if required): attorney	Governor	1/1/2006
Ms. Betty L. Wilkins, Missoula Qualifications (if required): public member	Governor	1/1/2006
Traumatic Brain Injury Advisory Council (Public Health and Human Services)		
Ms. Marilyn Patrick, Butte Qualifications (if required): family member of a survivor	Governor	1/1/2006
Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice)		
Mr. Larry Curran, Butte Qualifications (if required): resident of Butte-Silver Bow	Governor	12/31/2005
Director Mary Sexton, Helena Qualifications (if required): Director of the Department of Natural Resources and Conservation	Governor	12/31/2005
Director Richard Opper, Helena Qualifications (if required): Director of the Department of Environmental Quality	Governor	12/31/2005
Ms. Linda Bouck, Anaconda Qualifications (if required): resident of Anaconda-Deer Lodge	Governor	12/31/2005
Mr. Dennis Daneke, Missoula Qualifications (if required): resident of Missoula County	Governor	12/31/2005
Mr. Paul Babb, Butte Qualifications (if required): resident of Butte-Silver Bow	Governor	12/31/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2005 through FEBRUARY 28, 2006

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Upper Clark Fork River Basin Remediation and Restoration Education Advisory Council (Environmental Quality)		
Mr. John Hollenback, Gold Creek	Governor	12/31/2005
Qualifications (if required): representative from Powell County and a voting member		
Ms. Sally Johnson, Missoula	Governor	12/31/2005
Qualifications (if required): representative from Missoula County and a voting member		
Sen. Dale Mahlum, Missoula	Governor	12/31/2005
Qualifications (if required): representative from Missoula County and a voting member		
Mr. Jim Flynn, Anaconda	Governor	12/31/2005
Qualifications (if required): representative from Deer Lodge County and a voting member		
Director Jeff Hagener, Helena	Governor	12/31/2005
Qualifications (if required): representative of the Department of Fish, Wildlife, and Parks and a non-voting member		
Mr. Gene Vuckovich, Anaconda	Governor	12/31/2005
Qualifications (if required): representative from Deer Lodge County and a voting member		
Mr. Jerry Harrington, Butte	Governor	12/31/2005
Qualifications (if required): representative from Silver Bow County and a voting member		
Mr. Jules Waber, Great Falls	Governor	12/31/2005
Qualifications (if required): representative from Powell County and a voting member		
Mr. James Dinsmore, Hall	Governor	12/31/2005
Qualifications (if required): representative from Granite County and a voting member		