

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 13

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are found at the back 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.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

COMMERCE, Department of, Title 8

8-111-17 (Board of Housing) Notice of Proposed Amendment - Terms and Conditions of Loans Made from TANF Housing Assistance Funds. No Public Hearing Contemplated. 1832-1834

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

12-281 (Fish, Wildlife, and Parks Commission) Notice of Proposed Adoption and Amendment - Allowing Successful Moose, Sheep or Goat Applicants to Annul and Return the License if Military or Emergency Duty Does Not Allow Use of the License - Bonus Point Exception for Military or Emergency Personnel in Combat or Emergency Situations. No Public Hearing Contemplated. 1835-1838

ENVIRONMENTAL QUALITY, Department of, Title 17

17-162 (Wastewater Operators) Notice of Public Hearing on Proposed Amendment - Wastewater Treatment Operators. 1839-1862

LABOR AND INDUSTRY, Department of, Title 24

24-11-165 Notice of Public Hearing on Proposed Amendment - Initial Monetary Determination. 1863-1867

24-174-52 (Board of Pharmacy) Notice of Public Hearing on Proposed Amendment, Adoption and Repeal - Definitions - Foreign Graduates - Preceptor Requirements - Technician Ratio - Pharmacy Security Requirements - Licensing - Personnel - Absence of Pharmacist - Use of Emergency Drug Kits - Drug Distribution - Pharmacist Responsibility - Sterile Products - Return of Medication from Long Term Care Facilities - Pharmacist Meal/Rest Breaks - Health Care Facility Definition - Class I Facility - Class II Facility - Class III Facility. 1868-1883

RULE SECTION

ADMINISTRATION, Department of, Title 2

(Public Employees' Retirement Board)

NEW Implementation of the Defined Contribution
AMD Retirement Plan for Members of the Public Employees' Retirement System. 1884-1888

NEW Purchase of Service Credit Through Direct Trustee-to-Trustee Transfers. 1889

AMD Retirement Systems Administered by the Montana Public Employees' Retirement Board. 1890

NEW Deferred Retirement Option Plan (DROP) for Members of the Municipal Police Officers' Retirement System. 1891-1892

NEW Deferred Compensation Plan Administered by the Public Employees' Retirement Board. 1893

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

(Fish, Wildlife, and Parks Commission)
Corrected Notice of Amendment - Fishing Contest Regulations - Prohibited Contests. 1894-1895

JUSTICE, Department of, Title 23

Corrected Notice of Amendment - Driver Licensing and Identification Cards - Duplicate Licenses. 1896

LIVESTOCK, Department of, Title 32

(Board of Horse Racing) Corrected Notice of Transfer and Amendment - Horse Racing. 1897-1898

BEFORE THE BOARD OF HOUSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED
amendment of ARM 8.111.513) AMENDMENT
pertaining to the terms and)
conditions of loans made from) NO PUBLIC HEARING
TANF housing assistance funds) CONTEMPLATED

TO: All Concerned Persons

1. On August 13, 2002, the Board of Housing proposes to amend ARM 8.111.513 concerning the terms and conditions of loans made from TANF housing assistance funds.

2. The Board of Housing 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 Board of Housing no later than 5:00 p.m. on August 9, 2002, to advise us of the nature of the accommodation that you need. Please contact Diana Hall, 301 South Park Ave., 2nd Floor, P.O. Box 200528, Helena, MT 59620-0528; telephone (406) 841-2840; Fax (406) 841-2841; e-mail dihall@state.mt.us.

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

8.111.513 TANF LOAN TERMS AND CONDITIONS (1) remains the same.

(2) As an alternative to an amortized loan as provided for in (1), a loan from a TANF line of credit - home ownership or a loan for mortgage payment assistance from a TANF line of credit - emergency housing assistance may provide that the principal balance and all accrued interest need not be paid until and upon the death of the applicant, the transfer, sale or cessation of use as the primary residence by the applicant of the real property for which the loan was made, or upon satisfaction of the first mortgage in conjunction with which the loan is made. Such a loan shall:

(a) bear interest at the same rate the housing assistance organization is being charged for the TANF line of credit; and

(b) be secured at closing by a lien on the real property, perfected through the use of a trust indenture subordinate to the first mortgage naming the housing assistance organization as beneficiary.

(3) The provisions of ARM 8.111.511, regarding the terms and conditions of a line of credit to a housing assistance organization, except for the interest rate provided for in ARM 8.111.511, do not apply relative to a loan made under (2). Further, within 10 days of repayment of such a loan by the

applicant to the housing assistance agency, the housing assistance agency shall remit an amount equal to the principal balance and accrued interest to the board.

AUTH: 90-6-136, MCA

IMP: 90-6-133 and 90-6-134, MCA

REASON: There is a reasonable necessity to amend the rule because of difficulties with amortized loans both from a borrower's and a housing assistance organization's perspective. Loans covered by this amendment are those from a TANF line of credit - home ownership made for down payment assistance, reasonable and necessary closing costs, the first month's payment on a first mortgage, to buy down the rate of interest charged on a first mortgage, or any other purpose reasonably designed to assist an eligible recipient to purchase a home and which has been approved by the Board, or from a TANF line of credit - emergency housing assistance for mortgage payment assistance. To be eligible for one of these loans, the applicant must meet the eligibility requirements of ARM 8.111.512. Many times an applicant cannot afford to make principal and interest payments on both a first mortgage and a subordinate mortgage made for a TANF eligible loan. By allowing the TANF loan principal and interest to be paid upon death, sale, transfer or cessation of use of the real property as the applicant's primary residence, more TANF eligible applicants will be able to realize home ownership through this program.

Additionally, housing assistance organizations are discouraged from making loans for these purposes because the loans are generally small and the servicing fee is accordingly considered inadequate. Many housing assistance organizations are not equipped to service such small loans and, therefore, are reluctant to become involved in making loans under the Board's TANF revolving loan program. By allowing the TANF loan principal and interest to be paid upon death, sale, transfer or cessation of use of the real property as the applicant's primary residence, the burdensome task of servicing a small loan is substantially mitigated. Housing assistance organizations should, therefore, be encouraged to make loans to assist applicants to purchase homes or to maintain their mortgages.

4. Concerned persons may submit their data, views or arguments concerning the proposed action in writing to the Board of Housing, 301 South Park Ave., 2nd Floor, P.O. Box 200528, Helena, MT 59620-0528, by facsimile to (406) 841-2841, or by e-mail to mrude@state.mt.us. to be received no later than 5:00 p.m., August 9, 2002.

5. If persons who are directly affected by the proposed action wish to express their data, views or arguments orally or in writing at a public hearing, they must make written

request for a hearing and submit the request along with any comments they have to the Board of Housing, 301 South Park Ave., 2nd Floor, P.O. Box 200528, Helena, MT 59620-0528, by facsimile to (406) 841-2841, or by e-mail to mrude@state.mt.us. to be received no later than 5:00 p.m., August 9, 2002.

6. If the Board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed action, from the appropriate administrative rule committee of the legislature, from a governmental agency or subdivision, 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 2,000 based on the 20,000 persons who could benefit from this program.

7. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the Board. 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 single family housing programs, multifamily housing programs, affordable housing revolving loan account, or general procedural rules. The written request may be mailed or delivered to the Board of Housing, Montana Department of Commerce, P.O. Box 200528, Helena, MT 59620-0528, faxed to the Board at (406) 841-2841, e-mailed to dihall@state.mt.us., or submitted at any rules hearing held by the Board.

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

DEPARTMENT OF COMMERCE
BOARD OF HOUSING

By: /s/ Mark A. Simonich
MARK A. SIMONICH, DIRECTOR

Reviewed by:

/s/ G. Martin Tuttle
G. MARTIN TUTTLE, Rule Reviewer

Certified to the Secretary of State July 1, 2002.

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

In the matter of the)	
adoption of a new rule)	
allowing successful moose,)	
sheep or goat applicants to)	
annul and return the license)	NOTICE OF PROPOSED
if military or emergency duty)	ADOPTION AND AMENDMENT
does not allow use of the)	
license and the amendment of)	
ARM 12.3.135, providing a)	NO PUBLIC HEARING
bonus point exception for)	CONTEMPLATED
military or emergency)	
personnel in combat or)	
emergency situations)	

TO: All Concerned Persons

1. On September 11, 2002, the Fish, Wildlife and Parks Commission (commission) proposes to adopt new rule I, allowing successful moose, sheep or goat license applicants to annul and return their licenses if the applicants are in the military or are emergency personnel and cannot use the license because of combat deployment or duty at a major emergency and amend ARM 12.3.135 to allow military or emergency personnel who draw a special permit/license but are called to serve in combat or emergency situations and cannot use the permit/license to retain their bonus points.

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 5:00 p.m. on July 22, 2002, to advise us of the nature of the accommodation that you need. Please contact Nancy Kraft, 1420 East 6th Avenue, P.O. Box 200701 Helena, MT 59620-0701; telephone (406) 444-2663; fax (406) 444-7456.

3. The proposed new rule provides as follows:

NEW RULE I MOOSE, SHEEP, AND GOAT - SEVEN YEAR WAIT REQUIREMENT (1) Applicants who are successful in drawing a moose, sheep, or goat license in a license year may request to have their license annulled and therefore are deemed not to have been issued the license so that they are not subject to the requirement to wait seven years to reapply if the following circumstances occur:

- (a) the applicant is:
 - (i) a member of the armed forces and is either deployed to a combat zone, deployed in support of a peace-keeping mission, or deployed in response to a state or national emergency; or

(ii) affected by a catastrophic or major natural disaster or man-made event that requires the applicant's assistance as a member of a local, state, or federal management agency;

(b) the applicant did not use and was unable to use the license during any part of the hunting season in the license year for which the license was issued and can provide appropriate documentation; and

(c) the applicant returns the unused license as soon as possible during the hunting season for the species for which the license was issued or at least by December 31 and certifies that it was not used;

(i) the director or designee may authorize exceptions for extenuating circumstances that prevent the applicant from meeting the December 31 deadline for the return of license.

(2) Moose, sheep, and goat licenses returned under these circumstances may be reissued to unsuccessful applicants in the original drawing.

AUTH: 87-1-301, MCA

IMP: 87-2-702, MCA

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

12.3.135 BONUS POINTS: AWARD AND ACCUMULATION (1) through (4) remain the same.

(5) If an applicant is successful in drawing a permit/license for a species in the first-choice district, the applicant loses all accumulated bonus points for that species only.

(6) If the following special circumstances occur, an applicant who is successful in drawing a permit/license in the first-choice district may retain accumulated bonus points if:

(a) the applicant is:

(i) a member of the armed forces and is either deployed to a combat zone, deployed in support of a peace-keeping mission, or deployed in response to a state or national emergency; or

(ii) affected by a catastrophic or major natural disaster or man-made event that requires the applicant's assistance as a member of a local, state, or federal management agency;

(b) the applicant did not use and was unable to use the permit/license during any part of the hunting season in the license year for which the permit/license was issued and can provide appropriate documentation; and

(c) the applicant returns the unused permit/license as soon as possible or at least by December 31 and certifies that it was not used;

(i) the director or designee may authorize exceptions for extenuating circumstances that prevent the applicant from meeting the December 31 deadline for the return of permit/licenses.

~~(6)~~ (7) Rejection of an application pursuant to ARM 12.3.140 is equivalent to failure to apply.

~~(7)~~ (8) Applicants who lose hunting and fishing privileges through court action will lose accumulated bonus points for all species.

AUTH: 87-1-301, MCA
IMP: 87-1-304, 87-2-506, 87-2-701, 87-2-702, 87-2-705,
87-2-706, MCA

5. Some members of the armed forces and national guard have expressed concern about the possible loss of bonus points or the opportunity to draw for special moose, sheep and goat licenses if they should be sent overseas into combat or in support of combat units. After hearing these concerns, the commission analyzed whether or not enough flexibility existed in the statutes and rules to accommodate individuals in these situations. The possibility that individuals defending our country in combat or responding to a state or national emergency might be penalized by losing bonus points or drawing opportunities troubled the commission. To correct this situation, the commission decided to begin rulemaking to clarify that individuals in these circumstances who cannot use their special permits/licenses will be taken into consideration by allowing them to retain bonus points and drawing opportunities.

Further, the tragedy of September 11, 2001, and the critical roles played by management agencies such as fire and police departments were considered by the commission. The intent of the commission is to make certain that individuals who are responding to a disaster as a member of a local, state, or federal management agency, and therefore are not able to use special licenses or permits, are not penalized by loss of bonus points or drawing opportunities.

6. Concerned persons may submit their data, views or arguments concerning the proposed actions in writing to Nancy Kraft at P.O. Box 200701, Helena, MT 59620-0701, to be received no later than August 12, 2002.

7. 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 Nancy Kraft at P.O. Box 200701, Helena, MT 59620-0701. The comments must be received no later than August 12, 2002.

8. If the agency receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed actions; 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 five persons based on the number of inquiries the department has received regarding this issue.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive 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 6th, 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.

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

By: /s/ Dan Walker
Dan Walker
Commission Chairman

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

Certified to the Secretary of State July 1, 2002

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PUBLIC HEARING ON
of ARM 17.40.201, 17.40.202,) PROPOSED AMENDMENT
17.40.206, 17.40.207,)
17.40.208, 17.40.212,)
17.40.213, 17.40.214 and) (WASTEWATER OPERATORS)
17.40.215 pertaining to)
wastewater treatment operators)

TO: All Concerned Persons

1. On August 8, 2002, at 9:00 a.m., the Department of Environmental Quality will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m., July 29, 2002, to advise the Department of the nature of the accommodation that you need. Please contact Jim Melstad, Community Services Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-5315; fax (406) 444-1374; or email jmelstad@state.mt.us.

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

17.40.201 DEFINITIONS In addition to the terms defined in 37-42-102, MCA:

(1) "Advanced or tertiary wastewater treatment" means additional treatment to remove suspended or dissolved substances remaining after conventional secondary wastewater treatment processes. Treatment may utilize biological or chemical treatment processes. Mechanical tertiary treatment processes refer to advanced treatment processes that require extensive use of mechanical equipment such as pumps, blowers, chemical metering, motors and other pieces of equipment and structures.

(1) remains the same, but is renumbered (2).

~~(2)~~ (3) "Fully certified operator" means an operator who:

(a) through (e) remain the same.

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

~~(5) "Primary wastewater treatment" means the first major (sometimes the only) treatment in wastewater treatment systems, usually sedimentation and flotation. Primary wastewater treatment normally results in removal of a~~

~~substantial amount of settleable matter and some suspended matter with little or no removal of colloids and dissolved matter, and may be accomplished by use of ponds or sedimentation basins.~~

(6) "Responsible charge" means responsibility exercised by an individual in day-by-day operation or supervision of a water supply system, wastewater treatment system, or any part thereof, which may affect the quality or quantity of water for human consumption or the quality of effluent produced by the wastewater treatment system.

~~(7) "Secondary wastewater treatment" means stabilization of wastewater by biological processes such as wastewater lagoons, aerated lagoons, trickling filters, activated sludge, or bio-discs.~~

(7) "Secondary wastewater treatment" means a process that reduces the concentrations of contaminants in wastewater, through biological treatment methods such as lagoons, trickling filters, activated sludge, sequencing batch reactors or bio-discs to generally meet the numeric criteria of the National Secondary Treatment Standards contained in 40 CFR Part 133, which have been adopted by reference in ARM Title 17, chapter 30, subchapter 12.

(8) through (11) remain the same.

AUTH: 37-42-202, MCA

IMP: 37-42-202, MCA

17.40.202 CLASSIFICATION OF SYSTEMS (1) All water supply systems and wastewater treatment systems are classified according to population served and type of treatment as shown below:

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

(c) Wastewater treatment systems:

(i) ~~e~~Class 1--conventional, high rate, or biological nutrient removal activated sludge systems or any treatment system with ~~or~~ without mechanical tertiary (advanced) treatment processes;

(ii) ~~e~~Class 2--treatment such as extended aeration, oxidation ditches, trickling filters, package plants, ~~bio-discs~~ sequencing batch reactors, or bio-disc ~~or tertiary treatment systems; discharging to state waters;~~

(iii) through (d)(iv) remain the same.

(2) In order to calculate the class of a particular water supply system pursuant to (1)(a) or (b) ~~of this rule~~ when an accurate population census is not available, the population served may be determined by multiplying the number of service connections by 2.5.

(3) For the purposes of this subchapter, a system classified with a lower number is considered more complex than a system classified with a higher number, i.e., a Class 1 system is more complex than a Class 2 system.

AUTH: 37-42-202, MCA

IMP: 37-42-104, 37-42-304, 37-42-306, MCA

17.40.203 CERTIFICATION OF OPERATORS (1) Certification must be granted to an applicant under the grandfather clause (37-42-303(2), MCA) if the applicant submits a statement from the governing board or owner of a water supply system or wastewater treatment system stating he the applicant was in responsible charge of the system on July 1, 1967.

(2) ~~If an addition is installed after July 1, 1967 to an existing system is installed after a system that existed on July 1, 1967, the person who was in responsible charge of the system on that date July 1, 1967 and has a grandfather clause certificate may be granted a grandfather clause certificate at a higher classification for a more complex system, if:~~

(a) remains the same.

(b) evidence is presented to the department that the operator has been trained and is qualified to operate the higher-classified more complex system.

(3) ~~An A fully certified operator who moves out of state or otherwise terminates employment as an operator within Montana, may renew his/her the operator's certificate annually for a period of two years beyond the expiration date of his/her the operator's current certificate, if he or she the operator pays meets the renewal fee required by requirements in 37-42-308, MCA, and ARM 17.40.213 prior to July 1 of each of these years. At the end of the two year period, a certificate is invalid. After two years, in order to receive a new certificate, the operator must prove to the department that he or she the operator:~~

(a) has sufficient continuing education credits for the current biennium₇;

(b) has paid a fee equal to the renewal fee required under ARM 17.40.212; and either:

~~(b) is still employed as an operator of a water or wastewater treatment system; or~~

~~(c) has submitted a new application and fee to the department.~~

(c) is employed in a position that provides continuing familiarity with hands-on operation of the system classification for which the operator is seeking certification; or

(d) is otherwise competent to operate the system classification for which the operator is seeking certification.

(4) and (5) remain the same.

(6) If a census or a revision of the rules in this chapter shows a system qualifies for a higher more complex classification or the system is modified in a way that triggers a higher more complex classification, each fully certified operator of the system may obtain the higher more complex classification if:

(a) the operator makes a written request to the department for a higher more complex classification; and

(b) remains the same.

~~(7) An operator whose system has been changed to a~~

~~higher classification because of a revision of the rules in this chapter will be given a 1-time certification at that higher classification upon renewal of his/her annual certificate.~~

~~(8) (7)~~ An operator whose system has been changed to a lower less complex classification because of a revision of the rules in this chapter or a change in status of the system will be given certification at that lower less complex classification upon renewal of his/her the operator's annual certificate, unless the operator makes a written request to the department and the department determines that the operator meets all requirements for operating a higher-classified more complex system. In that case, the operator will remain certified at the operator's present classification, and the renewal requirements are the requirements for that higher more complex certification classification.

~~(9)(a) (8)~~ An operator who is fully certified in another state may obtain a reciprocal certification in Montana if the department determines that the operator's application and supporting material verify that the operator:

(a) has experience that meets Montana's minimum requirements;

(b) is in responsible charge of a system located in Montana that requires a certified operator; and

(i) (c) has passed an a water supply system operator examination in that state that has a U.S. environmental protection agency-approved water supply system operator certification program at least equivalent to that required by Montana; or

(d) has passed a wastewater operator examination in that state at least equivalent to that required by Montana.; and

~~(ii) has experience meeting Montana's minimum requirements; and~~

~~(iii) is in responsible charge of a system located in Montana that requires a certified operator.~~

(9) The examination referred to in (8)(c) and (d) must be for a certification classification at least as complex as the classification for which the operator seeks reciprocal certification in Montana.

~~(b) (10)~~ Operators certified under ~~(a) above (8)~~ must pay a one-time fee of \$70 in addition to the fees applicable for the Montana certification sought.

(10) remains the same, but is renumbered (11).

AUTH: 37-42-202, MCA

IMP: 37-42-304, 37-42-305, 37-42-306, 37-42-307, 37-42-308, MCA

17.40.206 EXAMINATIONS (1) A person desiring to take the examination for certification as a water supply or wastewater treatment system operator must complete the department's application form and return it to the department at least 15 days before the date of the next examination. The proper fee, as determined under ARM 17.40.212, must accompany

the application. Upon department approval, the applicant may take the examination.

(2) and (3) remain the same.

(4)(a) Except as provided in ~~(b)~~ below (4)(a), all classes of examinations will be given by department staff or by a council member at a time and place set by the department.

~~(b)(a)~~ Class 4 and class 5 water supply system examinations, class 3 and 4 nonindustrial wastewater treatment examinations, and class 4 industrial wastewater treatment examinations, may be given by department staff or a council member at a time and place set by the person administering the examination.

(5) through (7) remain the same.

(8) An operator holding a temporary certificate who fails the examination two times loses ~~his~~ the temporary certificate upon notice from the department of the second failure. However, the operator may take the examination whenever it is given by re-applying in conformance with department requirements.

(9) ~~A duplicate certificate shall be provided by the department to persons requesting the same upon the payment of a \$10.00 fee. A duplicate certificate may be provided only to the person who is certified by the department. The department shall provide a duplicate original certificate, to the person certified only, upon payment of a \$10 fee.~~

AUTH: 37-42-202, MCA

IMP: 37-42-201, 37-42-301, 37-42-305, 37-42-306, MCA

17.40.207 EXPERIENCE AND EDUCATION (1) ~~All operators~~ An operator certified after June 30, 1991, must have graduated from high school or hold a GED certificate, unless the applicant submits a written application for a special exception from this requirement and the department grants the exception. The department may only grant a special exception from this requirement upon finding that the applicant has the reading, writing and comprehension skills necessary to otherwise meet the requirements of this subchapter and to protect the public health and quality of Montana's waters.

(2) To become fully certified, an operator, in addition to passing the certification examination for the operator's specific classification, ~~shall~~ must have the following operating experience in a facility of that classification:

(a) through (d) remain the same.

(e) ~~eClass 5--no experience requirement~~ three months experience.

(3) If the department determines that experience gained at a ~~lower classified system~~ system classified as less complex is applicable to a ~~higher classified system~~ system classified as more complex, this experience or a portion of it may be credited toward the experience requirement for the ~~higher~~ more complex classification.

(4) and (5) remain the same.

AUTH: 37-42-202, MCA
IMP: 37-42-201, 37-42-302, 37-42-306, MCA

17.40.208 CERTIFIED OPERATOR IN CHARGE OF SYSTEM; EXCEPTIONS (1) Every water or wastewater treatment system must have an individual in responsible charge at the system site or on call at all times who can respond in a timely manner to threats to public or environmental health.

(2) Except as provided in this rule, the individual in responsible charge of a system must be a fully certified operator for that class or a higher more complex class of system.

(3) through (4) remain the same.

AUTH: 37-42-202, MCA
IMP: 37-42-104, 37-42-302, 37-42-305, MCA

17.40.212 FEES (1) An applicant for certification shall pay to the department:

(a) for any classification level of water distribution or water treatment system, an application fee of \$70, the payment of which entitles the applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination as specified in ~~(3)~~, below (2); and

(b) for any classification level of wastewater treatment, an application fee of \$70, the payment of which entitles the applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination as specified in ~~(3)~~, below (2).

(2) The fee is \$70 for each examination for certification as an operator of a water treatment system, water distribution system, or wastewater treatment system.

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

(a) and (b) remain the same.

~~(3) The fee is \$70 for each examination.~~

(4) The department shall suspend a certificate and mail notice of the suspension to the operator by the seventh working day after June 30 if the department did not receive the renewal fee specified in (3) by June 30.

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

AUTH: 37-42-202, MCA
IMP: 37-42-304, 37-42-308, MCA

17.40.213 CONTINUING EDUCATION REQUIREMENTS (1) All A fully certified operators—must operator shall earn a continuing education credit or credits, as specified in this rule, during each two-year period commencing on July 1 of each even-numbered year as follows-:

(a) The department shall count continuing education credits taken by a certified operator in the month of June of each even-numbered year toward satisfying the operator's

continuing education requirements for the next continuing education two-year period only.

(b) A certified operator shall submit all continuing education credit report forms to the department by June 15 of each even-numbered year. If the department has not received continuing education credit report forms showing that an operator earned sufficient credits to entitle the operator to renew a certificate during a continuing education two-year period by June 15 of an even-numbered year, the department shall, by July 1 of that even-numbered year, mail to the operator, and every system for which the operator is designated as an operator under ARM Title 17, chapter 38, subchapter 2, a notice suspending the certificate of the operator until the department receives a credit report form showing that sufficient credits were earned by May 31 of the even-numbered year. If the department receives, within 30 days after the notice of suspension was mailed, a report form showing that a suspended operator earned sufficient credits during a continuing education two-year period, and all other requirements for renewal have been met, the department shall lift the suspension and renew the certificate. The department shall revoke any certificate that remains suspended for a period of more than 30 days. However, the department, before this revocation, shall notify the certificate holder by certified mail at the address on the issued certificate of its intention to revoke, at least 10 days before the time set for action to be taken by the department on the certificate.

(a) (c) A eClass 1 certified operator must shall earn two credits for each certificate held by the operator for water treatment, or water distribution, or both, and must shall earn two credits for each wastewater certificate held by the operator.

(b) (d) A Class 2, 3 and or 4 certified operators must operator shall earn one credit for each certificate held by the operator for water treatment, or water distribution, or both, and must shall earn one credit for each wastewater certificate held by the operator.

(e) (e) A Class 5 certified operators must attend a minimum of 4 contact hours of seminar training per 2-year period operator shall earn 0.4 credits for each water certificate held by the operator for water treatment or water distribution.

(2)(a) A credit consists of 10 contact hours, and 1/2 credit consists of five contact hours. A contact hour is defined as a 60-minute participation in an approved classroom program course.

(b) (a) To determine the number of credits to be awarded to a certified operator for teaching a classroom program course, 0.1 credit per actual hour of classroom instruction shall be awarded in addition to the credits earned for attending that course.

(e) (b) Each three-hour instruction period must have a 15-minute mid-point break, which may not be included as actual classroom instruction. in the total contact hours.

(3)(a) Newly certified operators (previously uncertified) who are certified from January 1 of an odd-numbered year to June 30 of the following even-numbered year are not required to earn the credit applicable to each certificate until the next two-year period.

(b) (4) If an operator upgrades a certificate or becomes newly certified during the period from January 1 of an odd-numbered year to June 30 of the following even-numbered year and that upgrade increases the credit requirement, the operator ~~must~~ shall during that same two-year period earn the lower credit requirement but is not required to meet the higher credit requirement until the next two-year period commences.

(4) (5) Only an operator who fulfills the credit requirements before the end of each two-year period may renew ~~his or her~~ a certificate. Except as provided in (1) and (12), The the certificate of an operator who does not fulfill the credit requirements expires on June 30 of the applicable two-year period and the person may only be reissued receive a new certificate only on submission of an application, payment of the appropriate application and examination fees, and passage of the appropriate examination.

(5) (6) All subject matter for which credit will be granted must be relevant to the operation, maintenance, or safety of water treatment systems, water distribution systems, wastewater treatment systems, or industrial wastewater treatment systems as classified in ARM 17.40.202. Eligible topics may include subjects regarding operation and maintenance of systems and machinery, electrical systems, hydraulics, chemical treatment, biological testing, disinfection, or use of mathematics and chemistry where applicable.

(a) A safety course qualifies for full credits if it is specific to any type of water supply or wastewater treatment system operation; other safety courses that contain topics that are generally applicable to water or wastewater treatment systems qualify for half credit.

(b) remains the same.

(6)(a) (7) There are three types of education offerings that qualify for continuing education credit:

(i) through (iii) remain the same, but are renumbered (a) through (c).

(b) (8) In addition to the requirements in (5) ~~of this rule (6),~~ the subject matter of the educational offering must be relevant to the particular class(es) of certificates to which the credit is being applied. An operator may receive credit only for courses approved for the type of certificate(s) held by that operator.

(6)(c) and (d) remain the same, but are renumbered (9) and (10).

(7) through (9) remain the same, but are renumbered (11) through (13).

(10) (14) The continuing education credit requirements of this rule are waived for one continuing education two-year

period for a certified operator during periods when: the person is a government employee working as an operator and assigned to duty outside of the United States.

~~(a) the operator serves honorably on active duty in the military services;~~

~~(b) the operator is a resident of another state or having a continuing education credit requirement for operators and meets all the requirements of that state or district for practice there.;~~

~~(c) the person is a government employee working as an operator and assigned to duty outside of the United States.~~

~~(11) The department may waive the continuing education requirements for the period an operator has been absent from the state if the operator actively practices during the absence.~~

(15) The department shall temporarily inactivate the certificate of an operator who is on active military duty if the operator notifies the department in writing of the change in status and requests inactivation.

(16) The department shall reactivate the certificate temporarily inactivated under (15) upon the return of the operator to the continental United States if the operator:

(a) requests in writing that the department reactivate the certificate(s); and

(b) pays to the department the renewal fee for the year the operator returns.

(17) After a certificate has been reactivated under (16), the operator shall meet the continuing education credit requirements for the current continuing education two-year period by the June 30 deadline or within 18 months of the operator's return, whichever is longer.

AUTH: 37-42-202, MCA

IMP: 37-42-304, 37-42-305, 37-42-306, 37-42-307, 37-42-308, MCA

17.40.214 DISCIPLINARY ACTIONS--DESCRIPTION OF GROUNDS--PROCEDURES FOR REVOCATION OR SUSPENSION OF LICENSE CERTIFICATE, AND REPRIMAND OF LICENSE CERTIFIED OPERATOR

~~(1) An operator certificate issued under 37-42-321, MCA, may be revoked if:~~

~~(a) The operator has practiced fraud or deception by willfully changing or omitting the truth in any records required of him/her by his/her duties as an operator. These records include:~~

~~(i) the operator's certification application, experience records, and continuing education report forms; and~~

~~(ii) any records required of the operator under federal and state laws and regulations for the proper operation of water distribution, water and wastewater systems as needed to protect public health and safety or the quality of state waters;~~

~~(b) The operator did not exercise reasonable care or judgment or properly apply his/her knowledge or abilities in the performance of his/her duties; and~~

~~(i) the operator's action or lack of action jeopardized the public's health and welfare or the quality of Montana's waters; and~~

~~(ii) the operator should have known that the results of his or her actions would jeopardize the public's health and welfare or the quality of Montana's waters; or~~

~~(c) An operator repeatedly, and without explanation, fails to:~~

~~(i) properly complete reports or properly submit the samples specified by the department; or~~

~~(ii) take the corrective action specified in an inspection report completed by the department for the water distribution system, water supply system, wastewater treatment system, or water treatment system for which the operator is the certified operator in responsible charge.~~

~~(2) The department shall initiate an investigation whenever a written complaint is filed with the department or the department otherwise has reason to believe that a person to whom certification has been issued has violated the provisions of 37-42-321, MCA, or this rule. If the investigation confirms that there may be grounds for revocation of the operator's certification, the department may initiate hearing proceedings according to Title 2, chapter 4, part 6, MCA. The following disciplinary actions may occur after such proceedings:~~

~~(a) the operator's certification may be revoked;~~

~~(b) the operator's certification may be suspended for a stated time period; or~~

~~(c) the certified operator may be reprimanded.~~

~~(1) The department may issue a written order imposing any of the disciplinary actions in (2) if the department determines that, as provided in 37-42-321(1), MCA:~~

~~"(a) the operator has practiced fraud or deception;~~

~~(b) reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties; or~~

~~(c) the operator is incompetent or unable to properly perform the operator's duties."~~

~~(2) Disciplinary actions the department may order under (1) include revoking a certificate or any of the other disciplinary actions listed in 37-1-136, MCA, including:~~

~~(a) suspension of an order of revocation on terms and conditions determined by the department;~~

~~(b) suspension of the right to operate under a certificate for a period not exceeding one year;~~

~~(c) placing a certified operator on probation;~~

~~(d) reprimand of a certified operator.~~

~~(3) The department shall serve the order, by certified mail or personally, on the certified operator.~~

~~(4) Section 37-42-321(3), MCA, states: "A person aggrieved by an order of the department under this section may~~

request a hearing before the board by submitting a written request stating the reason for the request within 30 days after receipt of the department's decision." The department's order becomes final if the aggrieved person does not appeal it within 30 days after receiving it.

(5) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, apply to a hearing held under this rule.

AUTH: 37-42-202, MCA
IMP: 37-42-321, MCA

17.40.215 APPROVED TRAINING PROVIDERS (1) through (2) remain the same.

(3) An approved training provider shall provide the following documentation, maintain the following records and make such information available to the department upon request:

(a) through (d) remain the same.

(e) The training provider shall distribute to each attendee a continuing education credit report form provided by the department to be filled out by the attendee.

(i) through (iii) remain the same.

(iv) The department shall count continuing education credits taken by a certified operator in the month of June of each even-numbered year toward satisfying the operator's continuing education requirements for the next continuing education two-year period only.

(v) For continuing education credits taken during a continuing education two-year period to count toward satisfying an operator's continuing education requirements, those credits must be reported on credit report forms received by the department by June 15 of each even-numbered year. If credits sufficient to satisfy the continuing education requirements are not so reported, the certificate of the operator may be suspended or revoked as set forth in ARM 17.40.213.

(iv) remains the same, but is renumbered (vi).

(f) through (5) remain the same.

AUTH: 37-42-202, MCA
IMP: 37-42-202, MCA

REASON: The Department is proposing to amend ARM Title 17, chapter 40, subchapter 2 in numerous places to substitute gender-neutral terms, such as "the applicant" or "the operator" for "he," "his", "he or she" or "his/her." The Department is proposing this change to conform with the accepted style for administrative rules.

The Department is proposing to amend ARM Title 17, chapter 40, subchapter 2 in numerous places to add the word "supply" to the term "water system." The term "water system" is not defined in the rules, and the Department is proposing to

correct that omission by using the term "water supply system," which is defined in 37-42-102(10), MCA, to include the treatment and distribution portions of a public water supply system. The Department is also proposing to amend ARM Title 17, chapter 40, subchapter 2 in numerous places to add the word "treatment" to the term "wastewater system." The term "wastewater system" is not defined in the rules, and the Department is proposing to correct that omission by using the term "wastewater treatment system," which is defined in ARM 17.40.201(10) to mean a wastewater treatment plant as defined in 37-42-102, MCA.

The Department is proposing to amend ARM 17.40.201(1), (5) and (7), which contain the definitions used in the water and wastewater operator certification rules, to delete the definition of "Primary wastewater treatment", to modify the definition of "Secondary wastewater treatment", to adopt and incorporate by reference federal regulations defining secondary treatment standards, and to add the definition of "Advanced or tertiary wastewater treatment". These changes are proposed to show the changes in the technology of wastewater treatment being used in wastewater treatment plants and that are reflected in the updated wastewater operator certification examinations. The new definition of "advanced or tertiary treatment" is needed to identify treatment processes designed to provide a higher level of performance in removal of pollutants as needed to meet more stringent water quality-based effluent standards. The modified definition of "secondary wastewater treatment" is needed because that term is used as a baseline to define that additional treatment which is advanced or tertiary. The existing definition of "secondary wastewater treatment" does not reflect the meaning of that term as it is now used in the wastewater treatment field. The Department is proposing to define "secondary wastewater treatment" by reference to federal regulations concerning national secondary treatment standards issued by the U.S. Environmental Protection Agency (USEPA) and adopted by the Department for other purposes. This reference to federal regulations is necessary because they define minimum requirements for removal of total suspended solids and biological oxygen demand in the Montana Pollution Discharge Elimination System (MPDES) rules, in ARM Title 17, chapter 30, and program that the Department administers for wastewater treatment systems. The Department uses the classification of those wastewater treatment systems in ARM 17.40.202 to classify the certified operators who may be in responsible charge of them.

The Department is proposing to renumber ARM 17.40.201(2) through (5) and (7) to reflect the proposed changes just discussed.

The Department is proposing to amend ARM 17.40.202(1)(c)(i) and (ii), which concern classification of public water and

wastewater systems, to modify the classifications of Class 1 and Class 2 wastewater treatment systems. These amendments are proposed to show the changes in the technology of wastewater treatment being used in wastewater treatment plants and that are reflected in the updated wastewater operator certification examinations. The changes are needed to ensure that the treatment facilities required to produce the highest levels of wastewater treatment utilize certified operators with the highest level of operator certification. Tertiary or advanced treatment processes are typically required to protect the beneficial uses of high quality waters and the failure to properly operate those processes could result in unacceptable degradation of Montana's waters. The mechanical tertiary treatment processes often can be complex and require a high degree of operator understanding and skill level. For these reasons, it is proposed to require that operators running tertiary treatment facilities possess a Class 1 operator certification license.

The Department is proposing to add ARM 17.40.202(3) to clarify that a system with a lower-numbered classification is more complex than a system with a higher-numbered classification. For instance, a Class 1 system is more complex than a Class 2 system; a Class 2 system is more complex than a Class 3 system, and so on. The Department is proposing to amend ARM 17.40.203(2), (6), and renumbered (7) to change the term "higher" or "higher classified" to "more complex" to reflect the changes to ARM 17.40.202(3). Currently, the rules refer to "higher" or "higher classified", but the number of the "higher classified" system is actually a smaller number, so it is possible that the current rule language could be confusing. The Department is proposing these changes to clarify that lower-numbered systems are more complex than higher-numbered systems. By doing this, the Department intends to make the classification of systems, which determine the classification of operator certifications, more understandable.

The Department is proposing to amend ARM 17.40.203(2), which concerns operators who are entitled to have their certifications "grandfathered" (continued despite not being in compliance with some aspects of current rules) to clarify what constitutes an existing system. The proposed change states that when an addition is made to a system that existed on July 1, 1967, the date that the operator certification rules and program took effect, and that system is more complex than the system classification that the operator currently holds, the operator may be grandfathered for the more complex system if the person participated in the installation and presents evidence to the Department that the operator has been trained and is qualified to operate the more complex system. The change is proposed to clarify that an existing system is one that existed on July 1, 1967, because the Department was concerned that the current language was not clear.

The Department is proposing several amendments to ARM 17.40.203(3), which concerns the status of certified operators who leave employment as operators. The Department is proposing to add the term "A fully certified" to the type of operator addressed in this subsection. This change is proposed to specify that this subsection, which allows operators no longer employed in a water supply or wastewater treatment system to keep their certifications for only two years after terminating employment by paying annual renewal fees and taking sufficient continuing education courses, is only pertinent to fully certified operators, not operators-in-training. Operators-in-training are allowed to keep their certifications indefinitely as long as the annual renewal fees are paid by the appropriate date. The reason for this proposed distinction is that an operator-in-training is not permitted to be in responsible charge of a system, so an operator-in-training's lack of continuing hands-on experience will not expose the public or environment to any risk. In contrast, a fully certified operator may be in responsible charge of a system, and should be required to stay employed in the field, or otherwise demonstrate competency, to be allowed to obtain a new certification after two years have passed since the person terminated employment as an operator.

The Department is also proposing to amend ARM 17.40.203(3) to delete the words "moves out of state or otherwise." The Department is proposing to make this change because the current language of the rule is beyond the scope of the statute. Section 37-42-307(1), MCA, refers only to an operator who terminates employment; there is no language concerning the location of the person.

In addition, the Department is proposing to amend ARM 17.40.203(3) to add a reference to ARM 17.40.213, which concerns continuing education credits required of certified operators. This proposal would add the requirement that an operator who terminates employment as an operator may renew a certificate yearly for up to two years if the person complies with the continuing education credits requirements of ARM 17.40.213. This is proposed because the purpose of continuing education (to keep an operator up-to-date on the regulatory and technical aspects of running a system) applies equally, if not more so, to a person who is not employed as an operator for a period of time as it does to an operator who maintains continuous employment.

The Department is also proposing to amend ARM 17.40.203(3) by adding a requirement that an operator seeking a new certificate more than two years after terminating employment as an operator must pay a fee equivalent to the renewal fee established in ARM 17.40.212 to obtain a certificate. This would make the requirement that an operator who terminated employment as an operator more than two years ago must prove to the Department that the operator has sufficient continuing

education credits, and that the operator has paid an amount equivalent to the renewal fee required of all other operators, applicable to all such operators. The current rule allows an operator seeking to be certified more than two years after terminating employment to either have sufficient continuing education credits, or still be employed as an operator, or to submit a new application and fee. The reason for proposing to make the continuing education requirement, which applies to all fully certified operators, applicable to every operator who terminated employment as an operator more than two years before is that a fully certified operator may, at any time, be in responsible charge of a system, and it is important that every such operator keep up-to-date with changes in regulatory requirements and technology, even if an operator is not currently employed at a system. The reasons for proposing to require every operator to pay a fee is that Montana law requires the certification program to pay its costs, see 37-42-304, 37-1-134, MCA. It is also fair to require every operator to pay the operator's fair costs of the program. The Department reviewed its certified operator records and estimates that 70-100 operators will be affected by this proposed amendment. Because the Department has been charging these operators an annual renewal fee, there will be no increase in the fee.

The Department is proposing to delete ARM 17.40.203(3)(b), which establishes that one of the ways an operator who terminated employment as an operator and renewed the certificate for two years can obtain a new certificate is to still be employed as a certified operator. The reason for the proposed deletion is that the current language is unnecessary. If the operator becomes employed as a certified operator within two years after terminating employment as an operator, ARM 17.40.203(3) is no longer applicable, and the operator would be entitled to renew a certificate simply by complying with the same renewal and continuing education requirements that all operators must satisfy.

The Department is proposing to delete ARM 17.40.203(3)(c), which provides that an operator who desires to receive a new certificate more than two years after terminating employment as an operator may be issued a new certificate if the operator has submitted an application and fee to the Department. As will be described immediately below, the Department believes that only certified operators who are current on continuing education credits, are employed in a field that demonstrates hands-on competency, or those who can otherwise demonstrate competency, should continue to be certified after not being employed as an operator for more than two years. Therefore, the Department did not believe that the submission of an application and the payment of an application fee was sufficient.

The Department is also proposing to add a new ARM 17.40.203(3)(b) that would allow a former certified operator to receive a certificate more than two years after terminating employment as an operator if the person was employed in a position demonstrating hands-on familiarity with the level of system for which the person is seeking certification, or otherwise demonstrates to the Department that the person is competent to be a fully certified operator. The Department is proposing this amendment because the language of 37-42-307(1), MCA, entitles an operator whose certificate was invalidated two years after termination of employment as an operator to obtain a new certificate on presentation of appropriate proof of competency. Because there is no definition of competency in the statute, the Department is proposing to interpret competency to include employment in a related field that provides continuing familiarity with hands-on operation of the type of system that the operator wishes to continue to be certified to run, and also to allow an operator to prove other types of competency. The Department is making this proposal because it believes that it is reasonable to allow an operator to obtain a new certificate if the operator is current on continuing education requirements and is employed in a field that shows continued hands-on competency to run a system. In this way, the public health and environment should be protected. Employment as a water or wastewater system regulator, trainer, consultant, equipment supplier, or in another related field might indicate that the person was competent to be a certified operator. Because there may be other ways for a person to show competency, and because the statute does not specify employment as the only allowable proof of competency, other proof of competency will also be evaluated by the Department on a case-by-case basis.

The Department is proposing to amend ARM 17.40.203(6) to allow a system operator whose classification of operator certification has changed by "a revision of the rules of this chapter" to make a written request for permanent certification for a more complex classification without having to take an examination for the more complex system. The Department is proposing to delete ARM 17.40.203(7), which allows an operator an automatic one-time certification for a more complex classification. The Department is proposing these changes to replace the automatic one-time certification to a more complex level with a certification only when requested in writing. This would allow an operator who is already operating a system to continue to do so without taking another exam. Because only the classification of the system within the rules changed, and the physical complexity of the system did not change, the operator should be capable of continuing to run that system. Therefore, it makes more sense to allow a permanent change on request if the Department review of the operator's education and experience verifies that the operator is capable of running the system.

ARM 17.40.203(8) concerns reciprocity, the process by which an operator certified in another state or district can request to be certified in Montana without having to take the Montana certified operator examination.

The Department is proposing to amend renumbered ARM 17.40.203(8) to add more specific requirements for operators who are requesting reciprocity for certifications held in other states. One proposed change, to ARM 17.40.203(8)(a), would require that, for reciprocity to be given to a water supply system operator holding a certificate from another state, the water supply system certification program in that state must be approved by USEPA. The existing rules allow the Department to grant reciprocity to an operator, either water or wastewater, with a certification from any other state having a certification program equivalent to Montana's. The reason for the change is that USEPA requires that reciprocity be given to water supply operators from a state that has a USEPA-approved program as a condition of fully funding the Department's drinking water grants program. Since the USEPA has strict requirements for water supply system certification programs, the Department is confident that a person passing an examination given by a USEPA-approved program will have the knowledge necessary to be an operator in Montana, and therefore the Department should give such an operator reciprocity.

Another proposed amendment, to ARM 17.40.203(8)(b), would add the provision that reciprocity may be awarded to wastewater operators who have passed examinations in other states where the examinations are equivalent to Montana's. The existing rules allow the Department to grant reciprocity to an operator, either water or wastewater, with a certification from any other state having a certification program equivalent to Montana's. As described above, the Department is proposing to amend the water supply reciprocity rule, and in doing so is proposing to separate it from the wastewater reciprocity rule. Because USEPA does not at this time require wastewater operators to be certified, and the Department wishes to continue to grant reciprocity to qualified wastewater operators, this amendment is necessary to continue the Department's capability to grant reciprocity to wastewater operators.

The Department is proposing to add ARM 17.40.203(8)(c) to require that, for reciprocity to be given to a certified operator from another state, the examination taken by the operator in the other state must have been for a certification classification at least as complex as the classification sought in Montana. These amendments are proposed to ensure that the operator has been properly tested so that it is reasonable to permit the operator to run water or wastewater systems in the state of Montana.

The Department is proposing to amend ARM 17.40.206(9), concerning operator examination and certification, to allow only the person certified to request and receive a duplicate original of that person's certificate upon payment. A certificate must be displayed in the office of the operator under 37-42-306(2), MCA. Only the operator is entitled to a duplicate original.

The Department is proposing to amend ARM 17.40.207(1) and (2), concerning the education and experience required of a certified operator, to conform the rule's wording to the recommended style by changing "All operators" to "An operator" and "shall have" to "must have".

The Department is proposing to amend ARM 17.40.207(2)(e) to require Class 5 water operators to have three months of experience before they meet the requirements to be a fully certified operator. The current rule does not require any experience for an operator to be fully certified for a Class 5 system. This change was required by the USEPA in the approval of the Montana water operator certification program in December 1999. The USEPA Final Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems, dated February 5, 1999, Federal Register Vol. 64, No. 24, requires that "States must require the following for an operator to become certified: ...Have the defined minimum amount of on-the-job experience for each appropriate level of certification." The USEPA would have allowed the Department to substitute pre-certification training for the experience. If this change in experience or training requirements was not made, the USEPA may not approve the program; that would cause USEPA to withhold 20% of the entire Montana Drinking Water SRF grant funding, which would therefore no longer be available for loans to water systems. The Department determined that adding the requirement of three months of experience would be less of a hardship on operators who operate systems with a population of 25 to 100 than requiring them to travel to attend specific training before full certification would be granted. Most of the operators of these small systems hold other full-time jobs and only volunteer in their free time to operate these water systems.

The Department is proposing to amend ARM 17.40.207(3) and ARM 17.40.208(2) to change the terms "lower classified system" to "system classified as less complex", and "higher classified system" and "higher" to "a system classified as more complex" to reflect the changes to ARM 17.40.202(3) discussed above.

The Department is proposing to amend ARM 17.40.208(1), which states that a certified operator must be in charge of a system and then lists exceptions, to add the word "treatment" to match the definition of a wastewater treatment system in ARM

17.40.201(9) (proposed to be renumbered from ARM 17.40.201(10)).

The Department is proposing to amend ARM 17.40.212(1) and renumber ARM 17.40.212(2) and (3), concerning fees for applications and examinations, to place the language of the rule concerning the amount of examination fees for each type of examination directly after the section concerning application fees, since both fees must be submitted at the same time.

The Department is proposing to add a new ARM 17.40.212(4) to provide that, if the operator's annual renewal fees are not received by the department by June 30 (when certificates terminate if not renewed), the certificate will be suspended and a notice of the suspension will be mailed to the operator by the seventh working day after June 30. This change is proposed at the request of the Montana Legislative Auditor's office in the December 1998 State of Montana Legislative Audit Division Report to the Legislature, which recommended that the Department establish procedures to mail suspension notifications in a timely manner as required by state law. The statute, 37-42-308(2), MCA, provides that the Department shall suspend the certificate of an operator who does not apply for renewal before July 1 and remit the renewal fee. The former practice of the certification program was to wait at least one week following the June 30 deadline before suspensions were issued to allow payments that were mailed on June 30 to be processed. It normally takes from three to five days for mail to arrive (especially since July 4 is always a holiday), and another one to three days for money to be processed by the Department centralized services division staff. This change is proposed to require the Department to process renewals and suspend and mail notices of the suspensions as quickly as possible after the June 30 deadline. Another reason for the proposed change is to ensure that operators and system owners are made aware that the Department will suspend certificates if it does not actually receive the renewal fee by June 30.

The Department is proposing to amend renumbered ARM 17.40.213(1)(c) and (d), concerning continuing education requirements, to change "must" to "shall" to conform the rule's wording to the recommended rule-writing style.

The Department is proposing to add a new ARM 17.40.213(1)(a) to provide that if an operator attends an approved continuing education course during June of an even-numbered year, the continuing education credits earned for that course will be counted toward satisfying the credits requirement in the next two-year continuing education period. The reason for this proposed change is to require operators to earn continuing education credits in time to report them on continuing education report forms to the Department by June 15 of each

even-numbered year. Please see the next paragraph for further discussion.

The Department is proposing to add ARM 17.40.213(1)(b) to change the date, from June 30 to June 15 of each even-numbered year, that operators' continuing education report forms must be received by the Department. This change is proposed at the request of the Montana Legislative Fiscal Auditor's office in the December 1998 State of Montana Legislative Audit Division Report to the Legislature. The reason for this proposed change is to enable the Department's operator certification staff to enter the credits in time to meet the June 30 deadline for suspending certificates if not renewed. The Department is proposing to add language in ARM 17.40.213(1)(a) to require the Department, by July 1 of an even-numbered year, to suspend an operator for up to 30 days if the operator has not submitted forms with sufficient continuing education credits by June 15 of an even numbered year; to send a notice, by certified mail, that the Department intends to revoke a certification if sufficient credits earned by May 31 have not been reported by the end of the 30 day suspension period; and to revoke a certificate if credits have not been reported within 10 days after the notice of intent to revoke was mailed. This process is identical to the process in 37-42-308, MCA, for suspending and revoking certificates for failure to pay renewal fees. The reason for this proposed change is to make sure that certificates of operators who are not complying with the renewal requirements for their certificates, which include continuing education, are suspended at the beginning of the next renewal period, and that the certificates will be revoked if sufficient credits earned during the previous period are not reported by the end of 30 days and are not reported within 10 more days after a notice of intent to revoke is mailed. This will prevent operators who are not complying with renewal requirements from serving as operators.

The Department is proposing to amend renumbered ARM 17.40.213(1)(e) to show that Class 5 water operators are required to earn 0.4 credits of approved continuing education training to meet their certification requirements. This change makes the use of language concerning "credits" (instead of "hours") consistent in ARM 17.40.213.

The Department is proposing to amend ARM 17.40.213(2) to change the term "classroom program" to "course." This change standardizes rule language.

The Department is proposing to amend ARM 17.40.213(4), concerning the requirement that an operator obtain continuing education credits within every two years to renew a certification. One proposed change to ARM 17.40.213(4) points out that an extension to the continuing education deadline is available, as set forth in (8) to ARM 17.40.213. That

extension may be granted due to hardship or extenuating circumstances. This change is being proposed to make one subsection of the rule reflect that another subsection of the rule makes an extension available. The Department is proposing to amend ARM 17.40.213(4) to refer to an exception, in ARM 17.40.213(1), to the requirement that only certified operators, who fulfill continuing education requirements within each two-year continuing education period, may renew their certifications. As discussed above, an operator who fails to report credits, although earned in time, may obtain a renewal if the operator reports the credits to the Department within 30 days after being suspended. Another proposed change to ARM 17.40.213(4) provides that, to obtain a new certificate, an operator whose certificate expired for failure to take and report continuing education credits as required must apply to obtain a certificate, pay the application fee, pay the examination fee, and pass the examination. The reason for this proposed change is to make it clear that once the certificate of an operator expires for failure to earn and report continuing education credits, the person must reapply to be an operator in the same way as any new applicant.

The Department is proposing to amend ARM 17.40.213(10) and add ARM 17.40.213(11) to change the continuing education credit waiver requirements of an operator in the military services or working for the government outside the United States. This change was required by the USEPA in the approval of the Montana water operator certification program in December 1999. The USEPA Final Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems dated February 5, 1999, Federal Register Vol. 64, No. 24 requires that all operators must meet continuing education requirements for renewal. The current rule's exception for operators on military leave to meet the training renewal requirement indefinitely did not meet the USEPA's requirements.

If the Department fails to make changes acceptable to EPA in the waiver of continuing education requirements, the USEPA may not approve the program. This would cause USEPA to withhold 20% of the entire Montana Drinking Water SRF grant funding, which would therefore no longer be available for loans to water systems.

Therefore the Department is proposing to amend ARM 17.40.213(10) to waive the continuing education requirements for a government employee working as an operator and assigned to duty outside the United States, but the waiver is effective for one continuing education two-year period only. The Department is also proposing to add ARM 17.40.213(15) through (17) to temporarily inactivate a certification for an operator placed on active military duty if the operator notifies the Department in writing of the change in status and requests

inactivation. The proposed change would entitle the operator to have the certification reactivated when the operator returns from active duty and requests the reactivation in writing. Once the certification is reactivated, the operator must meet the continuing education requirement for the current continuing education period by the June 30 deadline or within 18 months, whichever is longer. This change would allow operators on government or military duty to receive a waiver of the continuing education credits, but also ensures that they receive the proper training to operate a water or wastewater system soon after returning, thus protecting the public health. The alternative to this change would be to not allow operators on government or military duty to keep their certifications since they would not have met the continuing education renewal requirements. The proposed rule accommodates operators in the military. The Department has determined that setting some specific time limits on the waiver would meet the USEPA requirement without taking away the waiver for operators serving in the military.

The Department is proposing to amend ARM 17.40.214, concerning revocation of operator certifications and disciplinary actions concerning operators, to meet the new requirements in 37-42-321, MCA. That statute was amended in the 2001 legislative session by Sec. 2, Ch. 79, Laws of 2001, to provide that, to revoke an operator's certification, or to take disciplinary action against an operator, the Department must first issue an order, and that the operator has the right to appeal the order to the Board of Environmental Review. The reason for the proposed amendment is to modify the rule that was based on the former statutory process, in which an order was not effective until a hearing was held before the Department, to be consistent with the new process. The proposed amendments to ARM 17.40.214(1) through (1)(c) repeat the language of 37-42-321(1), MCA, concerning the standards for revocation and disciplinary action. The reason that the rule repeats the statutory language is that the statute provides that a certification may be revoked on a finding that an operator acted fraudulently, negligently, or incompetently, and then provides that other, lesser discipline may also be imposed. The Department is proposing to repeat some of the statutory language to make clear that one of the types of behavior listed in the statute must be found to exist before any type of discipline may be imposed. The proposed amendment to ARM 17.40.214(3) would provide that the Department is required to serve an order revoking a certificate or imposing disciplinary action by certified mail or personal service. The reason for this proposed rule is that the statute does not state the method that must be used for service, and the Department wished to specify the methods to be used. Certified mail and personal service by sheriff's deputy or process server are accepted and effective methods of serving administrative orders and are normally used by the Department and other agencies. The proposed amendment to ARM 17.40.214(4) repeats

the language of 37-42-321, MCA, which allows an order to be appealed within 30 days after the operator receives the department's decision, and explains it by providing that an order becomes final if not appealed within those 30 days. The reason for this language is to clarify that the order of revocation or disciplinary action becomes final if not appealed within 30 days. The Department has repeated portions of the statute in the proposed amendments to ARM 17.40.214 because the Department wishes to have the disciplinary process be clear to operators who may have only the rule, and not the statute, available to review.

The Department is proposing to add ARM 17.40.215(3)(e)(iv) and (v) to require the Department to count credits earned in June of an even-numbered year toward the requirements of the next two-year period, and to change the date, from June 30 to June 15 of every even-numbered year, that an operator's continuing education report forms must be received by the certification program. The amendment also refers to the suspension and revocation process discussed in ARM 17.40.213 for those operators who fail to take and report credits during the required timeframe. This change is proposed at the request of the Montana Legislative Auditor's office in the December 1998 State of Montana Legislative Audit Division Report to the Legislature. This proposed change would require training providers to hold training in time (by the end of May in every even-numbered year) to allow them to send all continuing education report forms to the Department by June 15 of every even-numbered year. This change is being proposed to alert training providers of the changes in submission dates for continuing education credits discussed above under amendments to ARM 17.40.213, and to alert them that operators who fail to earn credits as required may have their certificates suspended or revoked.

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 Jim Melstad, Community Services Bureau, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-1374, or emailed to jmelstad@state.mt.us, no later than 5:00 p.m., August 15, 2002. To be guaranteed consideration, written comments must be postmarked on or before that date.

5. Norman Mullen, attorney for the Department, has been designated to preside over and conduct the hearing.

6. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies 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 Elois Johnson, Paralegal, Legal Unit, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to (406) 444-4386, emailed to ejohnson@state.mt.us or may be made by completing a request form at any rules hearing held by the Department.

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

Reviewed by: DEPARTMENT OF ENVIRONMENTAL
QUALITY

JOHN F. NORTH
JOHN F. NORTH
Rule Reviewer

BY: JAN P. SENSIBAUGH
JAN P. SENSIBAUGH
Director

Certified to the Secretary of State July 1, 2002.

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of ARM 24.11.442,) PROPOSED AMENDMENT
relating to initial monetary)
determination matters)

TO: All Concerned Persons

1. On August 5, 2002, at 10:00 a.m. a public hearing will be held in the 1st Floor Conference Room, 1327 Lockey, Walt Sullivan Building, Helena, Montana, to consider the proposed amendment of an existing rule relating to initial monetary determination matters.

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 no later than 5:00 p.m., July 29, 2002, to advise us of the nature of the accommodation that you need. Please contact the Unemployment Insurance Division, Attn: Don Gilbert, 1327 Lockey, Walt Sullivan Building, P.O. Box 8020, Helena, MT 59624-8020; telephone (406) 444-4336; TDD (406) 444-0532; fax (406) 444-2699; or e-mail dgilbert@state.mt.us.

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

24.11.442 INITIAL MONETARY DETERMINATION--WAGES--REVISIONS

(1) After filing an initial claim, a claimant will receive an initial monetary determination stating whether the claimant has sufficient wages to qualify for benefits.

(a) Base period wages used to establish a monetary determination and a benefit year in any state, including Montana, may not be:

(i) used by this state to establish a second or subsequent monetary determination and benefit year; or

(ii) transferred by this state to another state for the purpose of combining wages and employers as provided by 39-51-504, MCA.

(b) For the purposes of this rule, base period wages are deemed to be "used" when the base period wages are:

(i) part of the calculation that establishes the monetary amount of benefits payable on the claim;

(ii) the basis for establishing the benefit year of the claim; and

(iii) of an amount sufficient to qualify the claimant for benefits under 39-51-201(2) or 39-51-2105, MCA, if the claimant is otherwise eligible to receive benefits with respect to that claim.

(2) The initial monetary determination informs the

claimant of:

(a) the department's records of the claimant's base period employer or employers;

(b) the amount of wages reported as having been paid in each of the calendar quarters of the base period;

(c) the potential amount of benefits the claimant may receive in the benefit year; and

(d) the effective date of the claim.

(3) Except for wages as described in (6), upon the request of a claimant, the department will adjust the distribution of the claimant's base period wages by assigning the wages to the calendar quarters in which the wages were earned rather than to the calendar quarters in which they were paid.

(4) If a claimant's wage records have not been received, and the department has determined that the employer is subject to unemployment tax, the claimant may support the claim by affidavit or documented evidence for the department's consideration in establishing the amount of base period wages.

(5) Generally, only wages actually or constructively paid determine the amount of wages in the claimant's base period. Wages are constructively paid if they are credited to the worker's account or set apart for a worker so that they may be drawn upon by the worker at any time, although not actually in the worker's possession. However, unpaid wages may be considered if a claimant:

(a) completes an affidavit stating:

(i) the name and address of any employer from whom wages are due;

(ii) the amount of unpaid wages; and

(iii) the reasons why the wages have not been paid; and

(b) provides at least one of the following:

(i) a W-2 or 1099 form as required by the internal revenue service;

(ii) a signed statement from the employer affirming the truth of the claimant's affidavit;

(iii) a copy of the employer's schedule of assets and liabilities filed in a bankruptcy proceeding showing the unpaid wage claim;

(iv) a copy of the claimant's wage claim filed with the department, if the department has not dismissed the wage claim; or

(v) a copy of a decision of the department or a court of competent jurisdiction stating that the wages are owed the claimant.

(6) The following payments are wages which are assignable in the following periods:

(a) Payments made for termination of employment in insured work generally known or described as severance pay, separation pay, termination pay, wages in lieu of notice, continuation of wages for a designated period of time following cessation of work, or other similar payment, and payments made under an incentive, worker buy-out, or similar plan designed to produce a general or specific reduction in force by inducing workers to leave voluntarily or in lieu of involuntary termination, whether

paid in a lump sum or incrementally over any period of time, are attributable to the quarter in which the separation from work occurred.

(b) Accrued vacation and sick leave paid at or after separation, other than a temporary layoff, are attributable to the quarter in which the separation from work occurred.

(c) Bonus, awards, incentives, rewards, profit sharing, and stocks are attributable to the quarter the payment was issued.

(d) Holiday pay is attributable to the quarter the payment was issued.

(e) Payments received for accrued unused vacation, sick leave, compensatory time or other similar leave when separation has not occurred or during periods of temporary layoff are attributable to the quarter in which the payment was issued. These payments are sometimes also known as a "cash-out" of leave benefits.

(f) Backpay and settlements, in all cases, will be prorated back over the time the payment represents. Only the portion of the payment that is wages which would have been earned, or wages earned and not paid, will be applied to weeks claimed and quarterly wages.

(g) Use of vacation or sick leave, compensatory time or other similar leave paid during the course of employment in insured work, including periods of temporary layoff, for time off from work for vacation, whether voluntary or mandated, sick leave, or other leave with pay is attributable to the quarter the payment was issued.

(h) Royalties, residual payments, and commissions are attributable to the quarter in which the payment was issued.

(7) Except as provided in this rule, the initial monetary determination is final unless a claimant requests revision of the determination within 10 days after the determination was mailed. Upon request of the department, the claimant may be required to provide proof of earnings, such as check stubs, W-2 forms, or statements from employers.

(8) A monetary redetermination is final unless a claimant appeals the decision as provided in 39-51-2402 and 39-51-2403, MCA, within 10 days of the date the redetermination was mailed.

AUTH: 39-51-301 and 39-51-302, MCA

IMP: 39-51-2105, 39-51-2201, 39-51-2202, 39-51-2203 and 39-51-2204, MCA

REASON: The Department believes the additional language is necessary to clarify the current rule by defining "when wages are considered to be used." The proposed language is intended to prevent a situation where a claimant is entitled to pursue and receive payment on two claims based upon the same base period wages. The existing rule does not specifically prohibit such action.

For example, the term "base period" is defined in 39-51-201(2), MCA, as the first four of five completed calendar quarters

immediately preceding the first day of the individual's (claimant's) benefit year. However, an exception is permitted if the individual fails to meet the qualifying wage requirements of 39-51-2105, MCA, because the individual is qualified for temporary total disability under the Workers' Compensation Act. The individual is allowed to establish a "wage freeze" claim which creates a "base period" if the unemployment insurance claim is filed within 24 months (2 years) of the date on which the disability occurred.

The Department believes the legislative intent of permitting "wage freeze" claims was so an individual, who had reached maximum healing and was released to return to his/her former job or occupation and was not able to be immediately re-employed by his/her former employer, could receive unemployment insurance benefits while seeking work. The Department believes the legislature did not intend that an individual would be able to receive unemployment insurance benefits twice -- based upon the same wage credits. Such action results in the base period employer(s) being charged for two unemployment insurance claims for the same individual, for the same period of time.

4. Interested 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:

Don Gilbert
Unemployment Insurance 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., August 12, 2002. Comments may also be submitted electronically as noted in the following paragraph.

5. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at <http://dli.state.mt.us/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.state.mt.us>, linked to the Notice of Public Hearing, but those comments must be posted to the comment forum by 5:00 p.m., August 12, 2002. 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 does not excuse late submission of comments.

6. The Department maintains a list of interested persons who wish to receive notices of rule-making 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 rule-making 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@state.mt.us, or made by completing a request form at any rules hearing held by the Department.

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

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

/s/ KEVIN BRAUN
Kevin Braun
Rule Reviewer

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: July 1, 2002.

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.174.301,) ON PROPOSED AMENDMENT,
24.174.501, 24.174.604,) ADOPTION AND REPEAL
24.174.711, 24.174.1411,)
and 24.174.2106,)
pertaining to definitions,)
foreign graduates, preceptor)
requirements, technician ratio)
and pharmacy security)
requirements, the proposed)
adoption of new rule I,)
licensing, new rule II,)
personnel, new rule III,)
absence of pharmacist, new)
new rule IV, use of emergency)
drug kits, new rule IV, drug)
distribution, new rule V,)
pharmacist responsibility,)
new rule VI, sterile products,)
new rule VII, return of)
medication from long term care)
facilities, and new rule VIII,)
pharmacist meal/rest breaks,)
and the proposed repeal of)
ARM 24.174.302, health care)
facility definition,)
24.174.810, class I facility,)
24.174.811, class II facility)
and 24.174.812, class III)
facility)

TO: All Concerned Persons

1. On August 2, 2002, at 10:00 a.m., a public hearing will be held in the Business Standards Division conference room 471-473, 4th Floor, 301 South Park Avenue, Helena, Montana to consider the proposed amendments, adoption and repeal 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 Board of Pharmacy no later than 5:00 p.m., on July 29, 2002, to advise us of the nature of the accommodation that you need. Please contact Becky Deschamps, Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2355; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2343; e-mail dlibsdpaha@state.mt.us.

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

24.174.301 DEFINITIONS (1) remains the same, but is renumbered (6).

(2) remains the same, but is renumbered (7).

(3) remains the same, but is renumbered (10).

(4) remains the same, but is renumbered (18).

(5) remains the same, but is renumbered (21).

(6) remains the same, but is renumbered (23).

(7) remains the same, but is renumbered (26).

(1) "Biological safety cabinet" means a contained unit suitable for the preparation of low to moderate risk agents and where there is a need for protection of the product, personnel and environment according to national sanitation foundation standard 49.

(2) "Class IV facility" means a family planning center under the administrative jurisdiction of the maternal and child health services bureau, department of public health and human services, and which has a Class IV facility pharmacy registered and licensed by the board.

(3) "Class 100 environment" means an atmospheric environment which contains fewer than 100 particles 0.5 microns in diameter per cubic foot of air, according to federal standard 209E.

(4) "Clean room" means a room in which the concentration of airborne particles is controlled.

(5) "Cytotoxic" means a pharmaceutical agent capable of killing living cells.

(8) "Drug order" means a written order issued by an authorized practitioner, or a verbal order promptly reduced to writing and later signed by an authorized practitioner, for the compounding and dispensing of a drug or device to be administered to patients within the facility.

(9) "Drug room" means a secure, lockable temperature-controlled location within a facility that does not have an institutional pharmacy and which contains drugs and devices for administration to patients within the facility pursuant to a valid drug order.

(11) "Emergency drug cart" or "crash cart" means a secure lockable cart containing drugs and devices necessary to meet the immediate therapeutic needs of inpatients or outpatients and which cannot be obtained from any other authorized source in sufficient time to prevent risk or harm or death to patients.

(12) "Emergency kits" are sealed kits containing those drugs which may be required to meet the immediate therapeutic needs of patients within an institution not having an in-house pharmacy, and which would not be available from any other authorized source in sufficient time to prevent risk or harm or death to patients.

(13) "Facility" means an ambulatory surgical facility, a hospital and/or long term facility, or a home infusion facility.

(14) "Floor stock" means prescription drugs not labeled for a specific patient which are maintained at a nursing station or other hospital department other than the pharmacy, and which are administered to patients within the facility pursuant to a valid drug order. Floor stock shall be maintained in a secure manner pursuant to written policies and procedures, which shall include but not be limited to automated dispensing devices.

(15) "Formulary" means a current compilation of pharmaceuticals authorized for use within the institution by representatives of the medical staff and pharmacy department.

(16) "Home infusion facility" means a facility where parenteral solutions are compounded and distributed to outpatients pursuant to a valid prescription or drug order.

(17) "Institutional pharmacy" means that physical portion of an institutional facility where drugs, devices and other material used in the diagnosis and treatment of injury, illness, and disease are dispensed, compounded and distributed to other health care professionals for administration to patients within or outside the facility, and pharmaceutical care is provided; and which is registered with the Montana board of pharmacy.

(19) "Long term care facility" has the same meaning as provided in 50-5-101, MCA, and means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(20) "Night cabinet" means a secure locked cabinet or other enclosure located outside the pharmacy, containing drugs which authorized personnel may access in the absence of a pharmacist.

(22) "Parenteral" means a sterile preparation of drugs for injection through one or more layers of skin.

(24) "Provisional pharmacy" means a pharmacy licensed by the Montana board of pharmacy and includes but is not limited to federally qualified health centers as defined in 42 CFR 405.2401, where prescription drugs are dispensed to appropriately screened, qualified patients.

(25) "Qualified patients" means patients who are uninsured, indigent or have insufficient funds to obtain needed prescription drugs.

(27) "Sterile pharmaceutical" means any dosage form containing no viable microorganisms, including but not limited to parenterals and ophthalmics.

AUTH: 37-7-201, MCA

IMP: 37-7-102, 37-7-201, 37-7-301, 37-7-406, MCA

REASON: The Board has determined that there is reasonable necessity to amend ARM 24.174.301 to include updated definitions that reflect current institutional pharmacy practices, and to provide definitions that are used in the proposed NEW RULES.

24.174.501 EXAMINATION FOR LICENSURE AS A REGISTERED PHARMACIST (1) and (2) remain the same.

(3) An interview by the board of pharmacy or its designee, the test of English as a foreign language, test of spoken English and the foreign pharmacy graduate equivalency exam provided by the national association of boards of pharmacy will be required for pharmacy graduates from outside the 50 states, the District of Columbia or Puerto Rico, who seek certification of educational equivalency in order to sit for the North American pharmacist licensure examination. A scaled score of 75 or greater will be the passing score for this examination. A candidate who does not attain this score may retake the examination after a 91 day waiting period.

AUTH: 37-7-201, MCA
IMP: 37-7-201, 37-7-302, MCA

REASON: The Board has determined there is reasonable necessity to amend ARM 24.174.501 to assure an adequate supply of well-trained pharmacists able to practice in Montana, especially in under-served areas of the state. In order to maintain that supply, the Board finds it necessary to amend the rule to permit appropriately qualified pharmacists who were trained other than in the United States, who have appropriate English language skills, to be able to sit for the examination for licensure in Montana.

24.174.604 PRECEPTOR REQUIREMENTS (1) through (1)(b) remain the same.

(c) be engaged in full-time active practice while acting as preceptor;

(d) through (3) remain the same.

AUTH: 37-7-201, MCA
IMP: 37-7-201, MCA

REASON: The Board has determined there is reasonable necessity to amend ARM 24.174.604 by removing certain practice requirements, in order to maintain an adequate pool of qualified preceptors.

24.174.711 RATIO OF PHARMACY TECHNICIANS TO SUPERVISING PHARMACISTS (1) through (4) remain the same.

(5) If a pharmacy desires more than one technician to work under the supervision, direction and control of one pharmacist, the pharmacy shall obtain the prior written approval of the board. To apply for approval, the pharmacist-in-charge shall submit a pharmacy services plan to the board. The pharmacy services plan submitted shall demonstrate how the plan facilitates the provision of pharmaceutical care and shall include, but shall not be limited to the following:

- (a) design and equipment;
- (b) information systems;

(c) work flow; and

(d) quality assurance procedures.

(6) The board shall grant approval of a pharmacy service plan only when the board is satisfied that the provision of pharmaceutical care by the pharmacy will be enhanced by the increased use of technicians.

(7) No pharmacy shall modify a board approved pharmacy service plan without the prior written approval of the board.

AUTH: 37-7-201, MCA

IMP: 37-7-201, 37-7-307, 37-7-308, 37-7-309, MCA

REASON: The Board has determined that there is reasonable necessity to amend ARM 24.174.711 to identify the factors the Board will consider when presented with a ratio variance request. The Board has recently been faced with requests for ratio variances.

24.174.1411 SECURITY REQUIREMENTS (1) through (3) remain the same.

(4) The registrant shall notify law enforcement officials of any theft or loss of any dangerous drug promptly upon discovery of such theft or loss and forward a copy of that agency's report to the board within 30 days.

AUTH: 50-32-103, MCA

IMP: 50-32-106, MCA

REASON: The Board has determined that there is reasonable necessity to amend ARM 24.174.1411 to require that in addition to reporting loss or theft of dangerous drugs to the Board, the pharmacy must also report the loss or theft to local law enforcement officials, as part of the protection of the public health and safety. In addition, the Board believes that requiring the reporting of the loss or theft of dangerous drugs will substantiate those matters, and will help prevent false claims of loss or theft that might be used to disguise improper diversion of those drugs.

24.174.2106 REGISTERED PHARMACIST CONTINUING EDUCATION - APPROVED PROGRAMS (1) Continuing education programs sponsored by providers that are approved by the following organizations will automatically qualify for continuing education credit:

(i) the American council on pharmaceutical education (ACPE) will automatically qualify for continuing education credit ;

(ii) programs that have been approved for continuing medical education (CME) by a state board of medical examiners or its equivalent; or

(iii) the American board of medical specialties.

(2) and (3) remain the same.

AUTH: 37-1-319, MCA
IMP: 37-1-306, MCA

REASON: The Board has determined that there is reasonable necessity to amend ARM 24.174.2106 to expand the list of approved continuing education sponsors in order to help ensure that licensees have access to flexible, cost-effective, and geographically accessible continuing education programs, as required by 37-1-306, MCA.

4. The proposed new rules provide as follows:

NEW RULE I LICENSING OF INSTITUTIONAL PHARMACIES

(1) All institutional pharmacies shall register annually with the board of pharmacy on a form or an electronic representation of a form provided by the board. Institutional pharmacies providing outpatient pharmacy services shall register the outpatient pharmacy separately.

AUTH: 37-7-201, MCA
IMP: 37-7-101, 37-7-321, MCA

REASON: The Board has determined there is reasonable necessity to adopt proposed NEW RULE I both to clarify the requirements for licensing of institutional pharmacies as well as to provide for the newly available option of on-line, electronic registration. NEW RULES I through VII and the proposed repeals generally revise and clarify the process and manner in which institutional pharmacies are licensed, in response to changes within the health care delivery system.

NEW RULE II PERSONNEL (1) Each institutional pharmacy must be directed by a pharmacist-in-charge who is licensed to engage in the practice of pharmacy in the state of Montana and who is responsible for the storage, compounding, repackaging, dispensing and distribution of drugs within the facility. Depending upon the needs of the facility, pharmacy services may be provided on a full or part-time basis, with emergency service provided at all times. Contractual providers of pharmacy services shall meet the same requirements as pharmacies located within the institution.

(2) Registered pharmacy technicians or technicians-in-training may be utilized pursuant to the written policies and procedures of the institutional pharmacy. Exemptions to established ratios as defined in ARM 24.174.711 may be granted with board approval.

AUTH: 37-7-201, MCA
IMP: 37-7-201, 37-7-307, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE II to clarify the conditions under which an institutional pharmacy is allowed to operate. See also the statement of reasonable necessity for NEW RULE I.

NEW RULE III ABSENCE OF PHARMACIST IN INSTITUTIONAL SETTINGS

(1) During times that an institutional pharmacy does not have a pharmacist in attendance, arrangements must be made in advance by the pharmacist-in-charge for provision of drugs to the medical staff and other authorized personnel by use of night cabinets, floor stock and, in emergency circumstances, by access to the pharmacy. A pharmacist must be available by phone for consultation during all absences.

(2) If night cabinets are used to store drugs in the absence of a pharmacist, they must be locked and sufficiently secure to deny access to unauthorized persons, and must be located outside of the pharmacy area. Only specifically authorized personnel may obtain access by key or combination, pursuant to a valid prescription order. The pharmacist-in-charge shall, in conjunction with the appropriate committee of the facility, develop inventory listings of drugs included in these cabinet(s), determine who may have access, and shall ensure that:

(a) written policies and procedures are established to implement the requirements of this rule;

(b) all drugs are properly labeled; and

(c) only prepackaged drugs are available, in amounts sufficient for immediate therapeutic requirements.

(3) Whenever access to the cabinet occurs, all of the following information must be recorded on or attached to a suitable form:

(a) a copy of the written practitioner's orders, showing the date and time the order was issued;

(b) identification of patient;

(c) identification of the patient's room number, if applicable;

(d) the name, strength and quantity of drug removed; and

(e) the signature of the person removing the drug(s).

(4) A complete verification audit of all orders and activity concerning the night cabinet must be conducted by the pharmacist-in-charge or the designee of that pharmacist within 24 hours of the drugs having been removed from the night cabinet.

(5) Whenever any drug is not available from floor stock or night cabinets, and that drug is required to treat the immediate needs of a patient whose health would otherwise be jeopardized, the drug may be obtained from the pharmacy by a supervisory registered nurse in accordance with established policies and procedures. The responsible nurse shall be designated by the appropriate committee of the institutional facility.

(a) Removal of any drug from the pharmacy by an authorized nurse must be recorded on a suitable form showing the following information:

(i) patient name;

(ii) the patient's room number if applicable;

(iii) the name, strength and quantity of drug removed;

(iv) the date and time the drug was removed; and

(v) the signature of the nurse removing the drug.

(b) The form shall be sequestered in the pharmacy with the container from which the drug was removed, and a copy of the original drug order.

(6) A copy of the original drug order with the NDC number or other identifying code of the drug(s) provided may be faxed to the pharmacist. A patient profile containing the patient's name, location, allergies, current medication regimen and relevant laboratory values must be prospectively reviewed.

AUTH: 37-7-201, MCA

IMP: 37-7-201, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE III to clarify the conditions under which a night box or pharmacy access may be used in an institutional setting when a pharmacist is not available. See also the statement of reasonable necessity for NEW RULE I.

NEW RULE IV USE OF EMERGENCY DRUG KITS IN CERTAIN INSTITUTIONAL FACILITIES

(1) In an institutional facility that does not have an in-house pharmacy, drugs may be provided for use by authorized personnel through emergency kits prepared by the registered pharmacist providing pharmaceutical services to the facility. Such emergency drug kits must meet all of the following requirements:

(a) a registered pharmacist shall prepare and seal the kit;

(b) the supplying pharmacist and the staff physician or appropriate committee of the institutional facility shall jointly determine the identity and quantity of drugs to be included in the kit;

(c) the kit must be locked and stored in a secure area to prevent unauthorized access and to ensure a proper storage environment for the drugs contained therein;

(d) all drugs in the kit must be properly labeled, including lot number and expiration date, and shall possess any additional information that may be required to prevent risk of harm to the patient;

(e) the exterior of the kit must be clearly labeled to indicate:

(i) its use and expiration date of its contents;

(ii) the name, address and telephone number of the supplying pharmacist; and

(iii) a statement indicating that the kit is to be used in emergency situations only pursuant to a valid drug order.

(2) Drugs shall be removed from emergency kits only by the supplying pharmacist or by authorized personnel pursuant to a valid drug order.

(3) The supplying pharmacist shall be notified of any entry into the kit within 24 hours of its occurrence. The supplying pharmacist shall restock and reseal the kit within a reasonable time so as to prevent risk of harm to patients.

(4) The expiration date of a kit must be the earliest date of expiration of any drug supplied in the kit. On or before the expiration date, the supplying pharmacist shall replace the expired drug.

(5) The supplying pharmacist shall, in conjunction with the appropriate institutional committee, be responsible for development of policies and procedures for safe and appropriate use and maintenance of emergency drug kits.

AUTH: 37-7-201, MCA
IMP: 37-7-201, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE IV to clarify the conditions under which an emergency drug kit may be used in an institutional facility setting. See also the statement of reasonable necessity for NEW RULE I.

NEW RULE V DRUG DISTRIBUTION AND CONTROL (1) The pharmacist-in-charge shall establish written policies and procedures for the safe and efficient distribution of drugs and provision of pharmaceutical care, including the mechanism by which prospective drug review will be accomplished. A current copy of such procedures must be on hand for inspection by the board of pharmacy.

(2) Automated dispensing devices must be stocked with drugs only by or under the supervision of a registered pharmacist. At the time of removal of any drug, the device must automatically make an electronic record indicating the date of removal, the name, strength, and quantity of drug removed, name of the patient for whom the drug was ordered, and the name or other identification of the person removing the drug. These records must be maintained for a period of two years.

(3) Drugs or herbal/alternative food supplement products brought into an institutional facility by a patient must not be administered unless they can be identified and their quality assured by a pharmacist, and their use has been authorized by the attending physician. If such drugs are not to be administered, the pharmacist-in-charge shall develop policies and procedures for storing them for return to the patient upon discharge or transferring them to an adult member of the patient's immediate family.

(4) Investigational drugs must be stored in and dispensed from the pharmacy only pursuant to written policies and procedures. Complete information regarding these drugs and their disposition must be maintained in the pharmacy. The drug monograph and a signed patient consent form must be obtained and made available in accordance with federal guidelines.

AUTH: 37-7-201, MCA
IMP: 37-7-201, 37-7-307, 37-7-308, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE V to clarify drug distribution and storage in an institutional facility setting. See also the statement of reasonable necessity for NEW RULE I.

NEW RULE VI INSTITUTIONAL PHARMACIST AND PHARMACIST-IN-CHARGE RESPONSIBILITY (1) The pharmacy director/pharmacist-in-charge shall provide for applicable policies and procedures to ensure:

(a) mechanisms for receiving and verifying drug orders from prescribers and evaluating them for safety and therapeutic appropriateness based on patient parameters and dosing guidelines;

(b) appropriate filling and proper labeling of all containers from which drugs are to be dispensed or administered on an inpatient or outpatient basis;

(c) a system for the admixture of parenteral products accomplished within the pharmacy, and verification that the facility's department of nursing will provide education and training of nursing personnel regarding sterile technique, stability and compatibility of parenteral products not mixed within the pharmacy;

(d) appropriate clinical services and monitoring of outcomes, and the development of new areas of pharmaceutical care appropriate for that institution;

(e) a mechanism by which changes in a patient's medication regimen are conveyed to that patient's home pharmacy;

(f) maintaining and distributing a list of emergency drugs, antidotes, and their doses throughout the institution;

(g) pharmacy participation in formulary development;

(h) participation in drug utilization review and monitoring of adverse drug reactions and development of procedures to avoid problems identified;

(i) evaluation of reported medication errors and development of procedures to prevent those errors;

(j) proper acquisition and secure, temperature-controlled storage of all prescription drugs;

(k) quality control of sterile and non-sterile pharmaceutical products, including procedures for identifying, removing and destroying outdated products;

(l) pharmacy safety and security;

(m) utilization of registered technicians or technicians in training;

(n) accurate distribution systems and secure, temperature-controlled storage of pharmaceutical products throughout the institution;

(o) unit-dosing of bulk pharmaceuticals, compounding and sterilization of drug products if applicable;

(p) the appropriate use, security and accountability of controlled substances;

(q) staff development and competency evaluation;

(r) maintenance of all required records; and

(s) compliance with all other requirements of the Montana board of pharmacy.

AUTH: 37-7-201, MCA

IMP: 37-7-201, 37-7-307, 37-7-308, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE VI to clarify the conditions and procedures under which an institutional pharmacy is required to operate. See also the statement of reasonable necessity for NEW RULE I.

NEW RULE VII STERILE PRODUCTS (1) Policies and procedures must be prepared for the compounding, dispensing, delivery, administration, storage and use of sterile pharmaceutical products. The policies must include a quality assurance program for monitoring personnel qualifications and training in sterile technique, product storage, stability standards, and infection control. Policies and procedures must be current and available for inspection by a designee of the board of pharmacy.

(2) An institutional pharmacy compounding sterile products must have an area restricted to entry by authorized personnel. That area must be designed to avoid unnecessary traffic and airflow disturbances.

(3) An institutional pharmacy compounding sterile products must utilize an appropriate aseptic environmental control device such as a laminar flow biological safety cabinet capable of maintaining Class 100 conditions during normal activity.

(4) Cytotoxic drugs must be prepared in a vertical flow Class II biological safety cabinet. Non-cytotoxic sterile pharmaceuticals must not be compounded in this cabinet.

(a) Protective apparel including non-vinyl gloves, gowns and masks must be available, and gloves must be worn at all times.

(b) Appropriate containment techniques must be used in addition to aseptic techniques required for sterile product preparation.

(c) Prepared doses of cytotoxic drugs must be clearly identified, labeled with proper precautions and dispensed in a manner to minimize risk of cytotoxic spills.

(d) Disposal of cytotoxic waste must comply with all applicable local, state and federal laws.

(e) Written procedures for handling cytotoxic spills must be included in the policies and procedures manual.

(5) All parenteral admixtures must be labeled with date of preparation and expiration date clearly indicated, patient name and room number, name and strength and/or amount of drug and base solution, and any special handling or storage instructions.

(6) All aseptic environmental control devices must be certified by an independent contractor for operational efficiency at least every 12 months or when relocated,

according to federal standard 209E. Pre-filters must be inspected periodically and replaced if needed.

(7) Inspection and replacement dates must be documented and maintained for a period of at least two years.

(8) Documented records of ongoing quality assurance programs, justification of expiration dates chosen, and employee training records and technique audits must be available for inspection by the board of pharmacy.

AUTH: 37-7-201, MCA

IMP: 37-7-201, 37-7-307, 37-7-308, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE VII to clarify the conditions under which an institutional pharmacy must operate with respect to sterile products controlled by the pharmacy. See also the statement of reasonable necessity for NEW RULE I.

NEW RULE VIII RETURN OF MEDICATION FROM LONG TERM CARE FACILITIES -- DONATED DRUG PROGRAM

(1) In facilities licensed by the Montana department of health and human services where United States pharmacopeia storage requirements are assured, unit-dosed legend drugs, with the exception of controlled substances, no longer needed by the patient for whom they were prescribed, may be transferred to a provisional permitted pharmacy for relabeling and dispensing free of charge to patients who are uninsured, indigent or have insufficient funds to obtain needed prescription drugs. Prescription medications may be dispensed pursuant to a valid prescription order. A usual and customary dispensing fee may be charged at the pharmacist's discretion.

(2) The pharmacist-in-charge of the provisional permitted pharmacy shall be responsible for determining the suitability of the legend drug for use. Medications must be unopened in sealed, unaltered unit dose containers that meet USP standards for light, moisture and air permeation. No product in which drug integrity cannot be assured shall be accepted for re-dispensing by the pharmacist.

(3) A re-dispensed prescription medication must be assigned the expiration date stated on the unit dose packaging. Medications packaged in unit dose form within a pharmacy must be given an expiration date of one year or actual date of expiration of the medication, whichever comes first, and must not be repackaged.

(4) No medication can be redistributed more than once.

(5) Only authorized personnel shall carry out the physical transfer of medication in either facility, pursuant to established policies and procedures.

(6) The patient's name and other identifying marks must be obliterated from packaging prior to transfer. The drug name, strength, lot number and expiration date must remain clearly visible on the packaging.

(7) An inventory list of drugs transferred, including expiration dates, must accompany the drugs, and must be

maintained in the provisional permitted pharmacy for a period of two years.

(8) Policies and procedures to document safe storage and transfer of unneeded medications must be written and adhered to by the facilities involved, and must be available for inspection by an authorized representative of the Montana board of pharmacy or public health and human services.

AUTH: 37-7-201, 37-7-1401, MCA

IMP: 37-7-201, 37-7-1401, 37-7-1402, MCA

REASON: The Board has determined that there is reasonable necessity to adopt NEW RULE VIII to implement the provisions of Chapter 362, Laws of 2001 (SB 288). Pursuant to 37-7-1401, MCA, rule-making by the Board is mandatory.

NEW RULE IX PHARMACIST MEAL/REST BREAKS (1) In any pharmacy staffed by a single pharmacist, the pharmacist shall take a meal/rest break for a period of up to 30 minutes per shift without closing the pharmacy and removing support personnel, provided the pharmacist reasonably believes that the security of prescription drugs will be maintained in the pharmacist's absence.

(2) The time of closure and re-opening will be conspicuously posted in clear view of patients approaching the prescription area and will be consistently scheduled.

(3) In the pharmacist's absence a sign indicating that no pharmacist is on duty will be conspicuously displayed in clear view of patients approaching the prescription area.

(4) The pharmacist will remain on the premises if the prescription area is to remain open, and be available for emergencies.

(5) When authorized by the pharmacist, only registered technicians directly involved in the process of filling prescriptions may remain in the prescription department to perform non-discretionary duties as delineated by the pharmacist.

(6) Upon returning, the pharmacist shall review any work performed in the pharmacist's absence.

(7) In the pharmacist's absence there may be no dispensing of new prescriptions that the pharmacist has checked and that are waiting to be picked up, nor may counseling be provided.

(8) At the discretion of the pharmacist, previously checked medication refills may be handed to patients or their agents by registered technicians in the pharmacist's absence, and the technicians must offer the patient counseling by the pharmacist. If the patient desires counseling, the patient may wait for the pharmacist to return or may leave a telephone number for the pharmacist to call upon return.

(9) Telephoned new prescriptions must not be accepted by support personnel in the pharmacist's absence.

(10) New hardcopy prescriptions may be accepted and processed by registered technicians in the pharmacist's

absence. These prescriptions may not be dispensed until the pharmacist has performed drug utilization review and completed the final check.

(11) If two or more pharmacists are on duty, the pharmacists shall stagger their breaks so that the prescription department is not left without a pharmacist on duty.

(12) The pharmacist-in-charge shall develop written policies and procedures for operation of the prescription department in the temporary absence of the pharmacist.

AUTH: 37-7-201, MCA

IMP: 37-7-201, MCA

REASON: The Board has determined in order to protect the public health and safety of those persons who use prescription drugs, and the health and safety of individuals near such persons, there is reasonable necessity to adopt proposed NEW RULE IX. The Board has been made aware of situations where a pharmacist has been expected to work an entire shift without a rest or meal break. The Board, in its judgment, believes that a maximum of a 30 minute rest or meal break is necessary to help avoid errors arising from too many hours of uninterrupted work, as balanced against the problem of not providing access to the pharmacy when the pharmacist is on a break.

5. ARM 24.174.302, 24.174.810, 24.174.811, and 24.174.812, the rules proposed to be repealed, are as follows:

24.174.302 HOSPITAL/HEALTH CARE FACILITY DEFINITIONS is found at ARM page 24-19522.

AUTH: 37-7-201, MCA

IMP: 37-7-321, MCA

REASON: The Board has determined that the proposed repeal is reasonably necessary as part of the revision and clarification of rules related to institutional pharmacies, and to coordinate with the proposed adoption of NEW RULES I through VII.

24.174.810 CLASS I FACILITY is found at ARM pages 24-19669 through 24-19671.

AUTH: 37-7-201, MCA

IMP: 37-7-201(2), 37-7-321(2), MCA

REASON: The Board has determined that the proposed repeal is reasonably necessary as part of the revision and clarification of rules related to institutional pharmacies, and to coordinate with the proposed adoption of NEW RULES I through VII.

24.174.811 CLASS II FACILITY is found at ARM page 24-19671.

AUTH: 37-7-201, MCA
IMP: 37-7-201(2), 37-7-321(2), MCA

REASON: The Board has determined that the proposed repeal is reasonably necessary as part of the revision and clarification of rules related to institutional pharmacies, and to coordinate with the proposed adoption of NEW RULES I through VII.

24.174.812 CLASS III FACILITY is found at ARM page 24-19672.

AUTH: 37-7-201, MCA
IMP: 37-7-201(2), 37-7-321(2), MCA

REASON: The Board has determined that the proposed repeal is reasonably necessary as part of the revision and clarification of rules related to institutional pharmacies, and to coordinate with the proposed adoption of NEW RULES I through VII.

6. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2343, or by e-mail to dlibbsdpha@state.mt.us and must be received no later than 5:00 p.m., August 9, 2002.

7. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at <http://discoveringmontana.com/dli/bsd> under the rule notice section for the Board of Pharmacy. The Department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered.

8. The Board of Pharmacy maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request to the board which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Pharmacy administrative rulemaking or other administrative proceedings. Such written request may be mailed or delivered to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2343, e-mailed to dlibsdpha@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

9. The Board of Pharmacy will meet at 8:00 a.m., August 29, 2002, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed amendments and new rules. The meeting will be held by teleconference. Members of the public are welcome to come to the Board's offices in Helena and listen to the Board's deliberations, but the Board cannot accept any comments concerning the proposed amendments, new rules and repeals beyond the August 9, 2002, deadline.

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

11. Jack Atkins, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHARMACY
ALBERT A.FISHER, R.Ph.,
PRESIDENT

By: /s/ KEVIN BRAUN
Kevin Braun
Rule Reviewer

By: /s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State, July 1, 2002.

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

In the matter of the adoption)	
of new rules and amendment of)	
ARM 2.43.404, 2.43.425,)	NOTICE OF ADOPTION
2.43.502, 2.43.508, 2.43.509,)	AND AMENDMENT
2.43.510, 2.43.511, 2.43.512,)	
2.43.513, 2.43.514, and 2.43.515)	
pertaining to the implementation)	
of the Defined Contribution)	
Retirement Plan for members of)	
the Public Employees' Retirement)	
System)	

TO: All Concerned Persons

1. On April 25, 2002, the Public Employees' Retirement Board published notice of proposed adoption and amendment of rules pertaining to the implementation of the Defined Contribution Retirement Plan for members of the Public Employees' Retirement System (PERS) at page 1126 of the Montana Administrative Register, Issue Number 8.

2. The Board has adopted new RULE I (ARM 2.43.1001), new RULE II (ARM 2.43.1002), new RULE III (ARM 2.43.1003), new RULE IV (ARM 2.43.1004), new RULE V (ARM 2.43.1005), new RULE VI (ARM 2.43.1010), new RULE VII (ARM 2.43.1011), new RULE VIII (ARM 2.43.1012), new RULE X (ARM 2.43.1017), new RULE XI (ARM 2.43.1020), new RULE XII (ARM 2.43.1023), new RULE XIII (ARM 2.43.1024), new RULE XVII (ARM 2.43.1032), new RULE XVIII (ARM 2.43.1040), new RULE XIX (ARM 2.43.1045) and new RULE XX (ARM 2.43.1046) exactly as proposed.

3. The Board has adopted new RULE IX (ARM 2.43.1015), new RULE XIV (ARM 2.43.1025), new RULE XV (ARM 2.43.1030) and new RULE XVI (ARM 2.43.1031) with the following changes, stricken matter interlined, new matter underlined:

RULE IX [2.43.1015] PURCHASE OF SERVICE NOT PERMITTED BY PARTICIPANT IN DEFINED CONTRIBUTION RETIREMENT PLAN (1) through (9) same as proposed.

AUTH: 19-3-2104, MCA
IMP: 19-2-710, 19-3-2111, 19-3-2115, MCA

RULE XIV [2.43.1025] MONTANA UNIVERSITY SYSTEM EMPLOYEE ELECTIONS (1) through (2)(b) same as proposed.

(3) A MUS employee who is in both a PERS covered position and an ORP covered position may be a participant of both the MUS ORP and either the DBRP or DCRP.

AUTH: 19-2-403, 19-3-2104, MCA
IMP: 19-3-2104, 19-3-2112, MCA

RULE XV [2.43.1030] TRANSFER OF DEFINED BENEFIT RETIREMENT PLAN FUNDS TO THE DEFINED CONTRIBUTION RETIREMENT PLAN

(1) through (2)(b)(i) same as proposed.

(ii) the employer's statutorily required contributions less the statutorily required plan choice rate and the statutorily required education fund rate, plus 8% compounded annual interest.

(3) through (6) same as proposed.

AUTH: 19-2-403, 19-3-2104, 19-3-2112, MCA
IMP: 19-3-2112, 19-3-2114, 19-3-2117, MCA

RULE XVI [2.43.1031] TIMING OF TRANSFERS TO THE DEFINED CONTRIBUTION RETIREMENT PLAN (1) through (1)(a)(i) same as proposed.

(ii) the July contribution amount will be transferred to the individual account in the DCRP or the MUS ORP no later than 10 working days after the date the July payroll is due received in good order.

(b) For elections received and confirmed after August 1, 2002, the pre-July 1, 2002 contribution transfer amount and the July 1 and post-July 1, 2002 ongoing contribution amount will be transferred to the participant's individual account in the DCRP or the MUS ORP ORP no later than 15 working days after the MPERA confirms the election.

AUTH: 19-2-403, 19-3-2104, MCA
IMP: 19-3-2114, 19-3-2117, MCA

4. The Board has amended ARM 2.43.425, 2.43.502, and 2.43.508 through 2.43.515 exactly as proposed.

5. The Board has amended ARM 2.43.404 with the following changes, stricken matter interlined, new matter underlined:

2.43.404 REQUIRED EMPLOYER REPORTS (1) through (2)(g) same as proposed.

(3) Reporting agencies of the Montana university system (MUS) shall report ~~all~~ employees in PERS covered positions, ~~including those who elect the MUS optional retirement program (ORP).~~ The MUS ORP report must include all information ~~and contributions~~ required in ~~(1) and (2).~~ At the same time, reporting agencies of the MUS shall transmit amounts equal to the statutorily required plan choice rate and the education fund rate for all those employees in PERS covered positions who elect the MUS ORP.

(4) same as proposed.

(5) Reporting errors may be corrected on subsequent monthly reports via a letter of explanation that must include all salary and service documentation for the reported error and the affected time period.

(6) The MPERA will notify the reporting agency of the necessary action, including contributions and interest due. Corrections reducing an employee's contributions cannot be

accepted if the employee has received a refund.

~~(6)~~ (7) Reporting errors affecting PERS members who elect the PERS defined contribution retirement plan (DCRP) will be corrected as follows:

(a) Corrections increasing a contribution will be credited to the participant's individual account within the timeframe established in ARM 2.43.1031 and will not be retroactive.

(b) Corrections ~~decreasing~~ reducing a contribution will decrease the participant's individual account. Corrections reducing an employee's contributions cannot be accepted if the employee has received a refund. The DCRP recordkeeper will recover the incorrect contribution from the participant's individual account and submit a refund to the MPERA. The MPERA will submit the refund to the reporting agency. It is the reporting agency's responsibility to correct payroll records and submit the refund to the DCRP participant.

~~(c) Neither the board, the MPERA nor the PERS DCRP recordkeeper assume responsibility for investment losses incurred as a result of incorrect reporting by a reporting agency.~~

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-2-506, 19-3-315, 19-3-1106, 19-3-2104, 19-7-1101,
MCA

6. The following comments were received and appear with the Board's responses:

COMMENT 1: A comment was received from internal staff asking whether a person who is employed by the University system in two separate jobs, one covered by the MUS ORP and one covered by PERS, can elect the DCRP for their PERS position.

RESPONSE: A person who is employed by the University system in two separate positions, one covered by the MUS ORP and one covered by PERS, may elect the DCRP for their PERS position. This scenario has been added to RULE XIV.

COMMENT 2: A comment was received from internal staff stating that new RULE XVI(1)(a)(ii) is unclear regarding the timing of the receipt of July 2002 contributions because MPERA does not know the July payroll date for each employer.

RESPONSE: The Board agrees. The subsection has been amended to require transfer of July contributions no later than 10 working days after the July payroll is received in good order. This language is consistent with RULE XVII.

COMMENT 3: A comment was received from the Montana University System that RULE XV(2)(b)(ii) regarding transfer of funds to the MUS ORP fails to include the 8% compounded annual interest on the employer contributions.

RESPONSE: The Board agrees. The omission of the 8% compounded annual interest on the employer contributions to the ORP was inadvertent. RULE XV has been amended to include that interest.

COMMENT 4: A comment was received from a payroll clerk asking whether MPERA's on-line web-based reporting method uses an electronic file transfer directly from payroll software or an on-line form.

RESPONSE: If an employer currently reports to MPERA using a paper turnaround report, the new on-line web-based reporting system will have a copy of the employer's latest report. The employer will be able to access the web-based reporting system, copy the previous month's report to the current month, then make the corrections necessary for the current month.

The web-based reporting system also has the ability to accept electronic file transfers in a file format specified by MPERA. The web-based reporting system cannot interface directly with an agency's payroll system.

COMMENT 5: A comment was received from a payroll clerk asking about the cost of submitting contributions through the automated clearinghouse system (ACH).

RESPONSE: The cost generally averages between \$.11 and \$.15 per transaction, depending on the employer's financial institution. The cost should be less than the cost of producing and mailing a check, and takes less time.

COMMENT 6: A comment was received from a payroll clerk regarding the impact of the proposed change requiring payroll reports by the 5th of each month.

RESPONSE: The new rule requires that payroll reports be submitted within five working days after each regular payday, not the 5th of each month. Nothing in the rules requires a change in an employer's established workweek.

COMMENT 7: A comment was received from the Montana University System stating that ARM 2.43.404(3) does not accurately describe the employer reports and contributions required for Montana University System employees in PERS-covered positions who choose the MUS ORP.

RESPONSE: The Board agrees. ARM 2.43.404(3) has been amended to clarify that although the University system must report all PERS-covered employees, including those who choose MUS ORP, contributions vary depending on whether the employee is a participant in the DCRP or the MUS ORP.

COMMENT 8: A comment was received from a member of the Public Employees' Retirement Board asking whether the following

statement previously contained in ARM 2.43.404(5) applies to participants in both the Defined Contribution Retirement Plan and the Defined Benefit Retirement Plan: "Corrections reducing an employee's contributions cannot be accepted if the employee has received a refund."

RESPONSE: The Board agrees that the statement applies to participants in both the DBRP and the DCRP. ARM 2.43.404 has been amended to clarify that the statement applies to both retirement plans.

COMMENT 9: A written statement was received from the Legislative Services Division questioning the proposal to amend ARM 2.43.404 by adding a new subsection (6)(c) that will immunize certain state government entities from responsibility for investment losses incurred as a result of incorrect reporting by a reporting agency. A rule must implement a statute. There is no statute that allows this new provision or that can be said to be implemented by this new provision.

RESPONSE: The Board agrees. Section 19-2-511, MCA is the statute that limits the Board's liability under the Defined Contribution Retirement Plan. This statute does not address immunity from liability for incorrect reporting by an employer. Subsection (6)(c) has been stricken.

COMMENT 10: A comment was received from a member of the Public Employees' Retirement Board questioning whether a participant in the Defined Contribution Retirement Plan who has been found to be disabled can return to work if they recover from their disability.

RESPONSE: A participant in the Defined Contribution Retirement Plan who has been found to be disabled can return to work if they are subsequently found by the Board to be no longer disabled. ARM 2.43.514 addresses PERS members in general with no distinction between PERS members who belong to the Defined Contribution Retirement Plan and PERS members who belong to the Defined Benefit Retirement Plan.

/s/ Terry Teichrow
Terry Teichrow, President
Public Employees' Retirement Board

/s/ Kelly Jenkins
Kelly Jenkins, General Counsel and
Rule Reviewer

/s/ Dal Smilie
Dal Smilie, Chief Legal Counsel and
Rule Reviewer

Certified to the Secretary of State on July 1, 2002.

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

In the matter of adoption of a)
new rule relating to the) NOTICE OF ADOPTION
purchase of service credit)
through direct trustee-to-)
trustee transfers)

TO: All Concerned Persons

1. On April 25, 2002, the Public Employees' Retirement Board published notice of proposed adoption of new Rule I concerning the purchase of service credit through direct trustee-to-trustee transfers at page 1154 of the 2002 Montana Administrative Register, Issue Number 8.

2. The Board has adopted new Rule I (ARM 2.43.441) exactly as proposed.

3. No comments or testimony were received.

/s/ Terry Teichrow
Terry Teichrow, President
Public Employees' Retirement Board

/s/ Kelly Jenkins
Kelly Jenkins, General Counsel and
Rule Reviewer

/s/ Dal Smilie
Dal Smilie, Chief Legal Counsel and
Rule Reviewer

Certified to the Secretary of State July 1, 2002.

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

In the matter of amendment of) NOTICE OF AMENDMENT
ARM 2.43.606 pertaining to the)
retirement systems administered)
by the Montana Public Employees')
Retirement Board

TO: All Concerned Persons

1. On April 25, 2002, the Public Employees' Retirement Board published notice of proposed amendment to ARM 2.43.606 concerning optional retirements within the retirement systems administered by the Montana Public Employees' Retirement Board at page 1114 of the 2002 Montana Administrative Register, Issue Number 8.

2. The Board has amended ARM 2.43.606 as proposed.

3. No comments were received.

/s/ Terry Teichrow
Terry Teichrow, President
Public Employees' Retirement Board

/s/ Kelly Jenkins
Kelly Jenkins, General Counsel and
Rule Reviewer

/s/ Dal Smilie
Dal Smilie, Chief Legal Counsel and
Rule Reviewer

Certified to the Secretary of State July 1, 2002.

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

In the matter of the adoption)
of new rules relating to) NOTICE OF ADOPTION
a Deferred Retirement Option)
Plan (DROP) for members of the)
Municipal Police Officers')
Retirement System)

TO: All Concerned Persons

1. On April 25, 2002, the Public Employees' Retirement Board published notice of proposed new rules relating to a Deferred Retirement Option Plan (DROP) for members of the Municipal Police Officers' Retirement System administered by the Public Employees' Retirement Board at page 1118 of the 2002 Montana Administrative Register, Issue Number 8.

2. The Board has adopted new RULE I (ARM 2.43.1101), new RULE III (ARM 2.43.1105), new RULE IV (ARM 2.43.1108), new RULE V (ARM 2.43.1110), new RULE VI (ARM 2.43.1111), new RULE VII (ARM 2.43.1112), new RULE VIII (ARM 2.43.1115), new RULE IX (ARM 2.43.1118) and new RULE X (ARM 2.43.1119) exactly as proposed.

3. The Board has adopted new Rule II (ARM 2.43.1104) with the following changes, stricken matter interlined, new matter underlined:

RULE II [2.43.1104] DROP APPLICATION PROCESS (1) ~~A member who completes at least 20 years of membership service is eligible to participate in the DROP.~~ Members who wish to participate in the DROP must file a DROP information request with the MPERA.

(2) through (5) same as proposed.

AUTH: 19-2-403, 19-9-1203, MCA
IMP: 19-9-1203, 19-9-1204, MCA

4. The following comment was received and appears with the Board's response:

COMMENT 1: A written statement was received from the Legislative Services Division questioning the proposed RULE II requirement that a MPORS member must have 20 years of service to participate in the DROP. It is not apparent on the face of the DROP bill that the reference to 19-9-801(2), MCA is incorrect. Therefore, there was no codification error to correct at the time the 2001 Code was printed. The correction can and will be made in the 2003 Code Commissioner Bill. In the meantime, an administrative rule that is contrary to statute cannot be adopted.

RESPONSE: The Board agrees. The improper language has been stricken from RULE II.

/s/ Terry Teichrow
Terry Teichrow, President
Public Employees' Retirement Board

/s/ Kelly Jenkins
Kelly Jenkins, General Counsel and
Rule Reviewer

/s/ Dal Smilie
Dal Smilie, Chief Legal Counsel and
Rule Reviewer

Certified to the Secretary of State on July 1, 2002.

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

In the matter of adoption of new)
rules pertaining to the Deferred) NOTICE OF ADOPTION
Compensation Plan administered)
by the Public Employees')
Retirement Board)

TO: All Concerned Persons

1. On April 25, 2002, the Public Employees' Retirement Board published notice of proposed adoption of new Rule I, new Rule II and new Rule III concerning the Deferred Compensation Plan administered by the Public Employees' Retirement Board at page 1150 of the 2002 Montana Administrative Register, Issue Number 8.

2. The Board has adopted Rule I (ARM 2.43.1801), Rule II (ARM 2.43.1802) and Rule III (ARM 2.43.1803) exactly as proposed.

3. No comments were received.

/s/ Terry Teichrow
Terry Teichrow, President
Public Employees' Retirement Board

/s/ Kelly Jenkins
Kelly Jenkins, General Counsel and
Rule Reviewer

/s/ Dal Smilie
Dal Smilie, Chief Legal Counsel and
Rule Reviewer

Certified to the Secretary of State July 1, 2002.

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

In the matter of the)
amendment of ARM 12.7.801,) CORRECTED NOTICE
12.7.802, 12.7.803, 12.7.804,) OF AMENDMENT
12.7.805, 12.7.806, 12.7.807,)
and 12.7.808 pertaining to)
fishing contest regulations)

TO: All Concerned Persons

1. On April 11, 2002, the Fish, Wildlife and Parks Commission (commission) published a notice of the amendment of above-captioned rules pertaining to fishing contest regulations, at page 1073 of the 2002 Montana Administrative Register, Issue Number 7.

2. The reason for the correction is that scientific name changes for various trout species since the last update of the fishing contest rules were not properly incorporated into the revised rules by mistake. After ARM 12.7.801 was adopted in 1987, the scientific community changed the scientific names of Yellowstone cutthroat trout, westslope cutthroat trout, and wild trout. The department amended 12.7.801 in April of this year to address fishing contests and later discovered that the scientific names of these fish had been changed by the scientific community. It is appropriate and necessary at this time to make the corrections so that the intended species are properly addressed in the rule. Changes include correcting the genus and species identification for westslope cutthroat trout and Yellowstone cutthroat trout, and including the correct genus for all trout species included in the prohibition on contests for wild trout. No public comment was received concerning this portion of the rule, and these changes are consistent with the intent of the rule amendment. The corrected rule amendment reads as follows:

12.7.807 PROHIBITED CONTESTS (1) Contests involving any Montana listed species of special concern are prohibited except the following:

(a) contests are allowed for lake/reservoir stocked Yellowstone cutthroat trout (~~Salmo~~ Oncorhynchus clarki bouvieri) or westslope cutthroat trout (~~Salmo~~ Oncorhynchus clarki lewisi) including upper Missouri cutthroat trout.

(2) All contests involving wild trout (~~Salmo~~, Oncorhynchus or Salvelinus) in streams/rivers are prohibited.

AUTH: 87-3-121, MCA
IMP: 87-3-121, MCA

3. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on June 30, 2002.

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

By: /s/ Rebecca Dockter Engstrom
Rebecca Dockter Engstrom
Rule Reviewer

Certified to the Secretary of State July 1, 2002

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment)
of ARM 23.3.127, 23.3.130,) CORRECTED NOTICE
23.3.131, 23.3.147, and) OF AMENDMENT
23.3.149 pertaining to)
driver licensing and)
identification cards)

TO: All Concerned Persons

1. On February 28, 2002, the Department of Justice published a notice of public hearing on proposed amendment of the above-stated rules at page 428, 2002 Montana Administrative Register, issue number 4. On April 15, 2002, the Department published the notice of amendment of the rules at page 1316, 2002 Montana Administrative Register, issue number 8.

2. This corrected notice of amendment is being published because a new (3) was added to ARM 23.3.149 in the original proposed notice and should have been amended to reflect the new (3) as shown below.

23.3.149 DUPLICATE LICENSES (1) through (2)(c) remain as amended.

(3) A duplicate license application may be rejected if the applicant's identity and date of birth cannot be determined, proper documentation is not presented or submitted or the required fee is not paid.

3. The replacement pages for this rule were filed with the Secretary of State's office on June 30, 2002.

MONTANA DEPARTMENT OF JUSTICE

By: /s/ Mike McGrath
MIKE McGRATH
Attorney General

/s/ Ali Sheppard
ALI SHEPPARD
Rule Reviewer

Certified to the Secretary of State July 1, 2002.

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF LIVESTOCK
STATE OF MONTANA

In the matter of the transfer) CORRECTED NOTICE OF
and amendment, repeal, and) TRANSFER AND
transfer of ARM Title 8, Chapter) AMENDMENT
22, pertaining to horse racing)

TO: All Concerned Persons

1. On May 16, 2002, the Board of Livestock published notice of transfer and amendment, repeal, and transfer of ARM Title 8, Chapter 22, pertaining to horse racing, at page 1500 of the 2002 Montana Administrative Register, Issue Number 9.

2. The reason for these corrections is that the cross reference deletions and changes should have been included in the Notice of Proposal.

8.22.501 (32.28.202) DEFINITIONS (1) through (31) will remain the same as proposed.

(32) Post position is the position assigned to a horse to start in a race, ~~see ARM 8.22.801(55)~~.

(33) Post time means the time set for the arrival at the starting point of the horses in a race, and must be posted a reasonable time before a race, ~~see ARM 8.22.502(21)~~.

(34) through (47)(a) will remain the same as proposed.

(b) A statement on the definition of a winner shall appear in every race program ~~as per ARM 8.22.1605~~.

(48) through (51) will remain the same as proposed.

8.22.502 (32.28.501) LICENSES ISSUED FOR CONDUCTING PARIMUTUEL WAGERING ON HORSE RACING MEETINGS (1) through (17) will remain the same as proposed.

(18) Upon prior approval by the board, any official employed by the licensee may act in a dual capacity to avoid financial hardship. However, proper supervision of racing in accordance with the rules of racing must be maintained at all times. The board may require that additional officials be present at race meetings and in such event will so notify the licensee, ~~see ARM 8.22.701(1)~~.

(19) through (47) will remain the same as proposed.

8.22.1616 (32.28.1616) DAILY DOUBLE FEATURE (1) through (5) will remain the same as proposed.

(6) If no ticket is sold that would require distribution of the ~~D~~daily ~~D~~double ~~P~~pool to a winner under ~~ARM 8.22.1616~~ (2), (3), (4), and (5) ~~above~~, the race meet shall make a complete and full refund of the ~~D~~daily ~~D~~double ~~P~~pool.

(7) through (15) will remain the same as proposed.

8.22.1801 (32.28.1801) TRIFECTA (1) In addition to the betting transactions permitted by ~~ARM 8.22.1606~~ rule, a

licensee may offer a trifecta as provided by this sub-chapter.
(2) and (3) will remain the same as proposed.

3. Replacement pages for these rules were filed with the Secretary of State's Office on June 30, 2002.

DEPARTMENT OF LIVESTOCK

BY: /s/ Marc Bridges
Marc Bridges, Exec. Officer,
Board of Livestock
Department of Livestock

BY: /s/ Bernard A. Jacobs
Bernard A. Jacobs,
Rule Reviewer
Livestock Chief Legal Counsel

Certified to the Secretary of State, July 1, 2002.

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

In the matter of the)	NOTICE OF TEMPORARY
temporary emergency amendment)	EMERGENCY AMENDMENT
of ARM 37.85.212, 37.86.1004,)	
37.86.1406, 37.86.1807,)	
37.86.2405, 37.86.2505,)	
37.86.2605, 37.86.2905,)	
37.86.3009, 37.86.3011 and)	
37.86.3020 pertaining to the)	
extension of the 2.6%)	
provider reimbursement)	
reductions and withholding)	
provider rate increase for)	
resource based relative value)	
scale (RBRVS) providers for)	
fiscal year 2003)	

TO: All Interested Persons

1. The Department of Public Health and Human Services is adopting the following temporary emergency rule amendments to ARM 37.85.212, 37.86.1004, 37.86.1406, 37.86.1807, 37.86.2405, 37.86.2505, 37.86.2605, 37.86.2905, 37.86.3009, 37.86.3011 and 37.86.3020 pertaining to the extension of the 2.6% provider reimbursement reductions and withholding provider rate increase for resource based relative value scale (RBRVS) providers for fiscal year 2003.

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. If you need to request an accommodation, contact the department no later than 5:00 p.m. on July 20, 2002, 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@state.mt.us.

2. The rules as amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.85.212 RESOURCE BASED RELATIVE VALUE SCALE (RBRVS) REIMBURSEMENT FOR SPECIFIED PROVIDER TYPES (1) remains the same.

(2) Services provided by the following health care professionals will be reimbursed in accordance with the RBRVS methodology set forth in (3):

- (a) through (o) remain the same.
- (p) providers of oral surgery services; and
- (q) providers of pathology and laboratory services; and
- (r) independent diagnostic testing facilities (IDTFs).

(3) Except as set forth in (8), (9), (10) and (11) the fee for a covered service provided by any of the provider types specified in (2) is determined by multiplying the relative value units determined in accordance with (7) by the conversion factor specified in (4), and then multiplying the product by a factor of one plus or minus the applicable policy adjustor as provided in (5), if any; provided, however, that rates for procedure codes included in the conversion to the RBRVS reimbursement methodology are:

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

(f) for state fiscal year 2003:

(i) those codes paid at 80% of the level of state fiscal year 1997 reimbursement in state fiscal year 2001 shall be frozen at that level less 2.6%;

(ii) those codes restricted to 145% of the medicaid fee of the level of state reimbursement in state fiscal year 1997 which were at the lowest percentage of medicare reimbursement in state fiscal year 2002 shall ~~receive a 2.3% increase in provider fees~~ be frozen at their state fiscal year (SFY) 2002 levels, less 2.6%.

(4) The conversion factor used to determine the medicaid payment amount for the services covered by this rule for state fiscal year 2003 is:

(a) ~~\$32.93~~ 31.90 for medical and surgical services, as specified in (2); and

(b) ~~\$26.93~~ 26.25 for anesthesia services.

(5) through (14) remain the same.

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA

37.86.1004 REIMBURSEMENT METHODOLOGY FOR SOURCE BASED RELATIVE VALUE FOR DENTISTS (1) For procedures listed in the relative values for dentists scale, reimbursement rates shall be determined using the following methodology:

(a) remains the same.

(b) The conversion factor used to determine the medicaid payment amount for services provided to eligible individuals age 18 and above is ~~\$20.40~~ 19.87.

(c) The conversion factor used to determine the medicaid payment amount for services provided to eligible individuals age 17 and under is ~~\$26.52~~ 25.83.

AUTH: Sec. 53-6-113, MCA

IMP: Sec. 53-6-101, MCA

37.86.1406 CLINIC SERVICES, REIMBURSEMENT

(1) Ambulatory surgical center (ASC) services as defined in ARM 37.86.1401(2) provided by an ASC will be reimbursed on a fee basis as follows:

(a) and (i) remain the same.

(ii) For state fiscal year 2003, fees determined in accordance with this rule shall be reduced by 2.6%.

(b) through (3) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113, MCA
IMP: Sec. 53-6-101 and 53-6-141, MCA

37.86.1807 PROSTHETIC DEVICES, DURABLE MEDICAL EQUIPMENT, AND MEDICAL SUPPLIES, FEE SCHEDULE (1) remains the same.

(2) Prosthetic devices, durable medical equipment and medical supplies shall be reimbursed in accordance with the department's fee schedule dated ~~January 1~~, effective July 2002, which is hereby adopted and incorporated by reference. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) through (5) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113, MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

37.86.2405 TRANSPORTATION AND PER DIEM, REIMBURSEMENT

(1) remains the same.

(2) The department hereby adopts and incorporates by reference the department's fee schedule effective July ~~2001~~ 2002 which sets forth the reimbursement rates for transportation, per diem and other medicaid services. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) through (5) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113, MCA
IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

37.86.2505 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REIMBURSEMENT (1) remains the same.

(2) The department hereby adopts and incorporates by reference the department's fee schedule effective July ~~2001~~ 2002 which sets forth the reimbursement rates for specialized nonemergency medical transportation services and other medicaid services. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: Sec. 53-2-201 and 53-6-113, MCA
IMP: Sec. 53-6-101, 53-6-113 and 53-6-141, MCA

37.86.2605 AMBULANCE SERVICES, REIMBURSEMENT (1) remains the same.

(2) The department hereby adopts and incorporates by reference the department's fee schedule effective July ~~2001~~ 2002 which sets forth the reimbursement rates for ambulance services and other medicaid services. A copy of the department's fee

schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) through (5) remain the same.

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

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

37.86.2905 INPATIENT HOSPITAL SERVICES, REIMBURSEMENT

(1) remains the same.

(2) The department's DRG prospective payment rate for inpatient hospital services is based on the classification of inpatient hospital discharges to ~~diagnosis related groups~~ (DRGs). The procedure for determining the DRG prospective payment rate is as follows:

(a) and (b) remain the same.

(c) The department computes a Montana average base price per case. This average base price per case is ~~\$2125~~ 2070 excluding capital expenses, effective for services provided on or after July 1, ~~2001~~ 2002.

(d) through (17) remain the same.

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-113 and 53-6-141, MCA

37.86.3009 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, EMERGENCY ROOM AND CLINICAL SERVICES

(1) Emergency room and clinic services provided by hospitals that are not isolated hospitals or critical access hospitals as defined in ARM 37.86.2902(17) and (18) will be reimbursed on a fee basis for each visit as follows:

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

(b) Fees for emergency room and clinic service groups described in (1)(a)(i) through (iii) above for sole community hospitals and non-sole community hospitals are specified in the department's outpatient hospital emergency room fee schedule. The department hereby adopts and incorporates herein by reference the outpatient hospital emergency room fee schedule (June ~~1998~~ 2002). A copy of the emergency room fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(c) through (e) remain the same.

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA

37.86.3011 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, NON-EMERGENCY ROOM SERVICES

(1) Emergency room services provided to a passport recipient, when the passport provider has not authorized the services, will be reimbursed a prospective fee for evaluations and stabilization of ~~\$20-60~~ 20.06 per emergency room visit plus

ancillary reimbursement for laboratory, imaging and other diagnostic services. The fee is a bundled payment per visit for all outpatient services provided to the patient including, but not limited to, nursing, pharmacy, supplies and equipment and other outpatient hospital services. Physician services are separately billable according to the applicable rules governing billing for physician services.

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA

37.86.3020 OUTPATIENT HOSPITAL SERVICES, PROSPECTIVE PAYMENT METHODOLOGY, AMBULATORY SURGERY SERVICES

(1) Ambulatory surgery services provided by hospitals that are not isolated hospitals or critical access hospitals as defined in ARM 37.86.2902(17) and (18) will be reimbursed on a fee basis. A separate fee will be paid within each day procedure group depending on whether or not the hospital is a sole community hospital as defined in ARM 37.86.2901. Payment for ambulatory surgery services is a fee for each visit determined as follows:

(a) remains the same.

(b) The department determines a fee for each day procedure group which reflects the estimated cost of hospital resources used to treat cases in that group relative to the statewide average cost of all medicaid cases. Fees for day procedure groups for sole community hospitals and non-sole community hospitals are specified in the department's outpatient hospital fee schedule. The department hereby adopts and incorporates by reference the outpatient hospital ambulatory surgery fee schedule (~~June 1998~~ June 2002). A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(c) through (f) remain the same.

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

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113, MCA

3. The Department is facing imminent and substantial budget reductions in the Montana Medicaid program due to anticipated state surplus funds falling below the amount specified in 17-7-140, MCA. The Governor has ordered an immediate 3.5% cost reduction to prevent the State of Montana from depleting its funds. As a result, it is necessary for the Montana Medicaid program to immediately reduce expenditures. Should the State of Montana deplete its funds, a lack of available resources would result in the wholesale elimination or substantial curtailment of Medicaid services and would immediately imperil the public health, safety and welfare.

Consequently, the Department is adopting these temporary emergency rules to prevent the imminent peril to the public health, safety and welfare that would result from the

elimination or substantial curtailment of Medicaid services. The temporary emergency rules would make immediate adjustments to reimbursement rates for the Montana Medicaid program. The expected effect of these proposed emergency rules would be to reduce total state and federal expenditures for Medicaid services in Montana by \$5,080,850, including \$1,371,830 of savings to the state general fund.

In order to implement these immediate reimbursement rate reductions, the Department is amending ARM 37.85.212 (pertaining to resource based relative value scale (RBRVS) reimbursement for specified provider types); ARM 37.86.1004 (pertaining to reimbursement methodology for source based relative value for dentists); ARM 37.86.1406 (pertaining to clinic services reimbursement); ARM 37.86.1807 (pertaining to prosthetic devices, durable medical equipment, and medical supplies, fee schedule); ARM 37.86.2405 (pertaining to transportation and per diem reimbursement); ARM 37.86.2505 (pertaining to specialized nonemergency medical transportation reimbursement); ARM 37.86.2605 (pertaining to ambulance services reimbursement); ARM 37.86.2905 (pertaining to inpatient hospital services reimbursement); ARM 37.86.3009 (pertaining to outpatient hospital services, prospective payment methodology, emergency room and clinical services); ARM 37.86.3011 (pertaining to outpatient hospital services, prospective payment methodology, and nonemergent emergency room services) and 37.86.3020 (pertaining to ambulatory surgery services). The amendments are necessary to withdraw the 2.3% provider rate increase for RBRVS providers which was previously provided in ARM 37.85.212. The amendments are also necessary to extend the 2.6% reimbursement rate reduction that was scheduled to end on June 30, 2002. The methodology which reduced net pay reimbursement by 2.6% according to ARM 37.85.406 ends June 30, 2002. Individual fees will be reduced by 2.6% effective July 1, 2002, as provided in this amendment.

The Department anticipates that withholding the 2.3% provider rate increase will reduce the costs of the Medicaid program by approximately \$938,888. Furthermore, the Department anticipates that extension of the 2.6% reimbursement rate reduction will impact the specified provider types in the following manner:

- RBRVS providers: physicians, mid-level practitioners, podiatrists, physical therapists, occupational therapists, speech therapists, audiologists, optometrists, opticians, providers of clinic services, providers of EPSDT services, independent diagnostic testing facilities, imaging, dentists providing medical services, providers of oral surgery services. Estimated savings \$1,135,843 for state fiscal year 2003.

- Ambulatory surgical centers. Estimated savings \$43,590 for state fiscal year 2003.

- Inpatient hospitals. Estimated savings \$1,821,724 for state fiscal year 2003.

- Outpatient hospitals. Estimated savings \$689,851 for

state fiscal year 2003.

- Dental providers. Estimated savings \$156,909 for state fiscal year 2003.

- Durable medical equipment providers. Estimated savings \$225,251 for state fiscal year 2003.

- Transportation/per diem and specialized non-emergency transportation providers. Estimated savings \$18,102 for state fiscal year 2003.

- Ambulance providers. Estimated savings \$50,692 for state fiscal year 2003.

The Department expects that these amendments will affect approximately 11,600 providers enrolled in Montana Medicaid. The Department does not anticipate an adverse impact on recipients.

Copies of the temporary emergency rule amendments are available at local Offices of Public Assistance statewide or by calling the Department of Public Health and Human Services (406)444-5626 or by contacting the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951 or by reviewing the proposed rules on the Department's website at www.dphhs.state.mt.us/legal/emergency_adoption_notices.htm.

4. The temporary emergency amendments are effective July 1, 2002.

5. A standard rulemaking procedure will be undertaken by the Department prior to the expiration of the temporary emergency rule changes.

6. Interested persons may submit their data, views or arguments during the standard rulemaking process. 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 to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, submit by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@state.mt.us.

Dawn Sliva
Rule Reviewer

/s/ Gail Gray
Director, Public Health and
Human Services

Certified to the Secretary of State June 28, 2002.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 42.5.213)
relating to filing and)
remittance requirements for)
electronic fund transfers)

TO: All Concerned Persons

1. On May 16, 2002, the department published notice of proposed amendment of ARM 42.5.213 relating to filing and remittance requirements for electronic funds transfers at page 1438 of the 2002 Montana Administrative Register, issue no. 9.
2. No comments were received regarding this rule.
3. The department has amended the rule as proposed.
4. An electronic copy of this Adoption Notice is available through the Department's site on the World Wide Web at http://www.state.mt.us/revenue/rules_home_page.htm, under the Notice of Rulemaking section. The Department strives to make the electronic copy of this Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Kurt G. Alme
KURT G. ALME
Director of Revenue

Certified to Secretary of State July 1, 2002

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;
- Department of Public Service Regulation; and
- Office of the State Auditor and Insurance Commissioner.

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.

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 March 31, 2002. This table includes those rules adopted during the period April 1, 2002 through June 30, 2002 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 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 March 31, 2002, 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 2001 and 2002 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.

ADMINISTRATION, Department of, Title 2

- I Montana's Volume Cap Allocation, p. 2196, 2456
- 2.4.101 and other rules - Regulation of Travel Expenses, p. 2198, 2455

- (Public Employees' Retirement Board)
- I Purchase of Service Credit through Direct Trustee-to-Trustee Transfers, p. 1154
- I-III Qualified Domestic Relations Orders for the Deferred Compensation (457) Plan Administered by the Public Employees' Retirement Board, p. 1612
- I-III Deferred Compensation Plan Administered by the Public Employees' Retirement Board, p. 1150
- I-X Deferred Retirement Option Plan (DROP) for Members of the Municipal Police Officers' Retirement System, p. 1118
- 2.43.404 and other rules - Defined Contribution Retirement Plan for Members of the Public Employees' Retirement System, p. 1126
- 2.43.606 Retirement Systems Administered by the Public Employees' Retirement Board, p. 1114
- 2.43.615 and other rules - Family Law Orders for Retirement Systems and Plans Administered by the Public Employees' Retirement Board, p. 1603

(State Fund)

2.55.319 and other rules - Multiple Rating Tiers - Premium Modifiers - Individual Loss Sensitive Dividend Distribution Plan - Premium Rates, p. 2073, 164, 1065

(Banking and Financial Institutions)

2.59.107 Investments of Financial Institutions, p. 136, 901
2.59.112 and other rules - Approved Investments for Montana Banks - Investment Policies, p. 2066, 166

AGRICULTURE, Department of, Title 4

I-III Potato Research and Market Development Program, p. 1682
4.12.402 and other rules - Feed Penalties, p. 1, 778
4.12.3104 and other rules - Seeds - Labeling - Analysis Fees, p. 2278, 70
4.13.1001A State Grain Laboratory Fees, p. 1008, 1548
4.14.301 and other rule - Loan Qualifications, p. 1231, 1723, 71

STATE AUDITOR, Title 6

I-IV Insurance Information and Privacy Protection, p. 1686
I-XX Formation and Regulation of Captive Insurance Companies, p. 2351, 171
6.6.4202 and other rules - Continuing Education Program for Insurance Producers and Consultants, p. 1161, 1511, 1702, 2134, 2457
6.10.121 Registration and Examination of Securities Salespersons, Investment Adviser Representatives, Broker-Dealers, and Investment Advisers, p. 2283, 73

COMMERCE, Department of, Title 8

(Community Development Division)

I Administration of the 2002 Federal Community Development Block Grant Program, p. 2449, 1656
I Application to the Treasure State Endowment Program (TSEP), p. 2447, 524

(Board of Research and Commercialization Technology)

8.100.104 and other rule - Definitions - Application Procedures, p. 2203, 74

(Hard-Rock Mining Impact Board)

8.104.101 and other rules - Organizational Rule - Rules Governing Awarding of Grants, p. 425, 1660

(Board of Housing)

I-XV Affordable Housing Revolving Loan Fund - TANF Housing Assistance Funds, p. 1513, 75

(Montana Promotion Division)

8.119.101 Tourism Advisory Council, p. 1013, 1661

EDUCATION, Title 10

(Office of Public Instruction)

10.7.106A and other rules - Students Placed in Private Education Programs - Tuition, p. 855, 1662

10.7.112 and other rules - Establishment of Investment Accounts - Spending Accounts - Agreement with the County Treasurer - Payments into an Investment Account - Controls and Accounting Records - Closure of a School District Fund - Cash and Budget Transfers Between School District Funds - School Flexibility Payment - Basic Equalization Levy Shortfall, p. 825, 1740

10.13.307 and other rules - Traffic Education, p. 6, 1067

10.41.101 and other rules - Vocational Education, p. 1784, 2206, 780, 1304

(Board of Public Education)

I Substantial and Material Non-performance of a Contract of Employment, p. 1016, 1549

10.55.601 Accreditation Standards and Procedures, p. 2359, 172

10.57.211 and other rules - Model Rules - Teacher Certification - Testing for Certification and Minimum Scores, p. 867, 1463

10.64.301 and other rules - Bus Standards, p. 1530

10.66.104 GED Fees, p. 1534

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

12.9.802 and other rules - Issuance of Supplemental Game Damage Licenses to Hunters in Lieu of Kill Permits, p. 20, 1306

(Fish, Wildlife, and Parks Commission)

I Creating a No Wake Zone on Hebgen Lake, p. 1156

I Regulating the Use of Snowmobiles on Open Public Water, p. 27, 1084

12.3.402 Refunding of the Two-day Resident Fishing License, p. 17, 1072

12.7.801 and other rules - Fishing Contest Regulations, p. 29, 1073

(Department of Fish, Wildlife, and Parks and the Fish, Wildlife, and Parks Commission)

I-V Contractual Public Elk Hunting Access Agreements, p. 1536

12.2.501 Declaring Black-tailed and White-tailed Prairie Dogs to be Nongame Wildlife in Need of Management, p. 1806, 526

ENVIRONMENTAL QUALITY, Department of, Title 17

- I Air Quality - Air Quality Fee Credit for Use of Postconsumer Glass in Recycled Material, p. 1950, 529
- 17.36.101 and other rules - Subdivisions - Subdivision Review Under the Sanitation and Subdivisions Act, p. 568, 1465
- 17.53.102 and other rules - Hazardous Wastes - Management of Hazardous Wastes, p. 35, 789, 1315
- 17.56.105 and other rule - Underground Storage Tanks - Variances - Issuance of Compliance Tags and Certificates, p. 51, 1477
- 17.56.121 and other rules - Underground Storage Tanks - Operating Permits - Operating Tags - Scope of Compliance Inspections - Compliance Plans, p. 2080, 2459
- 17.56.308 and other rule - Underground Storage Tanks - Operating Permits or Compliance Plans - Compliance Inspections, p. 2452, 139, 1091

(Board of Environmental Review)

- I Air Quality - Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants, p. 1033
- 17.8.101 and other rules - Air Quality - Definitions - Incorporation by Reference of Current Federal Regulations - Additional Conditions of Air Quality Preconstruction Permit, p. 268, 1747
- 17.8.505 and other rules - Air Quality - Air Quality Operation Fees - Annual Review of Air Quality Permit Fees - Open Burning Fees, p. 1692
- 17.8.701 and other rules - Air Quality - Issuance of Montana Air Quality Permits, p. 276
- 17.8.1201 Air Quality - Definition of Major Source in the Air Quality Operating Permit Rules, p. 1030
- 17.30.201 Water Quality - Water Quality Permit and Authorization Fees, p. 2361, 382
- 17.30.502 and other rules - Water Quality - Surface Water Quality, p. 1920, 387, 1089, 1314
- 17.30.602 and other rules - Water Quality - Water Use Classifications and Numeric Nutrient Standards - Definitions - Incorporations by Reference, p. 1019
- 17.30.2003 Water Quality - Enforcement Actions for Administrative Penalties, p. 263, 1749

TRANSPORTATION, Department of, Title 18

(Transportation Commission)

- 18.6.211 Collection of Permit Fees for Outdoor Advertising Signs, p. 2208, 2465

CORRECTIONS, Department of, Title 20

20.9.101 and other rules - Youth Placement Committees,
p. 618, 1039

JUSTICE, Department of, Title 23

23.3.127 and other rules - Driver Licensing and
Identification Cards, p. 428, 1316
23.4.201 and other rules - Field Certification of Associated
Equipment, p. 871, 1482
23.4.501 and other rules - Definitions - Requirements for
Collection and Storage of DNA, p. 1617
23.15.101 and other rules - Creating the Office of Victims
Services and Restorative Justice, p. 1382, 1753
23.16.102 and other rules - Forms Used by the Department in
Regulating Gambling - Gambling Applications - Video
Gambling Machine Testing Fees, p. 308, 902
23.17.311 Montana Law Enforcement Academy Student Academic
Performance Requirements for the Basic Course,
p. 1386, 1754

(Board of Crime Control)

I Authorizing Reimbursement to Counties for Detention
of Indian Youth, p. 142, 305, 1484
23.14.401 and other rule - Membership on the Peace Officers
Standards and Training Council - POST Training Hours
Awarded for College Credits, p. 1697

LABOR AND INDUSTRY, Department of, Title 24

(Board of Architects)

8.6.101 and other rules - Transfer from the Department of
Commerce - Board of Architects Rules, p. 173
8.6.405 and other rules - Licensure of Applicants Who are
Registered in Another State - Examinations -
Renewals - Fees, p. 1408, 175

(Board of Barbers)

8.10.101 and other rules - Transfer from the Department of
Commerce - Board of Barbers Rules, p. 393
8.10.414 and other rule - Prohibition of Animals in
Barbershops - Certain Records of Barber Schools,
p. 1953, 176

(Board of Clinical Laboratory Science Practitioners)

8.13.101 and other rules - Transfer from the Department of
Commerce - Board of Clinical Laboratory Science
Practitioners, p. 1485
8.13.301 and other rules - Application - Fees - Minimum
Standards for Licensure - Continuing Education -
Inactive Status - Reactivation of License -
Notification of Denial or Disciplinary Action -
Supervision, p. 636, 1486

(Board of Cosmetologists)

8.14.402 and other rules - Elimination of the Required Practical Examination for Cosmetologists, p. 465, 1318

(Board of Dentistry)

8.16.402 and other rules - Licensure of Dentists and Dental Hygienists - Application Requirements for Dentists and Dental Hygienists, p. 439, 1488

(State Electrical Board)

8.18.101 and other rules - Transfer from the Department of Commerce - State Electrical Board Rules, p. 1755

(Board of Hearing Aid Dispensers)

8.20.101 and other rules - Transfer from the Department of Commerce - Board of Hearing Aid Dispensers Rules, p. 349

8.20.402 and other rules - Fees - Examination - Pass/Fail Point - Minimum Testing and Recording Procedures, p. 819, 1412, 2422, 82

(Board of Landscape Architects)

8.24.101 and other rules - Transfer from the Department of Commerce - Board of Landscape Architects Rules, p. 1498

(Board of Funeral Service)

8.30.101 and other rules - Transfer from the Department of Commerce - Board of Funeral Service Rules, p. 790

8.30.406 and other rules - Examination - Continuing Education - Sponsors - Renewal, p. 1297, 84, 793

(Board of Nursing)

8.32.303 and other rules - Nursing Licensure, p. 1621

(Board of Optometry)

8.36.601 Continuing Education, p. 632, 1550

8.36.801 Therapeutic Pharmaceutical Agents, p. 884, 1551

(Board of Pharmacy)

8.40.101 and other rules - Transfer from the Department of Commerce - Board of Pharmacy Rules, p. 904

8.40.401 and other rules - Substantive Pharmacy Rules - Automated Data Processing - Certified Pharmacies - Internship Regulations - Continuing Education for Pharmacists - Dangerous Drug Act - Collaborative Practice Agreement Requirements - Security of Certified Pharmacy - Administration of Vaccines by Pharmacists - Explosive Chemicals - Prescription Copies for Legend Drugs, p. 1422, 178, 794

8.40.1301 and other rules - Pharmacy Technicians - Registration of Pharmacy Technicians - Renewal, p. 1447, 86, 796

- (Board of Professional Engineers and Land Surveyors)
- 8.48.101 and other rules - Transfer from the Department of Commerce - Board of Professional Engineers and Land Surveyors Rules, p. 1756
- 8.48.401 and other rules - Board Organization - Board Meetings - Screening Panel - Applications - Reclassification of Engineers and Land Surveyors - Classification of Experience of Land Surveying Applicants, p. 450, 1326

- (Board of Real Estate Appraisers)
- 24.207.401 and other rules - Fees - Adoption of USPAP by Reference - Qualifying Experience - Inactive License/Certification, p. 144, 911

- (Board of Sanitarians)
- 8.60.101 and other rules - Transfer from the Department of Commerce - Board of Sanitarians Rules, p. 1499

- (Board of Social Work Examiners and Professional Counselors)
- 8.61.1201 Licensure Requirements, p. 1388

- (Board of Veterinary Medicine)
- 8.64.509 Licensure of Out-of-State Applicants (Endorsement), p. 1041

- I Unemployment Insurance Matters - Voluntary Layoff, p. 2090, 2466
- I-VIII Building Codes, p. 1631
- I-XVIII Investigating Complaints on Discrimination, p. 1158
- 24.11.204 and other rules - Unemployment Insurance Benefits Matters, p. 1044, 1665
- 24.16.9001 and other rules - Prevailing Wage Matters, p. 1172
- 24.16.9001 and other rules - Prevailing Wage Matters, p. 313
- 24.16.9003 and other rule - Prevailing Wage Rates, p. 1391
- 24.21.411 and other rules - Apprenticeship, p. 1701
- 24.21.414 Adoption of Wage Rates for Certain Apprenticeship Programs, p. 1400
- 24.29.1504 and other rules - Chiropractic, Occupational Therapy and Physical Therapy Services and Fees in Workers' Compensation Matters, p. 1403, 1758
- 24.29.2803 and other rules - Uninsured Employers' Fund, p. 1420, 1766
- 24.29.2814 Emergency Amendment - Uninsured Employers' Fund Administrative Costs Balance, p. 907
- 24.30.102 Occupational Safety and Health Standards for Public Sector Employment, p. 887, 1552
- 24.301.107 and other rules - Building Codes - Modifications to the Uniform Building Code Applicable Only to the Department's Code Enforcement Program - Adoption of the Uniform Housing Code or the Uniform Code for the Abatement of Dangerous Buildings, p. 345

(Workers' Compensation Judge)
24.5.303 and other rules - Procedural Rules of the Court,
p. 2211, 93

LIVESTOCK, Department of, Title 32

(Board of Horse Racing)
8.22.301 and other rules - Transfer from the Department of
Commerce - Board of Horse Racing Rules, p. 642, 1500

(Board of Livestock)
32.2.401 Various Fees Charged by the Department of Livestock
for Inspecting Livestock, p. 724, 1510

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36.24.101 and other rules - Water Pollution Control State
Revolving Fund Act - Purpose - Definitions and
Construction of Rules - Direct Loans - Types of
Bonds; Financial and Other Requirements - Other
Types of Bonds - Covenants Regarding Facilities
Financed by the Loan - Fees - Evaluation of
Financial Matters and Commitment Agreements -
Requirements for Disbursing of Loan - Terms of Loan
and Bond - Financial and Other Requirements for
Loans to Private Persons, p. 1708

(Board of Land Commissioners and Department of Natural Resources
and Conservation)
36.2.1005 Minimum Easement Charge under the Jurisdiction of
the State Board of Land Commissioners, p. 1540

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

I Licensure of Minimum Standards for Critical Access
Hospital (CAH), p. 1956, 205
16.28.101 and other rules - Transfer from the Department of
Health and Environmental Sciences - Communicable
Disease Control, p. 913
16.32.101 and other rules - Transfer from the Department of
Health and Environmental Sciences - Licensure of
Health Care Facilities, p. 185
16.32.302 Health Care Licensure, p. 1959, 192
16.32.601 and other rules - Minimum Standards for Mental
Health Centers, p. 1962, 916
37.5.304 and other rules - Child Care Assistance and Hearing
Appeal Rights, p. 727, 1553
37.8.101 and other rules - Vital Statistics, p. 2373, 397
37.40.301 and other rules - Nursing Facilities, p. 1262, 1767
37.50.315 Foster Care Classification Model, p. 774, 1557
37.76.101 and other rules - Temporary Assistance for Needy
Families (TANF), p. 149, 952

- 37.78.102 and other rules - Families Achieving Independence in Montana (FAIM) and Temporary Assistance for Needy Families (TANF), p. 1207, 1771
- 37.82.701 and other rules - Medically Needy Family Medicaid Coverage, p. 1279, 1773
- 37.85.204 and other rules - Independent Diagnostic Testing Facilities - Medicaid Reimbursement, p. 56, 797
- 37.85.212 and other rule - Resource Based Relative Value Scale (RBRVS), p. 1247, 1775
- 37.85.212 and other rules - Emergency Amendment - Medicaid Reimbursement, p. 94
- 37.86.805 and other rules - Medicaid Reimbursement for Primary Care Services, p. 1251, 1779
- 37.86.1004 and other rule - Reimbursement Methodology for Source Based Relative Value on Dental Services, p. 1243, 1780
- 37.86.1101 and other rule - Medicaid Outpatient Drug Reimbursement, p. 1257, 1788
- 37.86.2207 and other rules - Mental Health Services, p. 503, 1328
- 37.86.2207 and other rules - Emergency Adoption and Amendment - Mental Health Services, p. 193
- 37.86.2801 and other rules - Inpatient and Outpatient Hospitals, p. 1289, 1543, 1725
- 37.88.901 and other rules - Mental Health Center Services, p. 1424
- 37.95.102 and other rules - Licensure of Day Care Facilities, p. 483
- 37.108.507 Components of Managed Care Plan Quality Assessment Activities, p. 349, 954
- 37.114.799 Communicable Disease Control, p. 891, 1511

PUBLIC SERVICE REGULATION, Department of, Title 38

- I Electronic Filings, p. 1582, 398
- 38.5.1107 Accrual of Interest on Customer Deposits with Utilities, p. 893
- 38.5.2202 and other rule - Pipeline Safety, p. 2093, 2467
- 38.5.8001 General Requirement to Obtain License to Supply Electricity, p. 521, 1512

REVENUE, Department of, Title 42

- I Production Threshold for Beer Taxes, p. 379, 955
- I-III Exemptions, Reduced Tax Rates, and Credits for Energy Facilities, p. 1060
- 42.2.501 Partial Payments for Debts Collected by the Department, p. 1545
- 42.2.613 and other rules - Taxpayer Appeals, p. 1430
- 42.5.213 Filing and Remittance Requirements for Electronic Fund Transfers, p. 1438
- 42.13.101 and other rules - Liquor Licensing, p. 1727
- 42.15.315 and other rules - Penalties and Interest Charges for Late Filed and Late Paid Taxes, p. 352, 1094

- 42.18.106 and other rules - Montana Appraisal Plan Rules, p. 356, 1097
- 42.19.1102 and other rule - Treatment of Gasohol Production Facilities, p. 65, 811
- 42.22.104 Motor Vehicles and Special Mobile Equipment, p. 2403, 99
- 42.22.1311 and other rules - Exemptions - Reduced Tax Rates - Credits for Energy Facilities, p. 369, 1092
- 42.23.413 Carryovers of Net Operating Losses for Corporation License Taxes, p. 2127, 2468, 207
- 42.26.101 and other rules - Corporation Taxes, p. 2096, 2469, 403
- 42.29.101 and other rules - Universal System Benefits Credits, p. 2216, 209
- 42.31.501 and other rules - Retail Communications Excise Tax, p. 2399, 68, 956

(Board of Review)

- I-V One-Stop Licensing Program Administered by the Department of Revenue on Behalf of the Board of Review, p. 1056, 1559

SECRETARY OF STATE, Title 44

- 44.3.1101 Schedule of Fees for the Centralized Voter File, p. 896, 1667
- 44.5.101 and other rules - Filing and Copy Fees for Corporations, p. 2000, 2472, 960
- 44.6.201 and other rule - Uniform Commercial Code Filings (UCC), p. 898, 1668

(Commissioner of Political Practices)

- 44.12.101 and other rules - Lobbying - Regulation of Lobbying, p. 1440

CROSS REFERENCE INDEX

Montana Code Annotated
to
Administrative Rules of Montana

January 2002 - June 2002

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
1-4-101	Opinion No. 17	404
2-2-731	37.95.121	483
2-4-102	Rule I (FWP)	20
2-4-201	8.104.101	425
2-4-201	24.16.9010	313
2-4-201	24.16.9010	1172
2-4-201	37.5.304, 307	727
2-4-201	37.86.2801	1289
2-4-201	42.2.501	1545
2-4-307	24.16.9007	1391
2-6-103	44.5.121	960
2-15-404	44.3.1101, 6.201	896
2-15-1816	8.119.101	1013
5-2-104	Opinion No. 15	217
5-7-101	Rule I (SOS - Political Practices)	1440
5-7-102	Rules II - IV (SOS - Political Practices)	1440
5-7-102	44.12.102, 111	1440
5-7-103	Rule V (SOS - Political Practices)	1440
5-7-111	Rules I - V (SOS - Political Practices)	1440
5-7-111	44.12.102, 103, 105, 107, 111, 201 - 203, 205, 207, 209, 211, 213	1440
5-7-208	44.12.103, 105, 107, 201 - 203, 205, 207, 209, 211	1440
5-7-211	44.12.105, 107	1440
5-7-212	44.12.103	1440
5-7-305	44.12.213	1440
7-4-2102 - 2104 T. 7, Ch. 11, Pt. 1	Opinion No. 17	404
7-32-303	Opinion No. 16 23.14.401	222 1697
10-6-502	Opinion No. 14	212
13-2-115	44.3.1101	896
15-1-201	Rule I (Revenue)	65
15-1-201	Rule I (Revenue)	1430
15-1-201	Rules I - III (Revenue)	1060
15-1-201	Rules I - VI, VIII, IX, XII (Revenue)	369

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
15-1-201	42.2.501	1545
15-1-201	42.2.613, 614, 619	1430
15-1-201	42.4.114	1094
15-1-201	42.18.106, 107, 109, 110, 112, 113, 115, 116, 118, 119, 121, 122	356
15-1-201	42.19.1102	65
15-1-201	42.22.1311	369
15-1-206	42.2.501	1545
15-1-211	Rule I (Revenue)	1430
15-1-211	Rule VI (Revenue)	369
15-1-211	42.2.613, 614, 619	1430
15-1-216	42.2.501	1545
15-1-216	42.13.402	1727
15-1-216	42.15.315, 23.605, 607	352
15-1-216	42.15.315, 23.605	1096
15-1-216	42.31.510	956
15-1-217	Rule II (Revenue)	369
15-1-222	42.23.605	352
15-1-222	42.23.605	1096
15-1-406	Rule I (Revenue)	1430
15-1-406	42.2.613	1430
15-1-802	42.5.213	1438
15-2-302	Rule VI (Revenue)	369
15-6-135	42.19.1102	65
15-6-138	Rule I (Revenue)	65
15-6-138	42.22.1311, 23.513	369
15-6-201	Rule I (Revenue)	65
15-6-225	Rule II (Revenue)	369
15-6-226	Rule VIII (Revenue)	369
15-6-226	42.4.114	1094
15-7-111	42.18.106, 107, 109, 110, 112, 113, 115, 116, 118, 119, 121, 122	356
15-7-133	42.18.106, 107	356
15-7-201	42.18.115	356
15-8-111	42.22.1311, 23.513	369
15-10-420	Opinion No. 16	222
15-23-102	Rule I (Revenue)	1430
15-23-102	42.2.613	1430
15-23-107	Rule I (Revenue)	1430
15-23-107	42.2.613	1430
15-24-3001	Rules I - III (Revenue)	1060
15-24-3001	Rules I, III - V (Revenue)	369
15-24-3005	Rule XI (Revenue)	369
15-30-111	Rule XI (Revenue)	369
15-30-121	Rule XI (Revenue)	369
15-30-142	Rule I (Revenue)	1430
15-30-142	42.15.315	1096
15-30-149	42.15.315	352
15-30-149	42.15.315	1096

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
15-30-210	42.5.213	1438
15-30-241	42.15.315	352
15-30-241	42.15.315	1096
15-30-257	Rule I (Revenue)	1430
15-30-257	42.2.613	1430
15-30-304, 305	42.2.501	1545
15-30-305	Rules I, III, V, VII, XI (Revenue)	369
15-30-305	Rules I, III (Revenue)	1060
15-30-305	42.5.213	1438
15-30-305	42.15.315	352
15-30-305	42.15.315	1096
15-30-321	42.2.501	1545
15-30-321	42.15.315	352
15-30-321	42.15.315	1096
15-30-323	42.2.501	1545
15-31-111	42.2.501	1545
15-31-114	42.23.413	207
15-31-124	42.23.513	369
15-31-501	Rules VII, XI (Revenue)	369
15-31-501	42.23.413	207
15-31-501	42.23.605, 607, 608	352
15-31-501, 502	42.2.501	1545
15-31-501 - 503	42.23.605	1096
15-31-502	42.23.605, 608	352
15-31-503	42.23.605	352
15-31-506	42.2.501	1545
15-31-510	42.2.501	1545
15-31-510	42.23.605	1096
15-31-510	42.23.605, 607, 608	352
15-31-522	42.2.501	1545
15-31-543	42.2.501	1545
15-31-545	42.2.501	1545
15-32-109	Rule XII (Revenue)	369
15-32-115	Rule XII (Revenue)	369
15-32-201	Rule XII (Revenue)	369
15-32-203	Rule XII (Revenue)	369
15-32-403	Rules III - V, IX, X (Revenue)	369
15-32-403	Rules I - III (Revenue)	1060
15-32-404	Rules I, IX (Revenue)	369
15-32-407	Rules I - III (Revenue)	1060
15-32-407	Rules I, III - V, VII, IX, X (Revenue)	369
15-35-103	Rules I, III (Revenue)	1060
15-35-103	Rules I, III, V (Revenue)	369
15-35-105	42.2.501	1545
15-35-121	42.35.121	1545
15-35-122	Rule I (Revenue)	369
15-35-122	42.2.501	1545
15-37-108	42.2.501	1545
15-38-107	42.2.501	1545
15-38-110	42.2.501	1545
15-43-147	42.31.510	956
15-44-103	42.18.115	356

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
15-53-104	42.31.501, 510	956
15-53-129	42.31.501	956
15-53-145	42.2.501	1545
15-53-145	42.31.510	956
15-53-150	42.31.502	956
15-53-155	42.2.501	1545
15-53-155	42.31.501, 502, 510	956
15-59-106	42.2.501	1545
16-1-303	Rule I (Revenue)	379
16-1-303	42.13.101, 103, 105 - 109, 201, 221, 222, 301, 304, 305, 401, 402, 601	1727
16-1-406	Rule I (Revenue)	397
16-1-411	42.13.402	1727
16-3-103	42.13.221	1727
16-3-201	42.13.301, 305	1727
16-3-213, 214	42.13.601	1727
16-3-220	42.13.220	1727
16-3-230	42.13.340	1727
16-3-243	42.13.109, 222	1727
16-3-244	42.13.221	1727
16-3-301	42.13.101	1727
16-3-302	42.13.105	1727
16-3-310	42.13.107, 108	1727
16-3-311	42.13.105, 106	1727
16-3-404	42.13.222, 402	1727
16-3-406	42.13.109, 222	1727
16-4-103	42.13.304	1727
16-4-107	42.13.401	1727
16-4-402	42.13.106	1727
16-4-404	42.13.105, 109	1727
16-4-406	42.13.101, 402	1727
16-6-103	42.13.103	1727
16-6-104	42.13.105, 304	1727
16-6-301	42.13.301	1727
16-6-305	42.13.101	1727
16-6-314	42.13.101	1727
18-2-401	Rules III - X, XIV (Labor & Industry)	313
18-2-401	Rules III - X, XIV (Labor & Industry)	1172
18-2-401, 402	24.16.9001, 9003, 9007 - 9009	313
18-2-401, 402	24.16.9001, 9003, 9007 - 9009	1172
18-2-401 - 403	24.16.9003	1391
18-2-401 - 432	24.16.9007	1391
18-2-402	Rules III, VI - X, XIV (Labor & Industry)	313
18-2-402	Rules III, VI - X, XIV (Labor & Industry)	1172
18-2-403	Rules I, III, VI - X, XIV, XIX - XXVII, XXIX - XXXIII (Labor & Industry)	313

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
18-2-403	Rules I, III, VI - X, XIV, XIX - XXVII, XXIX - XXXIII (Labor & Industry)	1172
18-2-403	24.16.9002, 9003, 9005 - 9009	313
18-2-403	24.16.9002, 9003, 9005 - 9009	1172
18-2-403	24.16.9003	1391
18-2-406	Rules I, XIV (Labor & Industry)	313
18-2-406	Rules I, XIV (Labor & Industry)	1172
18-2-407	Rules I, XIX - XXVII, XXIX - XXXIII (Labor & Industry)	313
18-2-407	Rules I, XIX - XXVII, XXIX - XXXIII (Labor & Industry)	1172
18-2-407	24.16.9010	313
18-2-407	24.16.9010	1172
18-2-409	24.16.9001 - 9007, 9009, 9010	313
18-2-409	24.16.9001 - 9007, 9009, 9010	1172
18-2-411	Rule II	313
18-2-411	Rule II	1172
18-2-411	24.16.9001, 9003, 9008	313
18-2-411	24.16.9001, 9003, 9008	1172
18-2-411	24.16.9003	1391
18-2-412	Rules I, XIV - XVIII (Labor & Industry)	313
18-2-412	Rules I, XIV - XVIII (Labor & Industry)	1172
18-2-412	24.16.9007	313
18-2-412	24.16.9007	1172
18-2-421	24.16.9005	313
18-2-421	24.16.9005	1172
18-2-422	Rules I, XI - XIII (Labor & Industry)	313
18-2-422	Rules I, XI - XIII (Labor & Industry)	1172
18-2-422	24.16.9002, 9004, 9005, 9008, 9009	313
18-2-422	24.16.9002, 9004, 9005, 9008, 9009	1172
18-2-423	Rules XI - XIV, XIX - XXVII, XXIX - XXXIII (Labor & Industry)	313
18-2-423	Rules XI - XIV, XIX - XXVII, XXIX - XXXIII (Labor & Industry)	1172
18-2-424	Rule XXIII (Labor & Industry)	313
18-2-424	Rules XXII, XXIII (Labor & Industry)	1172
18-2-431	I - XXXV (Labor & Industry)	313
18-2-431	I - XXXV (Labor & Industry)	1172
18-2-431	24.16.9001 - 9010	313
18-2-431	24.16.9001 - 9010	1172
18-2-431	24.16.9003, 9007	1391
18-2-432	Rules XXV, XXXIV, XXXV (Labor & Industry)	313
18-2-432	Rules XXV, XXXIV, XXXV (Labor & Industry)	1172
18-9-409	24.16.9009	313
18-9-409	24.16.9009	1172
18-9-901	24.16.9008	313
18-9-901	24.16.9008	1172

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
19-2-403	Rules I - X (Administration - PERB)	1118
19-2-403	Rules III, IV, VI - VIII, X - XVII, XIX, XX (Administration - PERB)	1126
19-2-403	Rule I (Administration - PERB)	1154
19-2-403	Rules I, II (Administration - PERB)	1603
19-2-403	2.43.404, 425, 502, 508 - 515	1126
19-2-403	2.43.606	1114
19-2-403	2.43.615, 616	1603
19-2-406	2.43.502	1126
19-2-506	2.43.404	1126
19-2-602	2.43.425	1126
19-2-704	Rule I (Administration - PERB)	1154
19-2-704	2.43.425	1126
19-2-907	Rule X (Administration - PERB)	1126
19-2-907	Rules I, II (Administration - PERB)	1603
19-2-907	2.43.615, 616	1603
19-2-909	Rule X (Administration - PERB)	1126
19-2-1007	Rules XIX, XX (Administration - PERB)	1126
19-3-315	2.43.404	1126
T. 19, Ch. 3, Pt. 5	2.43.425	1126
19-3-1002	2.43.502	1126
19-3-1005	2.43.502	1126
19-3-1015	2.43.508 - 515	1126
19-3-1106	Rule XIII (Administration - PERB)	1126
19-3-1106	2.43.404	1126
19-3-1501	2.43.606	1114
19-3-2102	Rule I (Administration - PERB)	1126
19-3-2104	Rules I - XX (Administration - PERB)	1126
19-3-2104	Rule I (Administration - PERB)	1154
19-3-2104	2.43.404, 425, 502, 508 - 515	1126
19-3-2111	Rules VI - VIII, X - XIV (Administration - PERB)	1126
19-3-2112	Rules VIII, XV (Administration - PERB)	1126
19-3-2114	Rules IV, XV, XVI (Administration - PERB)	1126
19-3-2115	Rule I (Administration - PERB)	1154
19-3-2115	Rules IV, VIII, IX (Administration - PERB)	1126
19-3-2115	2.43.425	1126
19-3-2117	Rules IV, V, XV - XVII (Administration - PERB)	1126
19-3-2122	Rules II - IV (Administration - PERB)	1126
19-3-2123	Rule XIX (Administration - PERB)	1126
19-3-2124	Rules XIX, XX (Administration - PERB)	1126
19-3-2125	Rule XX (Administration - PERB)	1126
19-3-2141	Rules V, XVIII (Administration - PERB)	1126
19-3-2141	2.43.502, 508 - 515	1126
19-5-409	2.43.425	1126
19-5-601	2.43.502	1126
19-5-612	2.43.508 - 515	1126

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
19-5-701	2.43.606	1114
19-6-601	2.43.502	1126
19-6-612	2.43.508 - 515	1126
T. 19, Ch. 6, Pt. 8	2.43.425	1126
19-7-601	2.43.502	1126
19-7-612	2.43.508 - 515	1126
T. 19, Ch. 7, Pt. 8	2.43.425	1126
19-7-1001	2.43.606	1114
19-7-1101	2.43.404	1126
19-8-701	2.43.502	1126
19-8-712	2.43.508 - 515	1126
19-8-801	2.43.606	1114
T. 19, Ch. 8, Pt. 9	2.43.425	1126
T. 19, Ch. 9, Pt. 4	2.43.425	1126
19-9-902	2.43.502	1126
19-9-904	2.43.508 - 515	1126
19-9-1203	Rules I - X (Administration - PERB)	1118
19-9-1204	Rules II - IV (Administration - PERB)	1118
19-9-1205	Rules I, IV, V, IX, X (Administration - PERB)	1118
19-9-1206	Rules III, VI, VII (Administration - PERB)	1118
19-9-1207	Rules VIII - X (Administration - PERB)	1118
19-9-1208	Rules VI, VII, IX, X (Administration - PERB)	1118
T. 19, Ch. 13, Pt. 4	2.43.425	1126
19-13-802	2.43.502	1126
19-13-804	2.43.508 - 515	1126
19-50-102	Rules I - III (Administration - PERB)	1150
19-50-102	Rules I - III (Administration - PERB)	1612
20-1-301, 302	10.20.102	855
20-1-304	10.20.102	855
20-2-114	Rule I (Board of Public Education)	867
20-2-114	Rule I (Board of Public Education)	1016
20-2-114	10.66.104	1534
20-2-121	Rules I, II (Board of Public Education)	867
20-2-121	Rule I (Board of Public Education)	1016
20-2-121	10.57.211, 212	867
20-2-121	10.64.101, 301, 341, 354 - 356, 358	1530
20-2-121	10.66.104	1534
20-3-106	Rule IX (Superintendent of Public Instruction)	825
20-4-102	Rule II (Board of Public Education)	867
20-4-102	10.57.211, 212	867

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
20-4-110	Rule I (Board of Public Education)	867
20-4-110	Rule I (Board of Public Education)	1016
T. 20, Ch. 5, Pt. 3	10.10.301	855
20-5-312	10.10.301	855
20-5-314	10.10.301C	855
20-5-316	10.10.301C	855
20-5-320, 321	10.7.106A, 10.301B - 301D, 16.3818	855
20-5-321	Rule I (Superintendent of Public Instruction)	855
20-5-321 - 324	10.23.102	825
20-5-322	10.10.301B	855
20-5-323	10.7.106A, 10.301B - 301D, 16.3818	855
20-4-324	10.10.301B - 301D, 16.3818	855
20-5-406, 407	37.114.799	891
20-6-209	Opinion No. 14	212
20-6-502	10.30.102	825
20-6-702	10.10.301	855
20-7-117	10.20.201	855
20-7-208	10.41.136	780
20-7-301	10.41.136	780
20-7-306	10.41.136	780
20-7-402	10.16.3803	825
20-7-414	10.16.3803, 3810	825
20-7-419	Rule I (Superintendent of Public Instruction)	855
20-7-431	10.10.301D	855
20-7-431	10.16.3803, 3804, 3806, 3807	825
20-7-457	10.16.3803, 3809	825
20-7-502	Rule I (Superintendent of Public Instruction)	6
20-7-502	10.13.307 - 313	6
20-7-507	10.13.309	6
T. 20, Ch. 9	10.15.101	825
20-9-102	Rules I - IX (Superintendent of Public Instruction)	825
20-9-102	10.7.112, 10.306 - 309, 317, 407, 15.101, 20.103, 105, 21.101B, 101D, 101E, 22.102, 205, 23.102, 102A, 107, 108	825
20-9-102	10.10.301, 301B - 301D, 20.102	855
20-9-103	10.10.407	825
20-9-141	10.23.102	825
20-9-165, 166	10.22.205	825

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
20-9-201	Rule VII (Superintendent of Public Instruction)	825
20-9-201	10.10.301	855
20-9-201	10.10.306, 307, 317, 407	825
20-9-208	Rule VIII (Superintendent of Public Instruction)	825
20-9-212	10.10.306, 308, 317	825
20-9-213	10.10.308, 309, 407	825
20-9-235	Rules I - VI (Superintendent of Public Instruction)	825
20-9-235	10.10.307	825
20-9-302	10.30.102	825
20-9-306	10.16.3818	855
20-9-308	10.22.102, 23.102A, 108	825
20-9-311	10.20.102	855
20-9-311	10.20.103, 23.108	825
20-9-313, 314	10.20.102	855
20-9-313, 314	10.20.103, 105	825
20-9-321	10.16.3803, 3804, 3810 - 3812	825
20-9-331	10.23.107	825
20-9-333	10.23.107	825
20-9-346	10.20.102	855
20-9-366 - 371	10.21.101B, 101D, 101E	825
20-9-369	10.20.102	855
20-9-439	Rule VIII (Superintendent of Public Instruction)	825
20-9-443	Rules VII, VIII (Superintendent of Public Instruction)	825
20-9-502, 503	10.21.101E	825
20-9-504	10.10.306	825
20-9-505	Rule VII (Superintendent of Public Instruction)	825
20-9-510	10.13.309	6
20-9-512	Rule VIII (Superintendent of Public Instruction)	825
20-9-515	Rule VIII (Superintendent of Public Instruction)	825
20-9-541 - 544	Rule IX (Superintendent of Public Instruction)	825
20-9-703	Rule VIII (Superintendent of Public Instruction)	825
20-9-805	10.20.102	855
20-10-103	10.7.112	825
20-10-104	10.64.101, 341, 354 - 356, 358	1530
20-10-111	10.64.301	1530
20-10-112	10.7.106A	855
20-10-112	10.7.112, 114	825
20-10-121	10.7.112	825
20-10-126	10.7.112	825
20-10-132	10.7.112	825
20-10-141	10.7.112	825

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
20-10-141, 142	10.7.106A	855
20-10-142	10.7.114	825
20-10-145, 146	10.7.112	825
20-10-147	Rules VII, VIII (Superintendent of Public Instruction)	825
22-1-304	Opinion No. 16	222
22-1-309	Opinion No. 16	222
23-1-106	Rule I (FWP Commission)	27
23-1-106	Rule I (FWP Commission)	1156
23-2-501	Rule I (FWP Commission)	27
23-4-101	8.22.501, 32.28.202	642
23-4-104	8.22.301, 401, 501 - 503, 601, 608, 610, 701 - 703, 705 - 707, 709 - 714, 801, 803 - 805, 807 - 809, 1102, 1103, 1401, 1402, 1501 - 1503, 1601, 1602, 32.28.202, 301, 401, 501, 502, 601, 607, 609, 701 - 703, 705 - 707, 709 - 714, 801, 803 - 805, 807 - 809, 1102, 1103, 1401, 1402, 1501 - 1503, 1601, 1602	642
23-4-106	8.22.401, 1501, 1502, 32.28.401, 1501, 1502	642
23-4-201	8.22.202, 502, 503, 601, 602, 604 - 612, 701, 705, 32.28.501, 502, 601, 602, 604 - 611, 701, 705	642
23-4-202	8.22.202, 301, 302, 321, 324, 325, 501, 502, 601, 602, 604 - 612, 701 - 703, 705 - 707, 709 - 711, 801, 803 - 805, 807 - 809, 1102, 1103, 1401, 1402, 1501 - 1503, 1601 - 1606, 1608 - 1610, 1617, 32.28.202, 207, 208, 301, 302, 501, 601, 602, 604 - 611, 701 - 703, 705 - 707, 709 - 711, 801, 803 - 805, 807 - 809, 1102, 1103, 1401, 1402, 1501 - 1503, 1601 - 1606, 1608 - 1610, 1617	642
23-4-301	8.22.610, 711, 801, 1102, 1503, 1601 - 1606, 1608 - 1610, 1617, 32.28.609, 711, 801, 1102, 1503, 1601 - 1606, 1608 - 1610, 1617	642
23-4-302, 303	8.22.1601 - 1606, 1608 - 1610, 1617, 32.28.1601 - 1606, 1608 - 1610, 1617	642
23-5-115	23.16.102, 103, 502, 503, 1716, 1914 - 1916, 1918, 2001	308
23-5-118	23.16.502	308
23-5-128	23.16.1914	308
23-5-129	23.16.1915	308

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
23-5-152	23.16.2001	308
23-5-176	23.16.502	308
23-5-177	23.16.102, 502, 503	308
23-5-502, 503	23.16.1716	308
23-5-611	23.16.2001	308
23-5-614	23.16.2001	308
23-5-621	23.16.2001	308
23-5-625	23.16.1916, 2001	308
23-5-631	23.16.1918, 2001	308
30-9-403	44.6.201	898
30-9-407	44.6.201	898
30-9-421	44.6.201	898
30-9-539	Rules I, II (Secretary of State)	898
30-9-546	Rule II (Secretary of State)	898
30-9A-519	44.6.202, 203	1668
30-9A-525	44.2.202, 5.121	960
30-9A-526	44.6.202, 203	1668
30-13-320	44.5.121	960
30-16-103, 104	Rules I - V (Revenue - Board of Review)	1056
30-16-201	Rules I - V (Revenue - Board of Review)	1056
30-16-301, 302	Rules I - V (Revenue - Board of Review)	1056
30-16-301, 302	Opinion No. 15	217
30-16-303	Rules I - V (Revenue - Board of Review)	1056
32-1-424	2.59.107	136
32-1-424	2.59.107	901
32-1-424	2.59.1601, 1603, 1605, 1606	166
32-1-433	2.59.1601, 1603, 1605, 1606	166
33-1-313	Rule I (State Auditor)	1686
33-19-102, 103	Rule I (State Auditor)	1683
33-19-106	Rules I - III (State Auditor)	1683
33-19-202	Rules II, III (State Auditor)	1686
33-19-306	Rule IV (State Auditor)	1686
33-36-105	37.108.507	349
33-36-302	37.108.507	349
35-1-1206	44.2.202, 5.121	960
35-2-1003	44.5.121	960
35-8-211	44.5.121	960
37-1-121	8.22.325, 32.28.208	642
37-1-131	Rules I, II (Labor & Industry - Cosmetologists)	465
37-1-131	Rule I (Labor & Industry - Clinical Laboratory Science Practitioners)	636
37-1-131	8.13.307, 308	636
37-1-131	8.14.603, 606, 802, 803, 805, 813, 1005	465

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
37-1-131	8.14.603, 802	1318
37-1-131	8.16.402, 412, 605, 605A, 611	439
37-1-131	8.16.402, 412, 605, 605A, 611	1488
37-1-131	8.22.502, 601, 608, 1102, 1401, 1502, 32.28.501, 601, 607, 1102, 1401, 1502	642
37-1-131	8.32.411	1621
37-1-131	8.36.801	884
37-1-131	8.64.509	1041
37-1-131	24.207.401, 509, 515	144
37-1-134	8.13.303	636
37-1-134	8.14.814	465
37-1-134	8.22.503, 32.28.502	642
37-1-134	8.32.411, 425	1621
37-1-134	8.40.404	178
37-1-134	8.48.508, 903, 1105	450
37-1-136, 137	8.14.402	465
37-1-141	8.13.307	636
37-1-141	8.14.813	465
37-1-304	Rule I (Labor & Industry - Cosmetologists)	465
37-1-304	8.14.803 - 805	465
37-1-304	8.16.412, 605A	439
37-1-304	8.16.412, 605A	1488
37-1-304	8.48.601, 603, 604	450
37-1-304	8.48.604	1326
37-1-304	8.64.509	1041
37-1-306	8.36.601	632
37-1-307	Rule II (Labor & Industry - Clinical Laboratory Science Practitioners)	636
37-1-307	8.48.408	450
32-1-308, 309	8.48.1106	450
37-1-309	Rule II (Labor & Industry - Clinical Laboratory Science Practitioners)	636
37-1-319	Rule I (Labor & Industry - Cosmetologists)	465
37-1-319	8.13.307, 308	636
37-1-319	8.14.803	465
37-1-319	8.32.425	1621
37-1-319	8.36.601	632
37-1-319	8.36.801	884
37-1-319	8.48.511, 1105	450
37-4-205	8.16.402, 402A, 412, 605 - 605B, 611	439
37-4-205	8.16.402, 412, 605, 605A, 611	1488
37-4-301	8.16.402	1488
37-4-301	8.16.402, 402A	439
37-4-401	8.16.605, 611	439
37-4-401	8.16.605, 611	1488
37-4-402	8.16.605 - 605B, 611	439
37-4-402	8.16.605, 605A, 611	1488
37-4-403	8.16.605	439
37-4-403	8.16.605	1488
37-7-101	8.40.407	178

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
37-7-102	8.40.407, 416	178
37-7-201	8.40.404, 407, 408A, 413, 416, 903, 904	178
37-7-201	8.40.1304, 1306, 1309	86
37-7-301	8.40.1304	86
37-7-302, 303	8.40.404	178
37-7-307	8.40.1304, 1306	86
37-7-321	8.40.404	178
37-7-703	8.40.404	178
37-8-202	8.32.303, 307, 411, 425, 1503, 1504, 1508	1621
37-8-431	8.32.425	1621
37-10-103	8.36.801	884
37-10-202	8.36.601	632
37-10-202	8.36.801	884
37-18-202	8.64.509	1041
37-18-303	8.64.509	1041
37-19-202	Rule I (Labor & Industry)	84
37-19-301	Rule I (Labor & Industry)	84
37-19-306	Rule I (Labor & Industry)	84
37-23-101	8.61.1201	1388
37-23-103	8.61.1201	1388
37-23-202	8.61.1201	1388
37-28-102	Petition for Declaratory Ruling (Labor & Industry - Respiratory Care Practitioners)	407
37-31-203	Rule I (Labor & Industry - Cosmetologists)	465
37-31-203	8.14.601, 603, 605, 606, 608, 611, 801 - 805, 813, 814	465
37-31-203	8.14.603, 608, 801, 802	1318
37-31-204	8.14.601	465
37-31-301	8.14.603, 801	465
37-31-301	8.14.603, 801	1318
37-31-302	8.14.601, 801, 814	465
37-31-302	8.14.801	1318
37-31-303	8.14.801, 802, 804, 805, 814	465
37-31-303	8.14.801, 802	1318
37-31-304	8.14.603, 605, 606, 802 - 805, 814	465
37-31-304	8.14.603, 802	1318
37-31-304, 305	Rule I (Labor & Industry - Cosmetologists)	465
37-31-305	8.14.608, 611, 801, 814	465
37-31-305	8.14.608, 801	1318
37-31-308	Rule I (Labor & Industry - Cosmetologists)	465
37-31-308	8.14.801 - 805	465
37-31-308	8.14.801, 802	1318
37-31-309	8.14.814	465
37-31-311	8.14.601, 603, 605, 606, 608, 611, 803, 814	465
37-31-311, 312	8.14.603, 608	1318
37-31-312	8.14.603, 606, 608, 814	465

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
37-31-321	Rule I (Labor & Industry - Cosmetologists)	465
37-31-321	8.14.801, 802, 814	465
37-31-321	8.14.801, 802	1318
37-31-322	8.14.814	465
37-31-323	8.14.606	465
37-32-201	Rule II (Labor & Industry - Cosmetologists)	465
37-32-201	8.14.601, 814, 1005	465
37-32-301	8.14.814	465
37-32-302	Rule II (Labor & Industry - Cosmetologists)	465
37-32-302	8.14.814, 1005	465
37-32-303	8.14.1005	465
37-32-304	Rule II (Labor & Industry - Cosmetologists)	465
37-32-304	8.14.601, 814	465
37-32-305, 306	8.14.814	465
37-34-201	Rules I, II (Labor & Industry - Clinical Laboratory Science Practitioners)	636
37-34-201	Rule II (Labor & Industry - Clinical Laboratory Science Practitioners)	1486
37-34-201	8.13.301, 303, 305 - 308	636
37-34-303	8.13.305	636
37-34-305	8.13.301	636
37-54-105	24.207.401, 402, 509	144
37-54-112	24.207.401	144
37-54-201	24.207.401	144
37-54-202	24.207.509	144
37-54-210	24.207.401, 515	144
37-54-211, 212	24.207.401	144
37-54-302	24.207.401	144
37-54-303	24.207.509	144
37-54-310	24.207.401, 515	144
37-54-403	24.207.402	144
37-54-406	24.207.401	144
37-67-103	8.48.1102	450
37-67-201	8.48.401, 403	450
37-67-202	Rule I (Labor & Industry - Professional Engineers & Land Surveyors)	450
37-67-202	8.48.401, 403, 408, 502, 504, 507, 508, 511, 601 - 604, 801, 802, 901, 903, 1102 - 1106	450
37-67-202	8.48.604	1326
37-67-301	8.48.1102	450
37-67-303	8.48.502, 504, 903, 1105	450
37-67-305	8.48.504	450
37-67-306	8.48.507, 801	450
37-67-308	8.48.504	450
37-67-309	8.48.801, 1106	450

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
37-67-309, 310	Rule I (Labor & Industry - Professional Engineers & Land Surveyors)	450
37-67-311	8.48.508	450
37-67-312	8.48.601 - 603, 1105	450
37-67-313	8.48.604	1326
37-67-313	8.48.604, 1105	450
37-67-314	8.48.802	450
37-67-315	8.48.511, 901, 903, 1105	450
37-67-316	8.48.1104	450
37-67-320	8.48.1102, 1105	450
37-67-321	8.48.1105	450
37-67-331	8.48.1106	450
37-67-611	8.48.508	450
39-3-201	Rules XIX - XXIV (Labor & Industry)	313
39-3-201	Rules XIX - XXII (Labor & Industry)	1172
39-3-201	24.16.9001, 9002	313
39-3-201 - 216	Rules XXIII, XXIV (Labor & Industry)	1172
39-3-201 - 216	24.16.9001, 9002	1172
39-3-201, 202	Rules XIX - XXXIII (Labor & Industry)	313
39-3-202	24.16.9001 - 9004, 9007	313
39-3-202	24.16.9001 - 9004, 9007	1172
39-3-203 - 205	Rules XXIII, XXIV (Labor & Industry)	313
39-3-203 - 210	24.16.9001, 9002	313
39-3-207	Rules XIX, XX, XXIII - XXV (Labor & Industry)	313
39-3-207	Rules XIX, XXV (Labor & Industry)	1172
39-3-208	Rules XXIII, XXIV (Labor & Industry)	313
39-3-209 - 211	Rules XIX - XXIV (Labor & Industry)	313
39-3-209 - 211	Rules XIX - XXII (Labor & Industry)	1172
39-3-211	24.16.9001, 9002, 9010	313
39-3-211	24.16.9010	1172
39-3-212	Rules XXIII, XXIV, XXVII (Labor & Industry)	313
39-3-212	Rule XXVII (Labor & Industry)	1172
39-3-212 - 215	24.16.9001, 9002	313
39-3-213 - 215	Rules XXIII, XXIV (Labor & Industry)	313
39-3-216	Rules XXIII, XXIV, XXVII - XXX (Labor & Industry)	313
39-3-216	Rules XXVII, XXIX, XXX (Labor & Industry)	1172
39-3-216	24.16.9001, 9002, 9010	313
39-3-216	24.16.9010	1172
39-3-403	Rule XVII (Labor & Industry)	313
39-3-403	Rule XVII (Labor & Industry)	1172
39-3-405	Rule XVII (Labor & Industry)	313
39-3-405	Rule XVII (Labor & Industry)	1172
39-6-101	Rule XVIII (Labor & Industry)	313
39-6-101	Rule XVIII (Labor & Industry)	1172
39-6-101	Rules I - IV (Labor & Industry)	1701
39-6-101	24.21.411	1701
39-6-101	24.21.414	1400

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
39-6-102	Rules I, IV (Labor & Industry)	1701
39-6-106	Rules II - IV (Labor & Industry)	1701
39-6-106	Rule XVIII (Labor & Industry)	1172
39-6-106	Rules XVIII, XXIII, XXIV (Labor & Industry)	313
39-6-106	24.21.411	1701
39-6-106	24.21.414	1400
39-51-301, 302	Rule I (Labor & Industry)	1044
39-51-301, 302	24.11.204, 613, 616, 1207	1044
39-51-1109	Rule I (Revenue)	1430
39-51-1109	42.2.613	1430
39-51-1110	24.11.616	1044
39-51-1214	24.11.613	1044
39-51-2111	Rule I (Labor & Industry)	1044
39-51-2111	24.11.204	1044
39-51-3206	24.11.1207	1044
39-71-203	Rules I - VI (Labor & Industry)	1403
39-71-203	24.29.1504, 1517, 1531, 1536, 1571, 1581, 2004	1403
39-71-203	24.29.1537, 1573, 1583	1758
39-71-203	24.29.2803, 2811, 2814, 2817	1420
39-71-203	24.29.2814	907
39-71-503	24.29.2803, 2811, 2814, 2817	1420
39-71-503	24.29.2814	907
39-71-504	24.29.2803	1420
39-71-704	Rules I - VI (Labor & Industry)	1403
39-71-704	24.29.1504, 1517, 1531, 1536, 1571, 1581, 2004	1403
39-71-704	24.29.1537, 1573, 1583	1758
40-4-234	37.80.201	727
40-4-234	37.80.201	1553
41-3-503	37.97.118	727
41-3-1103	37.5.304, 307, 97.118	727
41-3-1103	37.50.315	1557
41-3-1103	37.89.106, 114	193
41-3-1103	37.89.106, 114	503
41-3-1103	37.89.106, 114	1328
41-3-1122	37.50.315	1557
41-3-1142	37.5.304, 307, 97.118	727
41-5-121	20.9.101, 103, 106	618
41-5-122	20.9.103, 106, 110, 116, 120	618
41-5-123	20.9.101, 103, 106, 110, 113, 115, 120 - 122	618
41-5-124, 125	20.9.101, 103, 106, 110, 113, 115, 120, 122	618
41-5-130	20.9.101, 103, 121	618
41-5-130, 131	Rules IV, V, VII (Corrections)	618
41-5-131	20.9.101, 103	618
41-5-132	Rules IV, V, VII, VIII (Corrections)	618

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
41-5-132	20.9.101, 103	618
41-5-215, 216	Rule II (Corrections)	618
41-5-1902	Rule I (Justice - Crime Control)	305
41-5-1904	Rule I (Justice - Crime Control)	305
41-5-1908	Rule I (Justice - Crime Control)	142
41-5-1908	Rule I (Justice - Crime Control)	305
41-5-2001 - 2005	Rule I (Corrections)	618
41-5-2003 - 2005	20.9.121	618
41-5-2006	Rules I - VIII (Corrections)	618
41-5-2006	20.9.101, 103, 110, 121	618
44-4-301	23.14.401, 404	1697
44-6-101	23.4.501	1617
44-6-103	23.4.502, 503	1617
44-6-110	23.4.501 - 503	1617
44-10-202	23.17.311	1386
44-11-301 - 305	23.14.404	1697
46-9-102	Opinion No. 18	1560
46-9-106	Opinion No. 18	1560
46-9-108	Opinion No. 18	1560
46-9-111	Opinion No. 18	1560
46-9-301, 302	Opinion No. 18	1560
46-9-401	Opinion No. 18	1560
T. 49, Ch. 2	Rules I, II (Labor & Industry)	1158
49-2-102	Rule III (Labor & Industry)	1158
49-2-203	Rules X, XI (Labor & Industry)	1158
49-2-204	Rules I - XVIII (Labor & Industry)	1158
49-2-205	Rule VIII (Labor & Industry)	1158
49-2-210	Rules VI, XV (Labor & Industry)	1158
49-2-301	Rule IX (Labor & Industry)	1158
49-2-303	Rule IX (Labor & Industry)	1158
49-2-305	Rules IX, XIII, XVII (Labor & Industry)	1158
49-2-501	Rules V - VII, XV (Labor & Industry)	1158
49-2-504	Rules V, VI, VIII - X, XII - XIV (Labor & Industry)	1158
49-2-505	Rules XIII, XIV (Labor & Industry)	1158
49-2-506	Rules X, XIII (Labor & Industry)	1158
49-2-507	Rule XIII (Labor & Industry)	1158
49-2-508	Rule XIV (Labor & Industry)	1158
49-2-509	Rules X, XVI - XVIII (Labor & Industry)	1158
49-2-510	Rules V, IX (Labor & Industry)	1158
50-5-103	37.106.1902, 1906, 1907, 1915, 1916, 1936, 1945, 1950, 1958, 1959, 1961	916
50-5-204	37.106.1902, 1906, 1907, 1915, 1916, 1936, 1945, 1950, 1958, 1959, 1961	916

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
50-5-233	37.106.704	205
50-32-103	8.40.416	178
50-60-101	Rule V (Labor & Industry - Building Codes)	1631
50-60-102	Rules V, VII (Labor & Industry - Building Codes)	1631
50-60-104	Rules III, V (Labor & Industry - Building Codes)	1631
50-60-107 - 109	Rule IV (Labor & Industry - Building Codes)	1631
50-60-201	Rules V, VII (Labor & Industry - Building Codes)	1631
50-60-203	Rules I - VIII (Labor & Industry - Building Codes)	1631
50-60-203	24.301.107, 215	345
50-60-205	Rule V (Labor & Industry - Building Codes)	1631
50-60-212	Rule IV (Labor & Industry - Building Codes)	1631
50-71-311, 312	24.30.102	887
52-1-103	20.9.101, 103, 106, 110, 113, 115, 120, 122	618
52-1-103	37.50.315	774
52-1-103	37.50.315	1557
52-1-103	37.89.114	193
52-1-103	37.89.114	503
52-1-103	37.89.114	1328
52-2-111	Rules IV - VI (DPHHS)	727
52-2-111	37.5.304, 307, 97.118	727
52-2-112	Rule IV (DPHHS)	727
52-2-112	37.5.304, 307	727
52-2-403	37.5.304, 307	727
52-2-602	37.97.118	727
52-2-603	37.5.307	727
52-2-603	37.50.315	774
52-2-603	37.50.315	1557
52-2-603	37.89.106, 114	1328
52-2-611	37.50.315	774
52-2-622	37.97.118	727
52-2-702	37.80.101	727
52-2-702	37.95.102, 620, 701	483
52-2-703	37.95.102	483
52-2-704	Rules I, II (DPHHS)	483
52-2-704	Rules I - VI (DPHHS)	727
52-2-704	37.5.304, 307, 331, 80.101 - 103, 201, 202, 205, 206, 301, 306, 315, 316, 501, 502, 97.118	727
52-2-704	37.80.201	1553

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
52-2-704	37.95.102, 106, 108, 109, 115, 117, 121, 127, 132, 139, 610, 620, 640, 701, 705, 1010	483
52-2-713	Rules I, II, VI (DPHHS)	727
52-2-713	37.80.101, 102, 201, 202, 205, 301, 306, 315, 316, 502	727
52-2-713	37.80.201	1553
52-2-713	37.95.102	483
52-2-721 - 723	37.80.102, 201, 202, 301, 306, 315	727
52-2-721 - 723	37.80.201	1553
52-2-722	37.95.106	483
52-2-723	37.95.108, 109, 115, 610, 620, 701, 718	483
52-2-726	37.5.304, 307, 331	727
52-2-731	Rules I, II (DPHHS)	483
52-2-731	37.80.101, 102, 201, 202, 301, 306, 315	727
52-2-731	37.80.201	1553
52-2-731	37.95.102, 106, 108, 109, 115, 117, 127, 132, 139, 610, 620, 701, 705, 718, 1010	483
52-2-732	37.95.108	483
52-2-733	37.95.108, 640	483
52-2-734	37.95.121, 705	483
52-2-735	37.95.109, 115, 127, 139, 207, 210, 227, 620, 701, 718	483
52-3-304	37.5.304, 307	727
52-3-804	37.5.304, 307	727
53-1-203	20.9.101, 103, 106, 110, 113, 115, 116, 120 - 122	618
53-1-405	37.89.114	193
53-1-405	37.89.114	503
53-1-405	37.89.114	1328
53-1-601, 602	37.89.106, 114	193
53-1-601, 602	37.89.106, 114	503
53-1-601, 602	37.89.106, 114	1328
53-2-108	Rule II (DPHHS)	727
53-2-113	37.97.118	727
53-2-201	Rule I (DPHHS)	1289
53-2-201	Rules II, III, V, VI (DPHHS)	727
53-2-201	37.5.304, 307, 331, 80.101, 102, 201, 202, 97.118	727
53-2-201	37.40.301, 302, 308, 315, 320, 322 - 324, 346, 361	1262
53-2-201	37.76.101, 78.202	149
53-2-201	37.78.206 - 208, 807, 825, 826, 82.101	1207
53-2-201	37.80.201	1553
53-2-201	37.82.1107	1279

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
53-2-201	37.85.202, 212, 406, 415, 86.1406, 2905, 3005	56
53-2-201	37.85.212, 406, 1406	94
53-2-201	37.85.204, 406, 415, 86.1406, 2905, 3005	797
53-2-201	37.85.212, 86.205	1247
53-2-201	37.85.212	1775
53-2-201	37.86.805, 2207	1251
53-2-201	37.86.1006	1243
53-2-201	37.86.1006	1780
53-2-201	37.86.1101, 1105	1257
53-2-201	37.86.1105	1788
53-2-201	37.86.2207, 2219, 2221, 3505, 3507, 3515, 3705, 3707, 3715, 88.101, 89.106, 114	193
53-2-201	37.86.2207, 2219, 2221, 3505, 3507, 3515, 3705, 3707, 3715, 88.101, 907, 1106, 89.106, 114	503
53-2-201	37.86.2801, 2901, 2905, 2910, 3001, 3005, 3007, 3016, 3018	1289
53-2-201	37.86.3016, 3018	1725
53-2-201	37.88.101, 89.106, 114	1328
53-2-201	37.88.901, 905, 906	1424
53-2-201	37.89.106, 114	503
53-2-201	37.95.102	483
53-2-306	37.5.304, 307	727
53-2-306	37.76.101	149
53-2-606	37.5.304, 307, 331	727
53-2-613	37.78.208	1207
53-2-801	37.5.304, 307	727
53-2-803	37.5.304, 307	727
53-3-102	37.5.304, 307	727
53-3-107	37.5.304	727
53-4-111	37.5.304, 307, 97.118	727
53-4-112	37.5.304, 307	727
53-4-113	37.97.118	727
53-4-211	37.78.102, 103, 201, 202, 216, 506	149
53-4-211	37.78.102, 206 - 208, 420, 425, 506, 807, 825, 826	1207
53-4-211	37.78.216	952
53-4-211	37.78.506	1771
53-4-211	37.80.102, 103, 201, 202	727
53-4-211	37.80.201	1553
53-4-211	37.95.102	483
53-4-212	Rules I - III, VI (DPHHS)	727
53-4-212	37.5.304, 307, 331, 80.101 - 103, 201, 202, 205, 502	727

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
53-4-212	37.76.101,	
	78.102, 103, 201, 202, 216, 506	149
53-4-212	37.78.102, 206 - 208, 420, 425, 506,	
	807, 825, 826	1207
53-4-212	37.78.216	952
53-4-212	37.78.506	1771
53-4-212	37.80.201	1553
53-4-212	37.82.701	1773
53-4-212	37.82.701, 1107	1279
53-4-212	37.95.102	483
53-4-231	37.78.202	149
53-4-231	37.78.206	1207
53-4-231	37.82.701	1773
53-4-231	37.82.701, 1107	1279
53-4-241	37.78.420	1207
53-4-403, 404	37.5.304, 307	727
53-4-501	37.95.102	483
53-4-503	37.5.304, 307	727
53-4-503	37.95.102, 106, 117, 610, 620, 705,	
	1010	483
53-4-504	37.95.102, 106, 117, 610, 620, 701,	
	705, 1010	483
53-4-506	37.95.207, 227, 620	483
53-4-507	37.95.106	483
53-4-508	37.95.610, 620	483
53-4-513	37.5.304, 307	727
53-4-601	37.78.102, 103, 201, 202, 216, 506	149
53-4-601	37.78.102, 207, 208, 420, 425, 506,	
	807, 825, 826	1207
53-4-601	37.78.216	952
53-4-601	37.78.506	1771
53-4-601	37.80.102, 201, 202	727
53-4-601	37.80.201	1553
53-4-601	37.95.102	483
53-4-603	37.78.201	149
53-4-603	37.78.425	1207
53-4-606	37.78.216	149
53-4-606	37.78.216	952
53-4-607	37.78.202	149
53-4-608	37.78.216	952
53-4-608	37.78.216, 506	149
53-4-608	37.78.506	1207
53-4-608	37.78.506	1771
53-4-611	37.80.101, 102, 201, 202	727
53-4-611	37.80.201	1553
53-4-612	37.95.102	483
53-4-613	37.78.807, 825, 826	1207
53-5-304	37.5.304, 307	727
53-5-504	37.5.304	727
53-6-101	Rule I (DPHHS)	193
53-6-101	Rule I (DPHHS)	1289
53-6-101	Rules I, II (DPHHS)	503

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
53-6-101	37.40.301, 302, 307, 308, 311, 315, 320, 322 - 324, 326, 346, 361	1262
53-6-101	37.82.101	1207
53-6-101	37.82.701	1773
53-6-101	37.82.701, 1106, 1107	1279
53-6-101	37.85.204, 212, 406, 415, 86.1406, 2905, 3005	56
53-6-101	37.85.204, 406, 415, 86.1406, 2905, 3005	797
53-6-101	37.85.212	1775
53-6-101	37.85.212, 406, 1406	94
53-6-101	37.85.212, 86.205	1247
53-6-101	37.86.805, 1807, 2207	1251
53-6-101	37.86.1004, 1006	1243
53-6-101	37.86.1006	1780
53-6-101	37.86.1101, 1105	1257
53-6-101	37.86.1105	1788
53-6-101	37.86.2207, 2219, 2221, 3505, 3507, 3715, 88.101, 907, 1106, 89.106, 114	503
53-6-101	37.86.2207, 2219, 2221, 3505, 3507, 3515, 3705, 3707, 3715, 88.101, 89.106, 114	193
53-6-101	37.86.2801, 2901, 2905, 2910, 3001, 3005, 3007, 3016, 3018	1289
53-6-101	37.86.3016, 3018	1725
53-6-101	37.88.101, 110, 1110, 89.106, 114	1328
53-6-101	37.88.901, 905, 906	1424
53-6-108	37.40.315	1262
53-6-111	Rule I (DPHHS)	56
53-6-111	Rule I (DPHHS)	1289
53-6-111	37.5.304, 307	727
53-6-111	37.40.301, 302, 307, 311, 315, 320, 322, 346, 361	1262
53-6-111	37.85.212	1247
53-6-111	37.85.212	1775
53-6-111	37.85.212, 406	94
53-6-111	37.85.212, 406, 86.2905, 3005	56
53-6-111	37.85.406, 86.2905, 3005	797
53-6-111	37.86.1101	1257
53-6-111	37.86.2207	1251
53-6-111	37.86.2219, 2221, 3505, 3507, 3707, 88.101	193
53-6-111	37.86.2219, 2221, 3507, 3707, 88.101, 1106	503
53-6-111	37.86.2801, 2901, 2905, 2910, 3001, 3005, 3007, 3016, 3018	1289

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
53-6-111	37.86.3016, 3018	1725
53-6-111	37.88.101	1328
53-6-111	37.88.901, 905, 906	1424
53-6-113	Rule I (DPHHS)	56
53-6-113	Rule I (DPHHS)	193
53-6-113	Rule I (DPHHS)	1289
53-6-113	Rules I, II (DPHHS)	503
53-6-113	37.5.304, 307, 331	727
53-6-113	37.40.301, 302, 307, 308, 311, 315, 320, 322 - 324, 326, 346, 361	1262
53-6-113	37.82.101	1207
53-6-113	37.82.701	1773
53-6-113	37.82.701, 1106, 1107	1279
53-6-113	37.85.204, 212, 406, 415, 86.1406, 2905, 3005	56
53-6-113	37.85.204, 406, 415, 86.1406, 2905, 3005	797
53-6-113	37.85.212	1775
53-6-113	37.85.212, 406, 1406	94
53-6-113	37.85.212, 86.205	1247
53-6-113	37.86.805, 1807, 2207	1251
53-6-113	37.86.1004, 1006	1243
53-6-113	37.86.1006	1780
53-6-113	37.86.1101, 1105	1257
53-6-113	37.86.1105	1788
53-6-113	37.86.2207, 2219, 2221, 3505, 3507, 3515, 3705, 3707, 3715, 88.101, 89.106, 114	193
53-6-113	37.86.2207, 2219, 2221, 3505, 3507, 3515, 3705, 3707, 3715, 88.101, 907, 1106, 89.106, 114	503
53-6-113	37.86.2801, 2901, 2905, 2910, 3001, 3005, 3007, 3016, 3018	1289
53-6-113	37.86.3016, 3018	1725
53-6-113	37.88.101, 110, 1110, 89.106, 114	1328
53-6-113	37.88.901, 905, 906	1424
53-6-116	37.89.106, 114	193
53-6-116	37.89.106, 114	503
53-6-116	37.89.106, 114	1328
53-6-117	37.89.106	193
53-6-117	37.89.106	503
53-6-117	37.89.106	1328
53-6-131	37.82.101	1207
53-6-131	37.82.701	1773
53-6-131	37.82.701, 1106, 1107	1279
53-6-131	37.85.406	94
53-6-131	37.85.406, 415	56
53-6-131	37.85.406, 415	797
53-6-131	37.89.106, 114	193

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
53-6-131	37.89.106, 114	503
53-6-131	37.89.106, 114	1328
53-6-134	37.82.701	1279
53-6-134	37.82.701	1773
53-6-141	37.82.101	1207
53-6-141	37.82.1106	1279
53-6-141	37.85.204, 406, 86.1406, 2905, 3005	56
53-6-141	37.85.204, 406, 86.1406, 2905, 3005	797
53-6-141	37.85.406, 1406	94
53-6-141	37.86.805, 1807	1251
53-6-141	37.86.1105	1257
53-6-141	37.86.1105	1788
53-6-141	37.86.2801, 2901, 2905, 3001, 3005	1289
53-6-402	37.82.1107	1279
53-6-701	37.89.106, 114	193
53-6-701	37.89.106, 114	503
53-6-701	37.89.106, 114	1328
53-6-705, 706	37.89.106, 114	193
53-6-705, 706	37.89.106, 114	503
53-6-705, 706	37.89.106, 114	1328
53-7-102	37.5.304, 307, 331	727
53-9-103	23.15.101, 102	1382
53-9-104	23.15.101, 102, 201 - 203, 205, 301, 310	1382
53-9-106	23.15.301	1382
53-9-122	23.15.201 - 203	1382
53-9-124	23.15.201	1382
53-9-125	23.15.102	1382
53-9-127, 128	23.15.102, 201	1382
53-9-130	23.15.202, 203, 205	1382
53-9-131	23.15.202, 203	1382
53-9-132	23.15.310	1382
53-12-201	Rule I (DPHHS)	193
53-12-201	Rules I, II (DPHHS)	503
53-20-305	37.5.304, 307	727
53-21-102	20.9.101	618
53-21-139	37.89.106, 114	193
53-21-139	37.89.106, 114	503
53-21-139	37.89.106, 114	1328
53-21-201	Rule I (DPHHS)	193
53-21-201	Rules I, II (DPHHS)	503
53-21-201	37.88.110, 1110	1328
53-21-202	37.89.106, 114	193
53-21-202	37.89.106, 114	503
53-21-202	37.89.106, 114	1328
61-5-103	23.3.130	428
61-5-105	23.3.131	428
61-5-107	23.3.127, 130, 131	428
61-5-110	Rule I (Superintendent of Public Instruction)	6

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
61-5-111	23.3.127, 130, 131	428
61-5-114	23.3.149	428
61-5-125	23.3.127, 130, 131, 149	428
61-8-404	23.4.225	871
61-8-405	23.4.201, 212 - 220, 225	871
61-8-405	23.4.213	1482
61-12-501, 502	23.3.147	428
61-12-504	23.3.147	428
69-1-110	Rule I (PSR)	398
69-2-101	Rule I (PSR)	398
69-3-103	Rule I (PSR)	398
69-3-103	38.5.1107	893
69-8-103	Rule VII (Revenue)	369
69-8-402	42.29.103, 104	209
69-8-403, 404	38.5.8001	521
69-8-403, 404	38.5.8001	1512
69-8-413, 414	42.29.103, 104	209
69-8-414	42.2.614	1430
70-22-107	8.48.1109	450
T. 75, Ch. 2	17.8.101, 102	268
75-2-111	Rule I (DEQ - Environmental Review)	1033
75-2-111	17.8.101, 102, 302, 401, 801, 901, 1005	268
75-2-111	17.8.505, 514	1692
75-2-111	17.8.701, 702, 704 - 707, 710, 715 - 717, 720, 730 - 734	276
75-2-202	17.8.801, 901, 1005	268
75-2-203	Rule I (DEQ - Environmental Review)	1033
75-2-203	17.8.302, 401, 801, 901, 1005	268
75-2-204	Rules I - XVII (DEQ - Environmental Review)	276
75-2-204	17.8.701, 702, 704 - 707, 710, 715 - 717, 720, 730 - 734	276
75-2-204	17.8.801, 901, 1005	268
75-2-211	Rules I - XVII (DEQ - Environmental Review)	276
75-2-211	Rule VIII (Revenue)	369
75-2-211	17.8.505, 514	1692
75-2-211	17.8.701, 702, 704 - 707, 710, 715 - 717, 720, 730 - 734	276
75-2-211	42.4.114	1094
75-2-215	Rules I, XVI, XVII (DEQ - Environmental Review)	276
75-2-215	Rule VIII (Revenue)	369
75-2-215	17.8.701, 702, 706	276
75-2-215	42.4.114	1094
75-2-217, 218	17.8.1201	1030
75-2-220	17.8.505, 514	1692
75-5-201	17.30.602, 619	1019
75-5-201	17.30.2003	263

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
75-5-301	Rules I - X (DEQ - Environmental Review)	1019
75-5-301	17.30.602, 619	1019
75-5-611	17.30.2003	263
75-5-1102	36.24.102	1708
75-5-1103	36.24.101, 102	1708
75-5-1105	Rule I (DNRC)	1708
75-5-1105	36.24.101, 103 - 110	1708
75-5-1112	Rule I (DNRC)	1708
75-5-1113	36.24.103 - 110	1708
75-10-203	17.53.502	35
75-10-204	17.53.111, 502, 602	35
75-10-212	17.53.111	35
75-10-214	17.53.111	35
75-10-221	17.53.111	35
75-10-225	17.53.602	35
75-10-403	17.53.502	35
75-10-404	17.53.111 - 113, 502, 602, 802, 902, 1002, 1202, 1301	35
75-10-405	17.53.102, 105, 107, 111 - 113, 208, 301, 402, 502, 602, 802, 902, 1002, 1202, 1301, 1303	35
75-10-405	17.56.105	51
75-10-406	17.53.112, 802, 902, 1002, 1202, 1301	35
75-10-602	17.53.502	35
75-11-505	17.56.221	51
75-11-505	17.56.308, 309	139
75-11-509	17.56.308, 309	139
75-11-525	17.56.309	139
75-20-216	Rule XI (DEQ - Environmental Review)	276
75-20-216	17.8.720	276
76-4-104	Rules I - IX (DEQ)	568
76-4-104	17.36.101 - 106, 108, 110, 111, 116, 301 - 303, 305, 309, 310, 320, 325, 327, 345, 601, 602, 605, 606, 801, 802, 804, 805	568
76-4-125	17.36.105, 111, 302, 303, 305, 602, 606	568
76-13-403	36.2.1005	1540
77-2-106	36.2.1005	1540
80-4-403	4.13.1001A	1008
80-4-721	4.13.1001A	1008
80-9-103	Rule I (Agriculture)	1
80-9-103	4.12.402, 404	1
80-9-103	4.12.406	778
80-9-204	Rule I (Agriculture)	1
80-9-204	4.12.406	778
80-9-303	Rule I (Agriculture)	1
80-9-303	4.12.402, 404	1
80-9-303	4.12.406	778

<u>MCA</u>	<u>Rule or A.G.'s Opinion No.</u>	<u>Register Page No.</u>
80-11-504	Rules I - III (Agriculture)	1682
80-11-510	Rule I (Agriculture)	1682
80-11-511	Rule III (Agriculture)	1682
80-11-515	Rule II (Agriculture)	1682
80-12-102, 103	4.14.301	71
81-1-102	32.2.401	724
81-2-102	32.2.401	1510
81-3-205	32.2.401	724
87-1-201	Rules I - V (FWP Commission and FWP)	1536
87-1-225	12.9.802	20
87-1-301	Rule I (FWP)	20
87-1-301	Rule I (FWP Commission)	27
87-1-301	Rules I - V (FWP Commission and FWP)	1536
87-1-301	12.2.501	526
87-1-301	12.3.402	17
87-1-303	Rule I (FWP Commission)	27
87-1-303	Rule I (FWP Commission)	1156
87-2-513	Rules I - V (FWP Commission and FWP)	1536
87-2-520	Rule II (FWP Commission)	20
87-2-520	12.9.805	1306
87-3-121	12.7.801 - 808	29
87-3-121	12.7.801 - 808	1073
87-5-105	12.2.501	526
90-4-102	42.23.513	369
90-6-133	8.111.513	75
90-6-134	8.111.508, 509, 512, 513, 515	75
90-6-136	8.111.508, 509, 512, 513, 515	75
90-6-305	8.104.301 - 305	425
Opinion 49-5	Opinion No. 16	222
Opinion 48-3	Opinion No. 16	222
Opinion 41-91	Opinion No. 16	222
Opinion 41-59	Opinion No. 18	1560
Opinion 41-44	Opinion No. 17	404
Opinion 40-46	Opinion No. 15	217
Opinion 35-90	Opinion No. 15	217
Opinion 19-155	Opinion No. 15	217
Opinion 14-126	Opinion No. 14	212
Opinion 8-393	Opinion No. 15	217
Mt. Const., Art. II, Sec. 21	Opinion No. 18	1560
Mt. Const., Art. V, Sec. 4	Opinion No. 17	404
Mt. Const., Art. V, Sec. 9	Opinion No. 15	217
Ch. 574, L. 2001	Opinion No. 16	222