

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC
amendment of ARM 1.2.102,)	HEARING ON PROPOSED
1.2.202, 1.2.204, 1.2.205,)	AMENDMENT, TRANSFER,
1.2.206, 1.2.210, 1.2.211,)	ADOPTION, AND REPEAL
1.2.212, 1.2.214, 1.2.216,)	
1.2.217, 1.2.218, 1.2.219,)	
1.2.401, 1.2.402, 1.2.404,)	
1.2.411, 1.2.422, 1.2.423, and)	
1.2.519, the amendment and)	
transfer of ARM 1.2.321, 1.2.322,)	
1.2.412, and 1.2.421, the)	
adoption of New Rules I through)	
III, and the repeal of ARM)	
1.2.301 regarding the)	
Administrative Rules of Montana,)	
Montana Administrative Register,)	
rule formatting, incorporation by)	
reference, fees)	

TO: All Concerned Persons

1. On December 1, 2005, a public hearing will be held at 10:00 a.m. in Room 172, State Capitol Building, Helena, Montana, to consider the proposed amendment, transfer, adoption, and repeal of the above-stated rules.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on November 22, 2005, to advise us of the nature of the accommodation that you need. Please contact Jean Branscum, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-5596; FAX (406) 444-3976; e-mail jabranscum@mt.gov.

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

1.2.102 OFFICIAL VERSION OF THE ADMINISTRATIVE RULES OF MONTANA (1) remains the same.

(2) Changes to the ARM must first be published in the Register (refer to subchapter 4).

(3) Finalized rule changes do not appear in the ARM until the quarter following their adoption. The text of the ARM must be read together with any rule changes made in the current and previous quarters of the Register to ensure the complete and correct language of the rule is being read.

(4) If there is a discrepancy between the rule text in the ARM and the text of the Register proposal and adoption

notices, the text of the Register notices prevails as the correct text.

AUTH: 2-4-306, 2-4-311, 2-4-312, 2-15-401, 2-15-404, MCA
IMP: 2-4-306, 2-4-311, 2-4-312, MCA

1.2.202 NEW ARRANGEMENT OF THE ADMINISTRATIVE RULES OF MONTANA (1) All titles are organized as follows:

- (a) title page;
- (b) title table of contents containing chapter names and beginning page numbers for each;
- (c) chapters containing rule text;
- (d) a cross reference table;
- (e) for some titles, a repealed rule table; and
- (f) for some titles, old-to-new and new-to-old tables.

~~(1) Title 1 contains the general provisions which include the format instructions, the attorney general's model rules and the Montana Administrative Procedure Act. The remaining titles are assigned to the executive departments of state government which are or may in the future be subject to the provisions of the Act. They were originally assigned in alphabetical sequence of the departments beginning with number 2 and omitting every other number for future growth.~~

(2) Chapters: Titles are divided into chapters.

~~(a) The first chapter under Chapter 1 of every title is assigned to contains the department's organizational rule and organizational charts. Chapter 2 is assigned to contains the department's overall procedural rules. Thereafter, a department begins the numbering of its Subsequent chapters with numbers 3, 4, etc., running run consecutively and reserving with reserved chapter numbers in areas where future growth is additional rules are anticipated.~~

~~(i) (a) Reserved chapter number(s) are indicated in the title's chapter table of contents. A page is placed in the ARM in the location that the where a reserved chapter(s) falls.~~

~~(b) Beginning with chapter 3, the chapters are organized topically so that rules fall in follow a logical sequence. with substantially rRelated rules are placed in chapter groups that follow each other.~~

~~(c) Chapters that contain rules common to the entire department are listed first, i.e., such as centralized services division.~~

~~(d) Divisions that have rule administering authority are assigned chapter groups so that substantially related rules are listed together.~~

~~(e) A bureau may be assigned chapter(s) with its rules organized in subchapters according to related subject matter. In some instances, a bureau is not assigned a chapter, rather, its rules are placed in a subchapter under the division's chapter.~~

~~(f) Chapters are not assigned below a bureau level unless there is a particularly large group of rules being administered by a unit within a bureau. In this instance, a~~

~~chapter is assigned to a unit, however, it is recommended that the group of rules be placed in a subchapter of the bureau's or division's chapter.~~

~~(g) (c) Chapters are assigned to autonomous agencies who that are attached to a department for administrative purposes only. They may be alphabetized and listed after the department's assigned chapters.~~

~~(3) Subchapters:~~

~~(a) (4) Other than in Chapter 1, chapters are broken down into subchapters are the second division of titles. Subchapters are organized topically and which are placed in a logical sequence, holding substantially related rules. They are given names according to subject matter areas. There may be up to 99 subchapters in one chapter.~~

~~(b) In the case of autonomous agencies, the first and second subchapters contain the agency's organizational rule and overall procedural rules, respectively.~~

~~(c) (a) A department begins the numbering of its subchapters with numbers 1, 2, 3, etc., running consecutively, and reserving with reserved subchapter numbers in areas where future growth is additional rules are anticipated.~~

~~(i) Reserved subchapter numbers are indicated shown in the chapter's table of contents and also where they fall in the body of the chapter.~~

~~(4) (5) An individual Each rule is identified by using a three-part numbering system (see ARM 1.2.212).~~

~~(5) (6) Each rule is broken down into paragraphs sections and subsections which generally cover a single idea.~~

~~(a) Each paragraph section and subsection should must be designated identified with a single numerical or alphabetical earmark.~~

~~(7) Title names reflect their respective department names. Individual departments assign chapter and subchapter names according to subject matter.~~

AUTH: 2-4-306, 2-4-311, 2-15-401, MCA

IMP: 2-4-306, 2-4-311, MCA

~~1.2.204 ARM CONTENT POSITIONS ARRANGEMENT OF TITLE CONTENT (1) The total contents of ARM appear in order as follows:~~

~~(a) Found only in Only Title 1 contains these elements, following the title page, is:~~

~~(a) "How to Use the Administrative Rules of Montana and the Montana Administrative Register";~~

~~(b) followed by a chapter table of contents of all chapters found in Title 1 through Title 46, 44; and~~

~~(c) the preface to the ARM.~~

~~(2) Other than the items listed above all titles contain the following items:~~

~~(a) The a title page, lists identifying the name of the department and its title number;~~

~~(b) a table of contents, indicating the number, name, and beginning page number of each chapter in that title;~~

~~(b) (c) Chapter 1, is reserved for containing only the department's organizational rule and charts. Since this chapter contains only one rule, there is no Chapter 1 does not contain a table of contents or subchapters; listed. It begins with the rule number, catchphrase, language of the rule and ends with the history of the rule.~~

~~(c) (d) Chapter 2 and remaining chapters contain subchapters. The first page of each new subsequent chapters, beginning with contains a subchapter table of contents indicating:~~

~~(i) the subchapter numbers and names; and~~

~~(ii) the rule number and the catchphrase of each rule in each subchapter;~~

~~(i) Subchapter table of contents should start on an odd numbered page with the actual text of the subchapter also starting on an odd numbered page.~~

~~(d) (e) a cross reference table follows following the last chapter in the each title and indicates, indicating the MCA authority and implementing authority implemented citations for the corresponding ARM rules numbers;- The MCA citation numbers are listed in ascending order.~~

~~(e) (f) a Repealed rule table follows following the cross reference table and indicates, including the repealed rules that were removed during recodification and the effective date of repeal. Some titles also contain repealed rule tables specific to department reorganization by the legislature;~~

~~(f) (g) following the repealed rules table, an Old-to-new numbering table follows the repealed rule table and indicates indicating the old rule numbers in ascending order assigned before recodification in 1980 and the new three-part rule number assigned during as a result of recodification;~~

~~(g) (h) a New-to-old numbering table follows following the old-to-new numbering table and indicates listing the new rule numbers in ascending order and the corresponding rule numbers assigned before recodification.~~

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA

IMP: 2-4-306, 2-4-311, MCA

1.2.205 RULE TYPES AND THEIR LOCATIONS (1) There are two ways to categorize categories of rules: by subject matter and by duration. types. The first category defines the type of rule in terms of its subject matter. Rules are organizational, procedural, or substantive.

(2) Subject matter types are organizational, procedural, and substantive.

(a) Organizational rules are those which describe the structure of the department and the divisions of function. There is only one Each department has a single organizational rule, found for each department which is always stated in

~~Chapter 1 under each title. However, if any An agency has been assigned attached to a department for administrative purposes only, then the board will may have its own organizational rule, stated in its first subchapter. Where a board's organization has been delineated in the departmental organizational rule at the board's request, such is indicated by reference.~~

(b) ~~Procedural rules are of various types including include, but are not limited to, the following. There are the:~~

~~(i) procedures covered in the attorney general's model rules (rulemaking, contested cases, declaratory rulings);~~

~~(ii) There are guidelines for public participation; and~~

~~(iii) guidelines for the formulation of environmental impact statements.~~

~~(iv) These Procedural rules are always stated under appear in Chapter 2 of each title and apply to. Such rules are controlling for all units of a department, except agencies assigned attached for administrative purposes. Because of the autonomy of these agencies, they may state their procedural rules in their second subchapter. An agency attached to a department for administrative purposes only may have its own procedural rules.~~

(c) ~~The Substantive rules are: all those rules which are not organizational or procedural and which come under the definition of rule as set down by the Montana Administrative Procedure Act.~~

~~(i) rules that implement statutes and carry the force of law; or~~

~~(ii) rules that provide an interpretation of statutes and are advisory only. (See 2-4-102, MCA.)~~

~~(2) (3) The second category defines rules by their duration. That is, all rules are: temporary, permanent, or emergency.~~

~~(a) Temporary rules are:~~

~~(i) proposed and adopted to implement a statute that is effective prior to October 1 of the year of enactment;~~

~~(ii) subject to the temporary rule provision of the Montana Administrative Procedure Act 2-4-303, MCA;~~

~~(iii) effective immediately upon filing a notice of adoption with the secretary of state (2-4-306, MCA), or at a stated date following publication in the Register, and are effective until October 1 of the year of adoption; and~~

~~(iv) designated as such temporary in the Register.~~

~~(b) Emergency rules address an imminent peril to the public health, safety, or welfare and are:~~

~~(i) adopted subject to the emergency rule provisions of the Montana Administrative Procedure Act 2-4-303, MCA;~~

~~(ii) effective immediately upon filing with the secretary of state, or at a stated date following publication in the Register; and~~

~~(iii) automatically expire 120 days after their effective date;~~

~~(iii) (iv) designated as such an emergency rule in the Register; and~~

~~(v) may be adopted with limited or no prior public notice.~~

~~(c) Permanent rules are rules that:~~

~~(i) are adopted under standard rulemaking procedures; and~~

~~(ii) remain in effect until repealed which have been adopted subject to the provisions of the Montana Administrative Procedure Act.~~

~~(d) All initial and subsequent rules are permanent until and unless they are repealed.~~

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA

IMP: 2-4-303, 2-4-306, 2-4-311, MCA

1.2.206 LOCATION OF RULE CHANGES ARM PAGE UPDATES

~~(1) Changes to the rules may include amendments to existing rules, the addition of new rules, transfer of existing rules, or repeal of rules. When changes are made to ARM the rules, then the existing page which is affected by the change is redone to accommodate the change and the affected pages of the ARM are replaced quarterly to include the changes. These new pages are referred to as replacement pages. is inserted in lieu of the old page. These changes appear as follows: All replacement pages show the quarterly publication date in the footer.~~

~~(a) New titles, chapters, subchapters, and rules are placed in the appropriate place of numerical order in their respective table of contents.~~

~~(b) The text of nNew rules appears within the body of the chapter in which the rule is included at the appropriate place of its interposition and falling between the two rules which appeared in sequence on the page before it was changed are placed in numerical order in the appropriate place in ARM.~~

~~(c) An amendatory rule takes the same number as the rule it has amended. It occupies the same place as it did before its amendment. Only the amended form of the rule appears in ARM as updated by the amendment. The text of an amended rule replaces the existing rule in the ARM.~~

~~(d) When a rule is repealed, the following information is printed in the ARM where the language of the rule formerly appeared:-~~

~~(i) The rule number;~~

~~(ii) the catchphrase, followed by the statement (IS HEREBY (REPEALED)); and~~

~~(iii) the complete history note adding the rule section page number in the Montana Administrative Register where the rule was repealed and the effective date of repeal.~~

~~(e) All rule actions are reflected in a history note to the rule (see ARM 1.2.217).~~

~~(2) If there is a discrepancy between the rule text in the ARM and the text in the Register proposal and adoption~~

notices, the text of the Register notices prevails as the correct text.

~~(2) Where an existing page has been redone to accommodate a rule change, then the page number for that page is the same as that which appeared on the superseded page. Where the nature of the change requires more than one replacement page, then the additional pages are indicated as such by the page number of the superseded page followed by a decimal and an Arabic numeral beginning with 1, and continuing in page number order for each additional page. All changed or new pages have a publication date of the replacement page issue. When an agency is preparing a replacement page, it should check with the secretary of state's office for the date of the next issue of replacement pages for this item. This date appears at the bottom of each replacement page between ADMINISTRATIVE RULES OF MONTANA and the page number. Where a repealed rule has eliminated a page or pages, the numbers of the eliminated pages are removed, but can be reused later if needed.~~

~~(3) The secretary of state's office suggests that subscribers maintain a system for preserving superseded pages in an orderly fashion. If such pages are not available, they may be found in the permanent records of the office of the secretary of state by reference to the rule number and effective date of the rule in question.~~

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA
IMP: 2-4-306, 2-4-311, MCA

1.2.210 ADOPTION OF AN AGENCY RULE BY INCORPORATION BY REFERENCE (1) ~~All agencies adopting Agencies may adopt by reference any of those documents or types of rules specified in 2-4-307, MCA, shall utilize using the following form in the Administrative Rules of Montana ARM or the Montana Administrative Register when adopting by reference.~~

~~(a) The (department) hereby adopts and incorporates by reference (citation to incorporated material), (edition date), which sets forth (substance of rule material). A copy of the (citation to federal agency rule, model code, rule of any agency of this state or other similar publication) may be obtained from (department or agency name and address).~~

~~(2) The above form is placed in each rule that adopts by reference. The form is placed where it logically falls in the language of the rule.~~

~~(3) Only a notice of incorporation by reference of later amendments of a federal regulation, as specified in 2-4-307, MCA, is published in the Montana Administrative Register. The format for the notice is set down in the attorney general's sample forms. The notice shall state an effective date of such incorporation.~~

~~(4) No further notice of adoption or replacement page is required. However, to help the user determine the date of the latest incorporation by reference, it is suggested that the agency furnish a replacement page to the Administrative Rules~~

~~of Montana. An amendment notation in the history of a rule will lead the user back to the page where the notice is published in the Montana Administrative Register.~~

~~(5) Upon request of the secretary of state, a copy of the omitted material must be filed with the secretary of state.~~

AUTH: 2-4-306, 2-15-401, MCA
IMP: 2-4-307, MCA

1.2.211 MODEL RULES: LOCATION AND INCORPORATION BY REFERENCE (1) The attorney general of the state of Montana has developed model organization and procedural rules, which have been recommended to the departments. These model rules are stated in their entirety under chapter 3 of this title.

~~(2) Where a department has adopted the model rules for its own procedural rules, such is indicated under the department's procedural rules section in subchapter 1 of its chapter 2. When a department adopts the model rules, this must be included in its procedural rules. The department must note and explain any variation it makes to a model rule.~~

~~(2) If the department chooses to adopt the attorney general's rules verbatim then such rules need not be stated verbatim. Rather, this type of adoption may be noted simply by stating in the first rule under chapter 2, that "The (department) hereby adopts and incorporates by reference (citation to model rules) ARM ___ through ARM ___ which sets forth the attorney general's model procedural rules. A copy of the model rules may be obtained from (agency's name and address).~~

~~(3) However, it is contemplated that a particular law may require a variation from the procedural rules set down by the model rules. If such is the case, then such variation should be noted and explained in the form of a subsection to the model procedural rule from which it varies.~~

~~(4) And as mentioned above, if the department adopts the attorney general's procedural rules, but with slight variations, then this can be noted by stating, in a rule under chapter 2, subchapter 1, that "The (department) hereby adopts and incorporates by reference (citation to model rules) ARM ___ through ARM ___ which sets forth the attorney general's model rules with the following exceptions thereto: The attorney general's model rule ARM ___ is modified in that...(In this regard be sure and clearly state which model rule is being modified and state the law which requires the modification.) A copy of the model rules may be obtained from the (department's name and address).~~

AUTH: 2-4-202, 2-4-307, 2-15-401, MCA
IMP: 2-4-202, MCA

1.2.212 NEW RULE NUMBERING METHOD FOR THE ADMINISTRATIVE RULES OF MONTANA (1) The Administrative Rules of Montana have been recodified and rules are given shorter, simpler

numbers.—A In the ARM, rules have a three-part numerical identifier, is used with each part separated by a decimal points. Ex: 44.2.101.

(a) For example, in rule number 44.122.1101:

(i) The the first part, "44", is the title number assigned to the department under which the rule is located.;

(ii) The the second part, "122", is the chapter number under which the rule is located.; and

(iii) The the first one or two digits in the third part, "11", represents the subchapter number under which the rule is located.—The and the last two digits, "01", represent the individual rule number.

44.122.1101

44 = title number

122 = chapter number

11 = subchapter number

01 = individual rule number

(b) The entire number is referred to as the rule number.

(2) In some instances, a department may find it necessary to reserve chapters, subchapters, or rule numbers. This is shown in the appropriate location within the text.

(2) Since the first two parts of the rule number are self explanatory, the following example will explain how the third part of the rule identifier is set up.

(3) The first one or two digits of part 3 of the identifier represent the subchapter under which the rule is located.

Example: 44.2.101 First subchapter in chapter 2

44.2.9901 Last possible subchapter in chapter 2

101 Digit "1" is the subchapter.—The subchapter numbers may run consecutively and if necessary, numbers reserved for future growth. Reserved subchapter numbers are indicated in the chapter's table of contents and in the area where the subchapters will fall in ARM.

There may be from 1 to 99 subchapters in one chapter. If there are more than 99 subchapters in one chapter, a new chapter is assigned in that area.

9901 Digits "99" represent the last possible subchapter in a chapter.

(a) The last two digits of part 3 of the identifier represent the individual rule number.

Example: 44.2.101 Digits "01" represent the first rule in a subchapter. "0" must be placed before digits 1 through 9 so that there will always be 2 digits represented. Rule numbers may run consecutively, and if necessary, rule numbers reserved for future growth. Reserved rule numbers are indicated in the chapter's table of contents

~~and in the area where the rules fall in ARM. There may be from 1 to 99 rules in one subchapter. If there are more than 99 rules in one subchapter, a new subchapter would be assigned in that area.~~

~~199 Digits "99" represent the last possible rule in a subchapter.~~

~~Example: 44.1.101 "44" represents the title
"2" represents the chapter
"1" represents the first subchapter in chapter 2
"01" represents the first rule in subchapter 1\~~

~~Example: 44.2.9999 "44" represents the title
"2" represents the chapter
"99" represents the last possible subchapter number in chapter 2
"99" represents the last possible rule in subchapter 99~~

~~(b) A department's organizational rule is:
(title).1.101~~

~~first rule number
first subchapter
chapter~~

~~(c) A department's procedural rules begin:
(title).2.101~~

~~first rule number
first subchapter
chapter~~

~~(4) If it is necessary to add a new rule number between two existing rules, and there is no rule number reserved in that area, the new rule will be numbered by adding an alphabetical letter to the preceding existing rule number. Example: 1.2.222A, 1.2.222B, 1.2.222C, etc. If future growth is anticipated in a certain area, then rule numbers should be reserved. Example: 1.2.222A reserved, or 1.2.222C through 1.2.222J reserved. Place the reserved statement where the rule will fall in the body of the rule and on the table of contents page.~~

AUTH: 2-4-306, 2-15-401, 2-15-401, MCA
IMP: 2-4-306, MCA

1.2.214 CATCHPHRASES (1) The catchphrase is a short phrase which ~~summarily describes~~ summarizes the contents of a particular rule. The catchphrase is ~~found~~ included on the table of contents and ~~it~~ directly precedes the ~~statement~~ text of the rule itself. ~~It is used as a quick reference for ascertaining the subject matter.~~

AUTH: 2-4-306, 2-15-401, MCA
IMP: 2-4-306, MCA

1.2.216 OUTLINE FORM (1) ~~A rule is more readily referred to and more easily amended if broken down into sections and subsections. Each paragraph should be given a section or subsection designation using the following outline order. Each rule is set out in outline form for ease of reading. The following levels are used:~~

- ~~(a) sections are: (1)_, (2)_, (3);~~
- ~~(b) subsections are: (a)_, (b)_, (c); (i)_, (ii)_, (iii);~~
- ~~(A)_, (B)_, (C); and (I)_, (II)_, (III)_.~~

AUTH: 2-4-306, 2-15-401, MCA
IMP: 2-4-306, MCA

1.2.217 RULE HISTORY NOTES (1) ~~Following the text of each rule there is a notation which indicates the legislative note that shows the history of that the rule. For all actions taken on a rule after July 25, 1977, the following elements are included in the order shown:~~

- ~~(a) the MCA citations giving authority for the rule;~~
- ~~(b) the MCA citations implemented (IMP) by the rule;~~
- ~~(c) the action type Action taken on a rule is indicated by the following abbreviations:~~

- ~~(a)(i) NEW - denotes a new rule;~~
- ~~(b)(ii) AMD - denotes an amendment to a rule;~~
- ~~(c)(iii) REP - denotes a rule is repealed;~~
- ~~(d)(iv) TRANS - denotes a rule is transferred by legislative action or transferred to a different location within a title;~~
- ~~(e)(v) EMERG - denotes emergency action; and~~
- ~~(f)(vi) TEMP - denotes temporary rule before becoming a permanent rule.;~~

~~(d) the year and page number of the Register in which the adoption notice was published; and~~

~~(e) the date the rule action became effective.~~

~~(2) The information in the history note traces the development of a rule and its changes. Each adoption notice refers to the Register page number and issue date of the corresponding proposal notice. A review of all notices published regarding a rule action explains the progression of rule changes.~~

~~(3) Action taken on a rule before July 25, 1977, is indicated only by the abbreviation of the action and the effective date of action.~~

~~(2) A history will contain the following:~~

- ~~(a) MCA statutory authority citation;~~
- ~~(b) session law or MCA citation being implemented, IMP;~~
- ~~(c) All action taken on a rule before July 25, 1977, is indicated by the abbreviation of the action and the effective date of action.~~

~~(d) All action taken on a rule after July 25, 1977, is indicated by the abbreviation of the action, the page number of the rule section of the Montana Administrative Register on which the rule appeared and the effective date of the action.~~

~~(e) follow punctuation shown below:~~

Example: For a new rule included in ARM after 12/31/72: (History: Sec. 46-2-303 MCA; IMP, Sec. 46-2-308 MCA; NEW, Eff. 7/17/76; AMD, 1978 MAR p. 717, Eff. 8/14/78; AMD, 1980 MAR p. 713, Eff. 4/26/80.)

(3) Chapter 420, L. 1989 (House Bill 610) amended 5-4-402, MCA by removing the provision that no grant of rulemaking authority is effective as such to implement new agency duties required or authorized by law after October 1, 1983, unless the law to be implemented is accompanied by language extending the rulemaking authority to the law to be implemented. Amendments made to 2-4-305, MCA by Chapter 420, L. 1989 remove the requirement that the rule history cite the session laws extending the rulemaking authority to the law being implemented.

(a) Since Chapter 420, L. 1989 has an immediate effective and retroactive applicability date, authority extension citations are no longer necessary. Existing authority extension notations will be removed at replacement page time as pages are being reprinted, i.e., amending a rule, or adding a new rule, on any page.

(4) Transferred rules are rules which have either been transferred, as part of a change in statutory authority, from one agency to another, or been moved from one location in the agency's title to another. In either case, the action does not require notice or opportunity for hearing, as long as there is no substantive change in the text of a transferred rule.

(a) The history note of the department that is transferring the rule will indicate the full history, where the rule is being transferred, the legislative action directing the action, and the date of directing action.

Example: (History: Sec. 46-2-114 MCA; IMP, Sec. 46-2-116 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; AMD, 1981 MAR p. 2223, Eff. 10/10/81; TRANS, to Dept. of Health, Ch. 274, L. 1983, Eff. 10/1/83.)

(b) The history note of the department where the rule is transferred will indicate the full history, the department that transferred the rule, the legislative action directing the action, and the date of directing action.

Example: (History: Sec. 46-2-114 MCA; IMP, Sec. 46-2-116 MCA; NEW, 1981 MAR p. 115, Eff. 3/16/81; AMD, 1981 MAR p. 2223, Eff. 10/10/81; TRANS, from Dept. of Livestock, Ch. 274, L. 1983, Eff. 10/1/83.)

(c) The history note of the rule that is being transferred within a title will indicate the full history, the new rule number, and the effective date of the transfer.

Example: (History: Sec. 46-2-114 MCA; IMP, Sec. 46-21-111 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; TRANS, to ARM 46.22.116, Eff. 6/30/83.)

(d) The history note of the rule that was transferred within a title will indicate the full history, the previous rule number and the effective date of transfer.

Example: (~~History: Sec. 46 2 114 MCA; IMP, Sec. 2 4 303, 2 4 306, 46 21 111 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; TRANS, from ARM 46.3.130, Eff. 6/30/83.~~)

(5) ~~Where the rule change is made pursuant to the emergency rule provision of the Montana Administrative Procedure Act, the history would contain the already existing history if the rule is being amended or repealed, adding the emergency information, i.e., EMERG, AMD, or EMERG, REP, followed by the effective date. The effective date is the date rule became a permanent rule and not the date it was filed as an emergency rule.~~

Example: (~~History: Sec. 46 2 114 MCA; IMP, Sec. 46 2 117 MCA; Eff. 12/31/72; AMD, 1978 MAR p. 117, Eff. 7/13/78; EMERG, AMD, 1978 MAR p. 516, Eff. 8/16/78.~~)

~~If it were an emergency new rule the history would read:~~

Example: (~~History: Sec. 2 4 306 MCA; IMP, Sec. 2 4 309 MCA; EMERG, NEW, 1978 MAR p. 717, Eff. 10/30/78.~~)

(6) ~~Where the rule change is made pursuant to the temporary rule provision of the Montana Administrative Procedure Act, the history would contain a temporary note only if a permanent rule is adopted. Temporary notation would contain the rule section page number in the Montana Administrative Register where the rule was adopted and the effective date, which is the date the rule became a permanent rule and not the date it was filed as a temporary rule.~~

Example: (~~History: Sec. 46 2 114 MCA; IMP, Sec. 46 2 117 MCA; TEMP, NEW, 1987 MAR p. 1923, Eff. 11/9/87.~~)

(7) ~~Section 2 4 308, MCA, effective 10/1/83, requires the publication of a statement in the rule history note at the end of each adjective or interpretive rule that such a rule is advisory only but may be a correct interpretation of the law.~~

(a) ~~The statement must be inserted in the history note of any rule newly adopted, or amended, after October 1, 1983. It must also be included in the notice section of the register at the time a rule or rule amendment is proposed for adoption.~~

(b) ~~The statement may also be inserted in history notes existing in the Administrative Rules of Montana at replacement page time as pages are being reprinted, i.e., amending a rule, or adding a new rule, on any page.~~

Example: (~~History: This rule is advisory only, but may be a correct interpretation of the law, Sec. 2 4 308 MCA, Eff. 10/1/83; Sec. 46 2 303 MCA; IMP, Sec. 46 2 308 MCA; Eff. 12/31/72; AMD, 1984 MAR p. 713, Eff. 3/16/84.~~)

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA

IMP: 2-4-303, 2-4-306, 2-4-311, MCA

1.2.218 PAGE NUMBERING SYSTEM (1) Every page of the ARM has a page number is numbered, except reserved chapter pages. Each title has its own number, ~~s~~ which are preceded by the title number under which the page falls. The Each page number begins with the title number followed by sequential numbers. For example, the first page for the department of

livestock would be numbered 32-1, the second page 32-2, the ~~fifty fifth~~ 55th page 32-55, etc.

(2) If a block of page numbers is reserved, the last printed page before the reserved ~~numbers~~ pages has the wording "NEXT PAGE IS ____". ~~This indicates the page number of the first printed page following the reserved numbers. In this way, all pages in ARM are accounted for.~~

(3) ~~If there is a need to add supplemental pages the following system should be used:~~

(a) ~~When supplemental pages are needed then the supplemental pages will take the same page number with the addition of a decimal point and the number 1, 2, 3, etc., example: 46 74.1, 46 74.2, 46 74.3 and so on.~~

(3) If a block of page numbers has been removed through repeal or amendment of rules, the last printed page before the removed pages has the wording "NEXT PAGE IS ____".

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA

IMP: 2-4-306, 2-4-311, MCA

1.2.219 TABLE OF CONTENTS AND CROSS REFERENCE TABLE

~~(1) Where a new rule has been adopted, or an existing rule amended or repealed by agency action, the agency must submit a new replacement page reflecting any changes that should be included in the title chapter table of contents, chapter table of contents or cross reference table. Any new rule will always require a new subchapter table of contents and cross reference table page with the new information inserted in the proper place. These pages must be submitted along with the new, amended or repealed rule for publication as replacement pages.~~

~~(2) If a rule is amended, there is no need to submit the new pages listed above, unless there has been a change in the catchphrase or a new citation to the MCA which should be included in the cross reference table.~~

~~(3) The pages are described as follows:~~

~~(a)(1) Each title has a table of contents page contains listing all chapters found in the title, indicating chapter number, name, and beginning page number. Reserved chapters are also noted on the table of contents.~~

~~(b)(2) Each chapter has a table of contents contains listing subchapter names and numbers, and a listing of each rule number and catchphrase. Reserved subchapters and rules are also noted on the chapter table of contents.~~

(3) Table of contents pages are updated quarterly to coincide with changes made to the corresponding rules.

~~(c) cross reference table gives a quick indication of where the sections from the Montana Code Annotated may be found, interpreted, summarized or implemented, in each department's rules. This table will include the MCA sections which are authority for a corresponding ARM rule and the MCA sections which have a corresponding ARM rule which interprets or implements the MCA section.~~

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA
IMP: 2-4-306, 2-4-311, MCA

1.2.401 PROCEDURES FOR FILING OF THE INITIAL RULES, NEW RULES AND RULES AMENDING OR REPEALING PRIOR RULES PROPOSED RULE CHANGES (1) ~~Section 2-4-305, MCA, of the Montana Administrative Procedure Act sets down certain required procedures for adopting and making changes to the initial rules. and for making changes thereto. And since the secretary of state is charged with the responsibility of recording these changes, the purpose of this rule is to explain the format which the secretary of state requires each department to follow in its preparing and filing of the initial, new and amended rules and in the repeal of prior rules. Again, the purpose is to facilitate the insertion of the initial rules and subsequent changes thereto, into the Administrative Rules of Montana.~~

~~(2) It is important to note that the procedures for adopting and filing the initial rules are different from the procedures for making rule changes after December 31, 1972. That is, section 2-4-305 MCA, regarding notice and hearing requirements for adopting and amending rules, applies only to those rules adopted or amended subsequent to the effective date of the Act...12/31/72. The time before December 31, 1972 was in effect a grace period wherein all rules adopted were exempt from the notice of adoption and hearing requirements. All of the rules adopted therein make up the initial code, and such rules became effective on December 31, 1972.~~

~~(a) If at some future date a grace period may be provided for a newly included agency under the MAPA within which to file their initial rules without going through the notice procedure and assuming that a new deadline will be set for filing initial rules, the newly created agency shall use the same procedures, following the same instructions, for such initial filing as were used by the initially included agencies. Such a grace period was given to the departments of administration and institutions, and the superintendent of public instruction in 1977.~~

~~(3)(2) The following procedures shall be adhered to for all those rules which will be adopted by the departments. after December 31, 1972:~~

~~(a) As has been explained in the Montana Administrative Procedure Act (MAPA) and in the attorney general's model rules, the departments and agencies assigned thereto for administrative purposes must give public notice of their intention to adopt, amend, or repeal any rule after the deadline for submitting initial rules. The contents of the notices are as prescribed by the MAPA and the attorney general's model rules. The forms for the notices will be as set down in the attorney general's model rules. All notices will be signed in the position designated by the model notice forms. Each form will must be signed by the head of the department (or by the chairman person of the governing board) (see ARM 1.2.519). In the case of a notice issued by an~~

~~agency assigned for administrative purposes, the head of that agency (or chairman of the governing board) will sign. If the department head or the chairman of the governing board is unable to sign, a letter must be filed with the secretary of state authorizing who may sign for them. A stamped signature must not be used. The department head or chairman of the governing board's signature must be signed by the authorized person with the authorized person's signature listed below.~~

(b) ~~The secretary of state is required to publish the Register at least once a month, however, since July 1978, but publishes the Register twice a month is published on a twice-monthly basis.~~ An agency must submit its notices according to the submission schedule deadline set by the secretary of state. If a notice is submitted after the submission deadline, it will not be published until the next publication date. It should be noted that ~~the~~ MAPA requires that agency action may not be taken until at least 30 days after the notice is published in the Register.

(4) ~~The form numbers for notices of action regarding rule changes subsequent to December 31, 1972, will must be stated as MAR Notice No. ____.~~ The notice numbers will be continued as they have proved to be beneficial both to the secretary of state's office and the agency. The first blank is to be filled with the title number for the department and the second blank with the appropriate number of the notice. Each department will need to set up its own numbering system for notices using its title number as the first part of the MAR Notice No., followed by sequential numbers.

~~(5)(a) There will be is no separate numbering sequence according to the type of notice issued.~~

~~(6)(5) When the an adoption notice procedure results is filed for publication, in the adoption, amendment or repeal of a rule, then such action it must be certified and transmitted to the secretary of state for filing and publication. This will be accomplished accompanied by an administrative order (see ARM 1.2.404).~~

AUTH: 2-4-306, 2-4-312, 2-15-401, MCA

IMP: 2-4-306, 2-4-312, MCA

1.2.402 PREPARATION OF RULE CHANGES FOR INSERTION IN ARM

(1) The ARM has been set up as a loose-leaf service to provide a convenient method of updating. Rule changes are made on a quarterly basis and appropriately placed in the appropriate place using the following procedures by following instructions prescribed by the secretary of state.

~~(a) Refer to the existing page to which the new, amending, repealing or transferred rule(s) will be added. The determination as to the proper page is made by interpolating the rule with the existing rules. The assignment of the rule numbers to additional rules has been discussed in ARM 1.2.202 and 1.2.212.~~

~~(b) If the additional rule is a new rule or rules transferred to the agency from another agency, then the page~~

~~upon which that rule will be typed will be retyped down through the existing rule which immediately precedes the rule to be added. Then immediately following, type in the new rule exactly in the form that the initial rules were done (i.e. rule number, catchphrase, text and history note). Then following the new rule, begin typing the rule which had been next on the old page before the addition of the new rule, and continue typing until you have completed what had been on the old page. The new page will take the same page number as the old page. In most cases, the addition of a rule would extend the old page so the text of the old page would not all fit on the new page. In this case, another sheet(s) of paper will be used but only so far as to finish what had been on the old page before it had been added to. This second page will take the same page number as the prior page, only such page number will be followed by a decimal point and the number 1. When supplemental pages are needed then the supplemental pages will take the same page number with the addition of a decimal point and the number 1, 2, 3, etc. if there are no reserved pages to work with, example: 46 74.1, 46 74.2, 46 74.3 and so on.~~

~~(c)(2) The placement of the pPage numbers and rule numbers will always fall on the outside of the page. Headings are determined by listing the department name on an even-numbered page and the chapter name on an odd-numbered page and by checking the previous existing pages. An even-numbered page has the first rule number that appears on that page, while an odd-numbered page has the last rule number on the page.~~

~~(2) When the remainder of the old page to which the new rule has been added has been completed in this fashion, then the typing should stop on that supplemental page even though the entire page may not have been used. Even though the typing may end in the middle of a rule, or middle of a sentence, the continuation will be found on the next page which originally followed the old page on which the change was inserted.~~

~~(3) The same page extension procedure should be followed when a rule is amended. In the case of an amendment, only the amended form of the rule will be typed. This should be placed in the same location as was the rule before it was amended. Note that the rule number will remain the same. If the amendment necessitates a new catchphrase, then the amended catchphrase replaces the old.~~

~~(4) To retype pages assume that you are going to make a change on existing page 59. And assume that such page contains a continuation of rule 607 from the preceding page and also contains the beginning of the next rule which was 611. Then assume you are going to add a new rule which has been assigned the number 609. This would mean that 609 would have to be typed in between the end of 607 and the beginning of 611. To accomplish this you would take a new sheet of paper and retype what was on page 59, i.e., the continuation of 607. Then at the end of 607 on the new sheet you would double space, change reserved rule notation from rules 608 through 610 reserved, to~~

rule 608 reserved, begin typing new 609 with the rule number, catchphrase and text and continue typing until you have completed the rule. At that point, double space, add reserved rule note, rule 610 reserved, and retype as much of 611 (the rule which had followed 607 on the old page 59) as appeared on old page 59. This new sheet will also be page numbered 59. Note that where you cannot type in 609 and the part of 611 which had appeared on old page 59 on the first new sheet, then you will have to go to another sheet or sheets. These supplemental sheets will be page numbered 59.1, 59.2 etc. if there are no reserved pages to work with.

(a) When the part of 611 is completed as far as it went on old page 59, then stop typing, even though you may end in the middle of a sentence. The continuation of 611 will appear on page 60 which is already in ARM.

(5) The above example applies also in amending a part of a rule on any given page. However, if for example 611 begins on page 59 and finishes on page 60, and 621 begins immediately thereafter on page 60, and if there is an amendment to 611, then retype 59 down through 611 and continue typing to the point where the amendment begins and use any supplemental page 59's as necessary. If the amendment removes any part of 611 on old page 60, then prepare a new page 60. To do this, simply omit that part of 611 on the top of new page 60 and retype as much of 621 as had been on page 60 beginning at the eighth line from the top of the new page 60. This will mean that even though you will not reach the bottom of the new page 60, you should stop typing, because the continuation of 621 will appear on existing page 61 which need not be changed.

(6) The above procedures should be used to prepare a rule which repeals an existing rule. For example, assume that existing page 59 contains the beginning of 611, and that 611 is to be repealed entirely. You would retype old page 59 down to the place where 611 had begun, then type in the rule number for 611 and the catchphrase, following with the phrase in upper case and underlined (IS HEREBY REPEALED) and the history. You will then stop typing on the new page even though you have not used the full new page. Then, assuming that 611 before its repeal had finished on, for example, old page 60 and 621 had begun on old page 60, you will have to retype page 60, omitting on the new sheet that portion of 611 which had appeared on old page 60. To do this, you will prepare the new page 60 by moving that part of 621 which had appeared on old page 60, to the top of the new page 60 and type down as much as had appeared on old page 60. At that point, stop, even though the whole page is not used up. Then the continuation of 621 will appear on existing page 61.

(a)(3) A repealed rule number and catchphrase will always remain in ARM with the full history in its original location; therefore the number cannot be re used. A repealed rule number cannot be reused. The repeal must also be noted on the chapter table of contents by (REPEALED) after the catchphrase of a rule.

~~(7) Where a particular agency has adopted rules, but subsequent legislative enactment has transferred such rules to another agency, for administrative purposes, then the transferring agency will so indicate in the appropriate place in their section of ARM (i.e. the page on which the transferred rule(s) began). Here, the same page preparation process will be used as was used for preparing a repealing rule.~~

~~(a)(4) A statement should be placed where rules were originally located. The For transferred rules, the rule number, catchphrase, and full history note appears in the old original location with the addition of the transfer information in the history note. The transfer should must also be noted in on the chapter table of contents by the word TRANSFERRED (TRANSFERRED) after the catchphrase of a rule.~~

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA
IMP: 2-4-306, 2-4-311, MCA

1.2.404 ADMINISTRATIVE ORDER (1) When the notice of proposed action results in the adoption, amendment, or repeal of a rule, the action must be certified and transmitted to the secretary of state for filing and publication. An administrative order must be filed with each adoption notice. This certifies and confirms the agency's action. This will be accomplished by an administrative order. Replacement pages will do not need an administrative order. Orders will not be numbered but may be cited, if necessary, by date.

(2) The administrative order will must be signed by the head of the department where the department has an elected official or an executive appointment by the governor, or by the chairmanperson of the board where the department is headed by a multi-member board. In the case of rules submitted by an agency assigned to a department for administrative purposes only, then such rules will be signed by the head of that agency or chairmanperson of the governing board.

(3) Emergency or temporary and permanent rules may not be intermingled on the same order.

AUTH: 2-4-306, 2-15-401, MCA
IMP: 2-4-303, 2-4-306, MCA

1.2.411 UPDATING PROCEDURES (1) ~~As ARM 1.2.206 indicates, rule changes to the initial rules will be accomplished by exchanging new pages for the pages on which the change took place. The Administrative Rules of Montana has been set up as a loose leaf service to accommodate this method of revision.~~

~~(2) Changes to Administrative Rules of Montana the ARM must first be published in the Montana Administrative Register which is explained in ARM 1.2.422. The secretary of state has the responsibility for distributing replacement pages containing the rule changes.~~

~~(3)~~(2) Accompanying the replacement pages which are distributed quarterly to subscribers to the ARM ~~on a three month basis or more frequently if necessary, will be~~ are instructions ~~which indicate~~ indicating where the pages are to be inserted and which existing pages have been superseded and ~~should~~ must be removed.

AUTH: 2-4-201, 2-4-306, 2-15-401, MCA
IMP: 2-4-306, MCA

1.2.422 MONTANA ADMINISTRATIVE REGISTER (1) The Administrative Rules of Montana are ~~kept current by a publication known as the Montana Administrative Register adopted through a public notice process of publishing a proposal notice and a subsequent adoption notice. The Register is published twice a month. Existing rules are amended and repealed through the same process.~~

(2) ~~The Montana Administrative Register is comprised of four sections:~~

(a) ~~The first is the notice section wherein the department or agency has given~~ contains agency notice of ~~intended~~ proposed administrative rulemaking action;

(b) ~~The second, the rule section, contains the results of the proposed action wherein a rule has been adopted, amended or repealed~~ indicating the adoption, amendment, transfer, or repeal of a rule;

(c) ~~The third is the interpretation section containing~~ contains attorney general opinions and agency declaratory rulings;

(d) ~~The fourth section is the special notice and table section~~ contains:. ~~This section includes~~

(i) ~~functions of the administrative rule review committee;~~

(ii) ~~instructions on how to use the Administrative Rules of Montana and Montana Administrative Register~~ ARM and Register; and

(iii) ~~an accumulative table of past rulemaking actions during the past six months; and~~

(iv) ~~In~~ in each even-numbered issue of the ~~Register,~~ vacancies on and appointments to boards and councils ~~are published.~~

~~(3) The register will always be maintained in a volume separate from the Administrative Rules of Montana.~~

AUTH: 2-4-306, 2-4-312, 2-15-401, MCA
IMP: 2-4-306, 2-4-312, MCA

1.2.423 AGENCY FILING FEES (1) ~~Beginning July 1, 2001, all agencies will be required to~~ Each agency shall pay a ~~\$40.00~~ 50.00 per page filing fee for all pages ~~submitted for printing~~ the agency has printed in the Montana Administrative Register. The secretary of state ~~will~~ bills on a per-issue basis for all pages ~~submitted~~ printed.

AUTH: ~~2-4-306~~, 2-4-313, 2-15-405, MCA
IMP: ~~2-4-306~~, 2-4-313, 2-15-405, MCA

Statement of Reasonable Necessity: The agency filing fee impacts agencies with legislative authority to promulgate rules. The additional amount that will be collected through the agency filing fees is approximately \$23,820. The fees proposed will not fully cover the actual costs, but will help to defray a portion of the cost of publishing, printing and mailing of the ARM and Register.

1.2.519 BASIC FORMAT INSTRUCTIONS REQUIREMENTS (1) The following ~~instructions requirements~~ apply to all material submitted for publication in the ~~Montana Administrative Register and the Administrative Rules of Montana~~ ARM. Refer to the ~~sample forms following the text of this rule for information pertaining to specific areas.~~

(a) ~~paper white, bond, 8 1/2 x 11 inches, Material must be submitted electronically in Word 2000, or more recent version.~~

(b) ~~type 10 letters per inch, standard or courier type, black ribbon, All text must be in Arial 12 point font.~~

(c) ~~Type on one side of the sheet only. Documents must be left justified.~~

(d) ~~margins left margin 1 1/2 inches wide, right margin 3/4 inch wide. Refer to sample forms for top and bottom margins. Margins must be set as follows:~~

(i) top and bottom margin at .5 inches;

(ii) left margin at 1.5 inches; and

(iii) right margin at .75 inches.

(e) ~~spacing Single space between paragraphs of a rule and double space between rules. Spacing in documents must be as follows:~~

(i) single space paragraphs and rules;

(ii) a blank line must be between all paragraphs and rules;

(iii) a blank line must be above and below all AUTH and IMP citations; and

(iv) each paragraph, section, and subsection number (earmark) must have two spaces before the text begins.

(f) ~~indentation Each paragraph, rule number, section, and subsection must be tabbed in is indented 5 five spaces.~~

(g) ~~outline form used (1) (2) (3); (a) (b) (c); (i) (ii) (iii); (A) (B) (C); (I) (II) (III). Spacing after paragraph designation depends on how far the breakdown goes in the rule. Normally there are 2 spaces after the paragraph designation before beginning the text of a rule. If the rule is broken down to (viii) then there should be 5 spaces so that the paragraphs of the rule will be lined up evenly. For section and subsection earmarking requirements, see ARM 1.2.216.~~

(h) ~~capitalization Capitalize as little as possible, lower case is easier to read. For capitalization, hyphenation, punctuation, and grammar requirements, refer to the Gregg Reference Manual, tenth edition, which is incorporated by~~

reference. The Gregg Reference Manual, tenth edition, is available from McGraw-Hill/Irwin, 1221 Avenue of the Americas, New York, NY, 10020;

~~(i) Capitalize the first word in a sentence. The first word in a subsection following a colon must be capitalized if the items express a complete thought.~~

~~(ii) Capitalize months and days of the week.~~

~~(iii) Capitalize "Montana" in "state of Montana" but not "state". Capitalize "County" but not "city" in the name of a county or city.~~

~~(iv) Capitalize names of specific persons or places, specific regions, geographic names.~~

~~(v) Capitalize names of historic events and holidays.~~

~~(vi) Capitalize references to statute compilation, and a particular act—Montana Administrative Procedure Act.~~

~~(vii) Capitalize names of races, citizens and languages.~~

~~(viii) Capitalize words pertaining to deity.~~

~~(ix) Do not capitalize official titles, titles of state, county, or municipal officers, agencies or institutions.~~

(i) ~~rule numbers~~— Use a Roman numeral in the proposed al notice for a new rule, and indicate the assigned permanent ARM number in the notice of adoption of the rule. Example: (Rule I - 2.2.333)

(j) Underline the rule number and catchphrase of a rule. The catchphrase is typed in capital letters.

(k) All charts and illustrations must fit into format margins.

(l) Notices and administrative orders must be signed by the head of the department or the chairman~~person~~ of the governing board. The head of the agency or the chairman~~person~~ of the governing board will sign for an agency that is assigned to a department for administrative purposes only. ~~A stamped (facsimile) signature is not acceptable.~~ A letter must be filed with the secretary of state indicating signatory authority in the absence of the above department head or chairperson. For the purposes of electronic filing of documents, the secretary of state will accept as signatures:

~~(i) digitized signatures;~~

~~(ii) digital signatures; or~~

~~(iii) typed names on documents that have been taken from the directory created for rule submission preceded by /s/. This directory will have limited access, and only those authorized and with verifiable signatory authority will be accepted. The typed name must represent a signed copy on file in the submitting agency's records.~~

(m) The rule reviewer must sign each proposal and adoption notice published in the ~~Montana Administrative Register~~, indicating that he or she has reviewed and approved the rules as required by 2-4-110, MCA. ~~A stamped (facsimile) signature is not acceptable.~~ A letter must be filed with the secretary of state and administrative ~~code~~ rule review committee indicating rule reviewer appointment. For the purposes of electronic filing of documents, the secretary of state will accept as signatures:

(i) ~~digitized signatures;~~
(ii) ~~digital signatures; or~~
(iii) ~~typed names on documents that have been taken from the directory created for rule submission preceded by /s/. This directory will have limited access, and only those authorized and with verifiable signatory authority will be accepted. The typed name must represent a signed copy on file in the submitting agency's records.~~

(n) ~~Sample forms 1 through 11 pertaining to the typing format for a proposed notice, notice of adoption, emergency or temporary rule, title chapter table of contents, reserved chapter page, first page of chapter, odd numbered page, even numbered page, cross reference page and an administrative order are incorporated in this rule.~~

Sample forms 1 through 11 are proposed for repeal.

AUTH: 2-4-201, 2-4-306, 2-15-401, MCA
IMP: 2-4-110, 2-4-303, 2-4-306, MCA

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

1.2.321 (1.2.225) OLD TO NEW NUMBERING TABLE (1) The ~~old-to-new~~ numbering table indicates the old ARM rule number assigned to a rule before ARM recodification in 1980 and the new three-part number assigned to that rule after ARM recodification.

AUTH: 2-4-306, 2-4-311, 2-15-401, MCA
IMP: 2-4-306, 2-4-311, MCA

1.2.322 (1.2.226) NEW TO OLD NUMBERING TABLE (1) This table indicates the ~~new~~ three-part rule number assigned to a rule in the ~~Administrative Rules of Montana (ARM)~~ in ascending order, and the old rule number ~~which was assigned to the rule before~~ prior to recodification in 1980.

AUTH: 2-4-306, 2-4-311, 2-15-401, MCA
IMP: 2-4-306, 2-4-311, MCA

1.2.412 (1.2.229) HOW TO CITE CITING THE ADMINISTRATIVE RULES OF MONTANA (1) When referring to a rule from the ~~Administrative Rules of Montana ARM~~, the rule shall ~~shall~~ must be ~~properly~~ referred to by ARM and its full number. For example, this rule ~~on how to cite a rule would be referred to~~ is cited as ARM 1.2.412229.

AUTH: 2-4-201, 2-4-306, 2-15-401, MCA
IMP: 2-4-306, MCA

1.2.421 (1.2.104) SUBSCRIPTION TO THE ADMINISTRATIVE RULES BUREAU FEES OF MONTANA AND MONTANA ADMINISTRATIVE REGISTER COST (1) and (2) remain the same.

~~(3)~~ (3) The cost for the Register is as follows:

(a) per calendar year (24 issues)..... \$325.00

(b) per issue..... \$13.50

~~(3)~~ (4) The costs for the Administrative Rules of Montana ARM and the Montana Administrative Register are as follows:

(a) initial purchase of ARM Administrative Rules of Montana \$350.00,..... \$500.00

(b) Four quarterly issues of updates to the Administrative Rules of Montana \$250.00 ARM, per calendar year,..... \$300.00

(c) Montana Administrative Register \$300.00 per calendar year,

(d)(c) Ppartial year subscriptions will be prorated.

~~(4)~~ (5) Individual title charges are as follows:

(a) Initial purchase of single-part title, \$50.00 \$60.00

(b) except for initial purchase of multi-part titles which may be purchased for \$125.00 a title,..... \$60.00 for the first part, plus \$40.00 for each additional part

(b) (c) Updates to extra titles are \$50.00 per calendar year per title. quarterly updates to individual titles, per calendar year..... \$60.00

(6) The following miscellaneous fees are charged by the ARM Bureau:

(a) lapsed subscription fee for ARM (maximum of two years prior, per year)..... \$100.00

(b) copy or fax fee..... \$1.00 per page/\$5.00 minimum

(c) replacement binder for ARM..... \$5.00

(7) The ARM Bureau does not charge other state agencies for copies or faxes.

~~(5)~~ (8) All purchase and subscription fees must be paid in advance and are not refundable.

(9) To purchase any rules publication, contact the ARM Bureau at PO Box 202801, Helena MT 59620-2801, by phone (406) 444-2055, or email mt-rules@lists.mt.gov.

AUTH: 2-4-306, 2-4-311, 2-4-312, 2-4-313, 2-15-405, MCA

IMP: 2-4-306, 2-4-311, 2-4-312, 2-4-313, 2-15-405, MCA

Statement of Reasonable Necessity: The Secretary of State proposes this amendment to establish fees that reflect the actual costs incurred by the Administrative Rules Bureau to provide these services. The additional amount that will be collected through fees associated with the initial purchase or copies of the ARM or Register will be approximately \$1,087 and will affect approximately 37 customers. The additional amount that will be collected through subscription fees will be approximately \$10,670, and will affect approximately 509 customers.

5. The proposed new rules provide as follows:

NEW RULE I INTERNET AVAILABILITY (1) Both the ARM and Register are available on the internet at the secretary of state's website at <http://sos.mt.gov/css/ARM/Contents.asp>.

(2) The printed versions of both publications remain the official versions.

(3) Although the secretary of state's office strives to keep the electronic versions of both the ARM and Register accurate and current, use only the printed version for legal purposes.

AUTH: 2-4-311, 2-4-312, 2-4-313, 2-15-401, MCA

IMP: 2-4-311, 2-4-312, 2-4-313, MCA

NEW RULE II RETENTION OF OBSOLETE ARM PAGES (1) The secretary of state's office suggests that subscribers maintain an orderly system for preserving obsolete pages. All obsolete pages are available in the permanent records of the office of the secretary of state.

AUTH: 2-4-313, 2-15-401, MCA

IMP: 2-4-313, MCA

NEW RULE III CROSS REFERENCE TABLE (1) Each title contains a cross reference table of the MCA citations to ARM rules. This table lists the MCA sections used as authority for a rule and the MCA sections which a rule implements or interprets.

(2) Cross reference table pages are updated quarterly to coincide with changes made to the corresponding rules.

AUTH: 2-4-201, 2-4-306, 2-4-311, 2-15-401, MCA

IMP: 2-4-306, 2-4-311, MCA

6. The rule proposed for repeal is as follows:

1.2.301 RECODIFICATION OF THE ADMINISTRATIVE RULES OF MONTANA (ARM) found on ARM page 1-25.

AUTH: 2-4-301, 2-4-305, 2-15-306, MCA

IMP: 2-4-306, MCA

Statement of Reasonable Necessity: The Secretary of State is proposing revisions to ARM Title 1 for the purposes of enhancing readability, reflecting current practices, and establishing fees commensurate with actual costs.

Most of the proposed revisions fall into one of the following categories:

1) General revisions to rules related to the organization of ARM;

2) Revisions related to the state government procedures for preparing and filing rule proposals, rule adoptions, and replacement pages with the Secretary of State; and

3) Revisions related to fees charged for services provided by the ARM Bureau of the Secretary of State's Office.

The proposed amendments, transfers, and adoptions related to the organization of ARM include changes to make the rules more helpful and understandable to the reader, and are substantively similar to existing rules. The changes are made in response to recommendations made to the Secretary of State by the Title 1 work group, a group of state agency personnel involved in rulemaking.

The proposed revisions clarify the steps agencies must follow to prepare and file rules for publication in the Register and ARM and correct existing rules to reflect current practice. It is reasonably necessary to adopt rules related to the preparation and filing procedures because agencies must be aware of the Secretary of State's format and style requirements for submission.

The proposed amendments related to fees charged are necessary to cover the actual costs incurred to provide these services. It is the intent of the legislature that the Secretary of State's Office collects fees that are commensurate with the overall costs of the office. The changes proposed set fees that are more closely aligned to the actual costs incurred to provide the services by the Administrative Rules Bureau.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Jean Branscum, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jabranscum@mt.gov, and must be received no later than December 8, 2005.

8. H. Elwood English, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

9. The Secretary of State 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 administrative rules, corporations, elections, notaries, records, uniform commercial code or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Bureau, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-3976, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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

/s/ Brad Johnson
BRAD JOHNSON
Secretary of State

/s/ H. Elwood English
H. ELWOOD ENGLISH
Rule Reviewer

Dated this 31st day of October 2005.