

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The rule section 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.

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PROPOSED
of new rules I-X pertaining)	ADOPTION
to the State of Montana)	
Voluntary Employees')	NO PUBLIC HEARING
Beneficiary Association)	CONTEMPLATED

TO: All Concerned Persons

1. On January 14, 2005, the Department of Administration proposes to adopt new rules pertaining to the State of Montana Voluntary Employees' Beneficiary Association.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on December 1, 2004, to advise us of the nature of the accommodation that you need. Please contact Hal Peck, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; telephone (406) 444-3871; Montana Relay Service 711; FAX (406) 444-0544; E-mail hpeck@state.mt.us.

3. The rules as proposed to be adopted provide as follows:

RULE I SHORT TITLE (1) This policy may be cited as the Montana VEBA HRA policy.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE II POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to administer a voluntary employees' beneficiary association (VEBA) that allows Montana public employees to access health reimbursement accounts (HRA) for themselves, their qualified dependents, and their beneficiaries, funded by employer contributions and earnings from investment of the contributions. This program shall be called the Montana VEBA HRA.

(2) The department of administration shall:

- (a) approve VEBA groups across the state;
- (b) provide access to Montana VEBA HRA by eligible contracting employers; and
- (c) determine the investment vehicles available to members.

(3) The objective of this policy is to establish consistent and cost-effective procedures for establishing and maintaining VEBA groups and account contributions.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE III DEFINITIONS (1) "Contracting employer" means an employer who, as provided in 2-18-1310, MCA, has contracted with the department to participate in the plan.

(2) "Department" means the department of administration established in 2-15-1001, MCA.

(3) "Employee" means a person employed by an employer who is in a pay status at least 1040 hours each year, but does not include an independent contractor or person hired by the employer under a personal services contract.

(4) "Employer" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other administrative unit of state government and political subdivision of the state, including a county, an incorporated city or town, or school district.

(5) "HRA" means health reimbursement account. This is a tax-exempt account established for the payment of qualified health care expenses through employer contributions and investment earnings. At any time after a member's account has been established, the member may access funds in the account in a manner prescribed by the department. The funds may be accessed only for the payment of qualified health care expenses, which are defined to include medical plan premiums, and until the funds have been exhausted.

(6) "Member" means a current or former employee for whom employer deposits have been received by Montana VEBA HRA and whose account has a positive balance.

(7) "VEBA group" means a collection of employees who are employed by the same employer who elect to form a voluntary employees' beneficiary association. A group may not be considered if the group would not meet requirements for nondiscrimination.

(8) "VEBA participant" means an employee who belongs to a VEBA group enrolled in the Montana VEBA HRA, established under 2-18-1310, MCA.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE IV MONTANA VEBA HRA ADMINISTRATION (1) Employers must allow the department to make educational presentations about Montana VEBA HRA to employees.

(2) The department shall review employer proposals for participation in the Montana VEBA HRA and determine whether the employer may become a contracting employer.

(3) Contracting employers must:

(a) define groups and enroll eligible members as provided in these rules;

(b) determine the types of employer contributions to the HRA available to a VEBA group. Allowable employer contributions include:

- (i) sick leave cash-outs;
 - (ii) periodic employer contributions;
 - (iii) group salary contributions;
 - (iv) percent of raise contributions;
 - (v) unused employee benefit funds;
 - (vi) annual vacation leave cash-outs as permitted by state statute;
 - (vii) group merit pay; and
 - (viii) longevity payments (through collective bargaining only) or other contributions not prohibited by state statute;
 - (c) determine whether current employees can become members or whether an employee must terminate employment to become a member;
 - (d) notify the Montana VEBA HRA when a VEBA participant becomes a member; and
 - (e) determine and process contributions as provided by the department in accordance with IRS tax law restrictions.
- (4) The department shall enforce the participation requirements by not allowing illegal or discriminatory VEBA groups to form or by refusing to administer funds from VEBA groups that do not continue to comply with the department's requirements.
- (5) The department shall ensure that no part of the net earnings of the Montana VEBA HRA inures to the benefit of any private individual or shareholder, other than by payment of the allowable health care reimbursement expenses.
- (6) A member group shall operate in a manner prescribed by the department unless the association is disbanded in a manner prescribed by the department.
- (7) A contracting employer shall provide to the department, or the appropriate administering entity, the information necessary for the plan's operation. The department, in partnership with a contracting employer, shall provide to plan members the information necessary to actively participate in the plan.
- (8) The department may delegate all or a portion of its administrative duties to an administrator.
- (9) The administrator shall exercise all of its discretion in a uniform, nondiscriminatory manner and shall have all necessary power and discretion to accomplish those purposes.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE V FEES (1) Contracting employers shall not be charged a fee by the department to establish one or more VEBA groups.

(2) Members shall pay a monthly administration fee, plus a percent of the monthly HRA administration expenses as determined by the department. The fee will start when their accounts are established and continue until the account has a zero balance.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE VI ELIGIBILITY (1) A VEBA group may be formed voluntarily by:

(a) employees in an office, department, board, commission, attached-to agency, county, incorporated city or town, school district, unit of the university system, the judicial and legislative branches of state government;

(b) employees in an organizational subdivision of an employer, such as a division, bureau, work unit, institution, etc;

(c) employees in a bargaining unit; or

(d) other groups of employees defined by an employer that are not designed to provide individual decision-making regarding participation.

(2) No VEBA group may be formed that is fewer than two employees.

(3) No VEBA group may be formed that is only for the benefit of a select group of the highest paid employees, which means compensation in excess of \$80,000 and in the top 20% of employees ranked on the basis of compensation paid during the year.

(4) Employees who may be excluded from participation without violating the nondiscrimination provisions include:

(a) employees with less than three years of service;

(b) seasonal and less than half-time employees;

(c) employees covered by a collective bargaining agreement; and

(d) certain nonresident aliens.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE VII ELECTIONS (1) For the purposes of election and administration of the Montana VEBA HRA, an employer may form subunits.

(2) An employer may either initiate or facilitate an election to determine whether employees will form a member group for the purpose of participating in the Montana VEBA HRA. When at least 25% of the employees request an election, an employer must facilitate the election within 60 calendar days from the date of the request.

(3) The election may include all the employer's employees or a specified group of employees to determine whether those employees will form a member group for the purpose of participating in the Montana VEBA HRA.

(4) Employees who are members of a collective bargaining unit may decide to either participate with other employees in the formation of a VEBA group or to initiate the election through the bargaining unit. If the employees decide to participate with other employees, a written memorandum of understanding from the union representing the bargaining unit employees must be obtained by the employer.

(5) All elections shall be conducted by secret ballot.

(6) If a majority of the employees vote to become VEBA participants, then all of the employees that were eligible to vote on the question, and any employees subsequently hired into the positions covered under the terms and conditions of the election, must be formed as a VEBA group and the employees must become VEBA participants.

(7) Members of a VEBA group may hold an annual election to determine whether or not they will continue their participation in the Montana VEBA HRA.

(a) If a majority of eligible members elect to discontinue their participation, their VEBA group is disbanded until another election is conducted.

(b) Once a VEBA group disbands, an employer shall not make further contributions to members' accounts until the employer's eligible employees form another group. However, distributions from existing members' accounts will continue until the funds in the accounts are exhausted.

(c) Once an election is conducted, an employer is not required to conduct another election for that VEBA group for 12 months from the date of the election.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE VIII PARTICIPATION (1) Subject to the limitations of this rule and the eligibility provisions of employer policies and applicable collective bargaining unit agreements, an employee becomes a member of the Montana VEBA HRA at the time of proper completion of an enrollment form and the first employer deposit to the member's account.

(2) Each member is entitled to direct the investment of funds in the member's account among the investment vehicles offered. The department shall provide for a default investment vehicle if a member fails to direct how funds are to be invested.

(3) At any time after a member's account has been established, the member may access funds in the account in a manner prescribed by the department. The funds may be accessed only for the payment of qualified health care expenses and until the funds have been exhausted.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE IX CONTRIBUTIONS (1) Employer contributions into an account, the accumulation of interest or other earnings in an account, and payments from an account for qualified health care expenses are tax-exempt, as provided in 15-30-111, MCA, and under applicable federal laws and regulations to the extent that the plan is qualified under applicable sections of the Internal Revenue Code.

(2) Each employer shall make deposits to the VEBA health benefit plan on behalf of its eligible members pursuant to the

terms of collective bargaining agreements or employer policies. Employer deposits shall be specifically allocated to each participating member's account.

(3) Each participating employer shall provide for a member to annually designate how many hours (if any) of the member's sick leave balance in excess of 240 hours will be automatically converted to an employer contribution to the member's account each pay period, as provided in 2-18-1311, MCA.

(4) Each participating employer may establish a maximum amount of sick leave hours that may be automatically converted to a contribution. An employer may establish the maximum annual hours at "0" until an employee terminates employment.

(5) Other contributions shall be allowed as outlined in statute, but may not be discriminatory in favoring highly compensated employees. The VEBA group must all participate in any form of approved contributions.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

RULE X BENEFITS IN THE EVENT OF DEATH (1) A member must designate an individual as a beneficiary in a manner prescribed by the department.

(2) Upon proof of a member's death, if the deceased member's account has a positive account balance, the member's designated beneficiary is entitled to use the account for qualified health care expenses.

(3) If a deceased member's account has a positive account balance and the member failed to designate a beneficiary or has no surviving designated beneficiary, the account balance will be available to pay qualified health care benefits incurred by the person(s) certified to be the beneficiary by the executor or administrator of the member's estate.

(4) In the event any member's account shall have been unclaimed for a period of at least 35 months since the whereabouts or continued existence of the person entitled to the account was last known to the administrator, the member's account shall become the property of the Montana VEBA HRA.

AUTH: Sec. 2-18-1305, MCA
IMP: Sec. 2-18-1302, MCA

4. The proposed new rules I-X are necessary to implement the Voluntary Employees' Beneficiary Association Act, which was created by the 57th regular session of the Legislature. The Legislature has directed the department to implement and administer the VEBA plan. The proposed rules are reasonably necessary to ensure the orderly enrollment of members, the oversight of members' accounts, and the overall administration of the statewide VEBA plan. The proposed rules also provide a reasonable means for the department to communicate the basic VEBA plan structure to Montana public

employers and their employees.

5. Concerned persons may submit their data, views or arguments in writing to the Department of Administration, State Personnel Division, Attention: Hal Peck, P.O. Box 200127, Helena, MT 59620-0127, E-mail hpeck@state.mt.us. Comments must be received no later than 5:00 p.m. December 20, 2004.

6. If persons who are directly affected by the proposed adoption wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Hal Peck, State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127, or E-mail hpeck@state.mt.us to be received no later than 5:00 p.m. December 20, 2004.

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

8. The Department of Administration maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this department. 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 personnel rules. Such written request may be mailed or delivered to Department of Administration, State Personnel Division, Attention: Hal Peck, P.O. Box 200127, Helena, MT 59620-0127, faxed to the office at (406) 444-0544, or may be made by completing a request form at any rules hearing held by the Department of Administration.

/s/ Steve Bender
Steve Bender, Acting Director
Department of Administration

/s/ Dal Smilie
Dal Smilie, Rule Reviewer

Certified to the Secretary of State November 8, 2004

BEFORE THE BOARD OF ALTERNATIVE HEALTH CARE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.111.301) ON PROPOSED AMENDMENT
definitions, ARM 24.111.511)
naturopathic physician natural)
substance formulary list,)
ARM 24.111.602 direct-entry)
midwife apprenticeship)
requirements, and ARM 24.111.613)
required reports)

TO: All Concerned Persons

1. On December 9, 2004, at 10:00 a.m., a public hearing will be held in room 438, Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Alternative Health Care (Board) no later than 5:00 p.m., on December 2, 2004, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Alternative Health Care, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2343; e-mail dlibsdahc@state.mt.us.

3. The Board proposes to amend the following existing rules, deleted matter stricken, new matter underlined:

24.111.301 DEFINITIONS (1) "Direct supervision" means the physical presence of the licensed supervisor. Direct supervision is required for level I, II and III-A apprentices.

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

~~(2) (3) "Indirect supervision" means the physical presence of the licensed supervisor is not always required. Indirect supervision may only be implemented during level III of the direct entry midwife apprenticeship, and at the discretion of the licensed supervisor.~~ immediate availability of the licensed supervisor by telephone.

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

~~(4) (5) "Personal supervision" means the physical presence of the licensed supervisor either direct or indirect supervision as required for direct-entry midwife apprenticeships.~~

AUTH: 37-1-131, 37-27-105, MCA
IMP: 37-27-205, 37-27-320, MCA

REASON: It is reasonable and necessary to amend this rule to reconcile it and ARM 24.111.602 with the apprenticeship supervision requirements of 37-27-205, MCA. The proposed amendments do not change current supervision requirements for licensed apprentices but are proposed only to further define and clarify the levels of supervision and explain the relationship between personal supervision and direct supervision of apprentices. Authority cites are being amended for accuracy and to reflect the full statutory authority of the Board to promulgate rules.

24.111.511 NATUROPATHIC PHYSICIAN NATURAL SUBSTANCE FORMULARY LIST (1) through (2)(r) remain the same.

(s) tryptophan; and

(t) remains the same.

(3) Naturopathic physicians may prescribe and administer antimicrobials. Naturally derived examples are:

(a) antifungal agents: ~~_____nystatin (streptomyces noursei), griseofulvin, gentian violet;~~

(i) fluconazole;

(ii) gentian violet;

(iii) griseofulvin;

(iv) itraconazole;

(v) ketoconazole;

(vi) nystatin; and

(vii) terninafine;

(b) ~~cephalexan, cefaclor _____ derived from penicillium species;~~ cephalosporin derivatives:

(i) cefaclor;

(ii) cefadroxil;

(iii) cefdinir;

(iv) cefixime;

(v) cefpodoxime;

(vi) cefprozil;

(vii) ceftibuten;

(viii) ceftriaxone;

(ix) cephradine; and

(x) loracarbef;

(c) erythromycin and its salts: ~~(streptomyces erythreus);~~

(i) azithromycin;

(ii) clarithromycin; and

(iii) nitromide;

(d) penicillins: ~~amoxicillin, ampicillin, penicillin G, penicillin VK, cloxacillin, dicloxacillin _____ all derived from penicillium species;~~

(i) amoxicillin;

(ii) amoxicillin clavulanate;

(iii) ampicillin;

(iv) cloxacillin;

(v) dicloxacillin;

(vi) penicillin G; and

(vii) penicillin VK;

(e) tetracyclines: ~~oxytetracycline, doxycycline,~~

~~minocycline, all derived from streptomyces species.~~

- (i) doxycycline;
- (ii) minocycline; and
- (iii) oxytetracycline;
- (f) nitrofurantoin derivatives:
- (i) nitrofurantoin;
- (g) sulfonamide derivatives:
- (i) sulfamethoxazole; and
- (ii) trimethoprim/sulfamethoxazole; and
- (h) fluoroquinolone derivatives:
- (i) ciprofloxacin;
- (ii) levofloxacin; and
- (iii) ofloxacin;

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

- (f) ephedra† :
- (i) ephedrine; and
- (ii) remains the same.
- (g) ergot† :
- (i) remains the same.
- (ii) ergotamine tartrate; and
- (iii) through (i) remain the same.

- (j) hyoscamus† :
- (i) remains the same.
- (ii) hyoscyamine; and
- (iii) through (l) remain the same.

(m) oxycodone;

(m) through (t) remain the same but are renumbered (n) through (u).

~~(u)~~ (v) viscum album† :

- (i) iscador; and
- (ii) iscucin; and
- (v) remains the same but is renumbered (w).
- (6) through (6)(c) remain the same.
- (d) saline solutions; and
- (e) through (7)(b) remain the same.
- (c) iodinated glycerol; and
- (d) through (8)(g) remain the same.
- (h) secretin; and

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

(9) remains the same.

(10) Naturopathic physicians may prescribe and administer hormones. The following are examples:

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

(iii) cortisone;

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

~~(v)~~ (vi) prgenenolone; and

(vi) remains the same but is renumbered (vii).

(b) and (c) remain the same.

(d) gonadal† :

(i) estrogens† :

(A) through (F) remain the same.

(G) mestranol; and

(H) remains the same.

- (ii) progesterones† :
 - (A) and (B) remain the same.
 - (C) progesterones; and
 - (D) progestogens; and
- (iii) remains the same.
- (e) pituitary hormones† :
 - (i) remains the same.
 - (f) thymus; and
 - (g) thyroid USP; (Ex. ~~armour thyroid~~), thyroglobulin USP (Ex. ~~proloid~~), liothyronine, levothyroxine.
 - (i) levothyroxine; and
 - (ii) liothyronine;
 - (h) thyroglobulin USP;
- (11) through (12)(e) remain the same.
- (f) iodine† :
 - (i) potassium iodide; and
 - (ii) through (i) remain the same.
- (j) silver nitrate; and
- (k) trace mineral compounds† :
 - (i) through (iii) remain the same.
 - (iv) vanadium; and
 - (v) remains the same.
- (13) remains the same.
 - (a) bile salts and acids† :
 - (i) through (iv) remain the same.
 - (v) ursodeoxycholic acid; and
 - (vi) remains the same.
 - (b) biological agents† :
 - (i) urea; and
 - (ii) remains the same.
 - (c) digestive aides† :
 - (i) betaine HCL; and
 - (ii) and (d) remain the same.
 - (e) misoprostol;
- (e) and (f) remain the same but are renumbered (f) and (g).
 - ~~(g)~~ (h) salicylic acid; and
 - (h) remains the same but is renumbered (i).
- (14) through (14)(b) remain the same.
 - (c) cyanocobalamin (vitamin B₁₂)† :
 - (i) through (e) remain the same.
 - (f) pantothenic acid (vitamin B₅)† :
 - (i) remains the same.
 - (g) phosphatidylcholine;
- (g) through (i) remain the same but are renumbered (h) through (j).
 - ~~(j)~~ (k) vitamin A† :
 - (i) remains the same.
 - ~~(k)~~ (l) vitamin D† :
 - (i) and (ii) remain the same.
 - (iii) dovonex; and
 - (iv) remains the same.
 - ~~(l)~~ (m) vitamin E; and
 - ~~(m)~~ (n) vitamin K† :
 - (i) remains the same.

- (15) through (15)(b) remain the same.
- (c) ~~rhogam~~ rh immune globulin; and
- (d) remains the same.
- (16) remains the same.
- (a) debridement/escharotic agents: :
 - (i) and (ii) remain the same.
 - (iii) urea cream 40%; and
 - (iv) remains the same.
- (b) miscellaneous topical agents: :
 - (i) selenium sulfide; and
 - (ii) through (d) remain the same.
- (e) topical antibiotics: :
 - (i) silver sulfadiazine cream; and
 - (ii) ~~bactroban~~; mupirocin;
- (f) topical and local anesthetics: :
 - (i) through (iii) remain the same.
 - (iv) lidocaine HCL; and
 - (v) and (17) remain the same.

AUTH: 37-1-131, 37-26-201, MCA
IMP: 37-26-301, MCA

REASON: It is reasonable and necessary to amend this rule because the natural substance formulary list created pursuant to 37-26-201(9), MCA, must be reviewed at least annually by the formulary committee pursuant to 37-26-301(3), MCA. That committee met to update the formulary list within the parameters of the law and recommended to the Board that the rule be amended accordingly. In addition, the licensed pharmacist member of the committee requested that the Board update the formulary list at this time as it serves as a resource to pharmacists and facilitates their ability to fill prescriptions written by naturopathic physicians. It is also necessary to replace trade names with proper substance names and to rearrange the formulary list using proper formatting protocols. The deletion of natural substances in this proposed amendment is not intended to reflect a withdrawal of authority for naturopaths to prescribe those substances. Rather, any deletions reflect either the substitution of natural substances for the corresponding trade names or the elimination of unnecessary and superfluous examples encompassed by other items in the list. Authority cites are being amended for accuracy and to reflect the full statutory authority of the Board to promulgate rules.

24.111.602 DIRECT-ENTRY MIDWIFE APPRENTICESHIP REQUIREMENTS (1) The terms "direct supervision", "indirect supervision", and "personal supervision" used herein are defined in ARM 24.111.301.

~~(1) (2) The direct-entry midwife apprenticeship license program shall be that instructional period composed of practical experience time obtained under the personal supervision of a supervisor approved by the board. A direct-entry midwife apprentice shall not work alone, except at the discretion of the licensed supervisor under level III as defined below.~~

(2) and (2)(a) remain the same but are renumbered (3) and (3)(a).

(b) ~~agreement of parties that supervisor will provide personal supervision of the direct entry midwife apprentice during levels I and II, and may, at the supervisor's discretion, allow the direct entry midwife apprentice to work under indirect supervision during level III only;~~ supervision shall be provided which is consistent with these rules; and

(c) remains the same.

~~(3)~~ (4) A level I direct-entry midwife apprenticeship is served under the ~~personal~~ direct supervision of the licensed supervisor, with a focus on prenatal care. To complete level I, the direct-entry midwife apprentice shall:

(a) through (d) remain the same.

~~(4)~~ (5) A level II direct-entry midwife apprenticeship is served under the ~~personal~~ direct supervision of the licensed supervisor, with a focus on birth, postpartum and newborn care. To complete level II, the direct-entry midwife apprentice shall:

(a) through (e) remain the same.

~~(5)~~ (6) A level III direct-entry midwife apprenticeship is served as either level III-A or III-B, as defined below, ~~under the personal supervision of the licensed supervisor or as level III B, as defined below, under indirect supervision.~~ The focus of level III shall be continuous prenatal, perinatal and postnatal care. To complete level III, the direct-entry midwife apprentice shall:

(a) through (e) remain the same.

~~(6)~~ (7) Level III direct-entry midwife apprentices are separated as follows:

(a) A level III-A direct-entry midwife apprentice shall require ~~personal~~ direct supervision ~~in the form of the physical presence of~~ by the licensed supervisor;

(b) A level III-B direct-entry midwife apprentice shall require ~~indirect~~ direct supervision ~~in that the physical presence of the licensed supervisor is not always required.~~ Level III B may only be implemented upon prior board approval by the licensed supervisor unless, in the professional judgment of the supervisor, with concurrence of the board, the level III-B apprentice is capable of safely and competently performing midwifery services under indirect supervision after the following requirements have been met:

(i) verification of completion of 10 ~~personally~~ directly supervised continuous care births, as required by ARM 24.111.604;

(ii) remains the same.

(iii) a formal outline of the method of indirect supervision communication shall be submitted in writing to the board for approval, which shall include supervisor chart review and ~~may include~~ telephone contact supervision.

(7) remains the same but is renumbered (8).

~~(8)~~ (9) To be approved by the board as a supervisor of a direct-entry midwife apprentice, each supervisor shall:

(a) remains the same.

(i) A licensed direct-entry midwife supervisor shall have

~~been licensed for one year and have~~ 20 post-licensure continuous care births as primary attendant before becoming a supervisor for level II and III apprentices, except for those licensees who have successfully passed the first licensing exam administered by the board.

(ii) A licensed direct-entry midwife who has not ~~been licensed for one year and/or~~ completed 20 post-licensure continuous care births may only supervise level I apprentices;

(b) and (c) remain the same.

(d) notify the board in writing of any change in the supervisory relationship, including advancement from ~~personal~~ direct to indirect supervision, termination of the supervisory relationship or any other relevant changes and submit supervision change notification to the board so that it is received on or before the day that supervised tasks are performed in order for them to count toward licensure requirements; and

(e) be directly responsible for all activities undertaken by the apprentice(s) under their supervision agreement.

(10) Violation of the board statutes or rules may result in license discipline action against the direct-entry midwife apprentice, or supervisor, or both.

AUTH: 37-1-131, 37-27-105, MCA

IMP: 37-27-105, 37-27-201, 37-27-205, 37-27-321, MCA

REASON: It is reasonable and necessary to amend this rule to reconcile it and ARM 24.111.301 with the apprenticeship supervision requirements of 37-27-205, MCA. The proposed amendments do not change current levels of supervision required for licensed apprentices but are proposed only to further define and clarify the levels of supervision and explain the relationship between personal supervision and direct supervision of apprentices.

It is reasonable and necessary to amend ARM 24.111.602(8) [to be renumbered (9)] relating to qualification of direct-entry midwife apprentice supervisors. The Board determined that it is not necessary for the public's protection for a direct-entry midwife to be licensed for one year before becoming a supervisor for Level II and III apprentices so long as the supervisor has 20 continuous care births as the primary attendant before supervising apprentices at those levels. It is also reasonable and necessary to clarify that the 20 continuous care births as a primary attendant must be post-licensure and cannot include births attended during an apprenticeship or any other setting in which the supervisor applicant was supervised. Proposed new section (10) was previously included in (9)(e) and has been separated to comply with proper formatting guidelines. The proposed amendments will have no fiscal impact. Authority cites are being amended for accuracy and to reflect the full statutory authority of the Board to promulgate rules.

24.111.613 REQUIRED REPORTS (1) A licensed direct-entry

midwife shall submit semiannual summary reports on each client, covering the six-month period of January 1 through July 1, or July 1 through January 1 as appropriate, as required by 37-27-320, MCA. The reports are due on or before January 15 and July 15 of each year.

(a) If a licensed direct-entry midwife does not have any clients during a reporting period, the licensee shall notify the board in writing by the reporting date.

(2) remains the same.

(a) A level III-B apprentice direct-entry midwife, approved by the board for indirect supervision, shall be responsible for filing the statutorily required 72 hour mortality/morbidity report and the semiannual summary report.

(b) If a level III-B direct-entry midwife apprentice does not have any clients during a reporting period, the apprentice shall notify the board in writing by the reporting date.

(b) remains the same but is renumbered (c).

AUTH: 37-1-131, 37-27-105, MCA
IMP: 37-27-320, MCA

REASON: It is reasonable and necessary to amend this rule to require that direct-entry midwives and apprentices shall notify the Board in writing by the required reporting dates if there were no patients for whom care was provided during the reporting period. In the past, the Board or staff had to make affirmative inquiry of licensees to determine either noncompliance with the reporting requirements or that the licensees failed to submit a report because they had no patients on which to report. This amendment shifts the responsibility to licensees to inform the Board of their compliance with the reporting requirements. The proposed amendment has no fiscal impact. Authority cites are being amended for accuracy and to reflect the full statutory authority of the Board to promulgate rules.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Alternative Health Care, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2343, or by e-mail to dlibsdahc@state.mt.us, and must be received no later than 5:00 p.m., December 17, 2004.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://discoveringmontana.com/dli/ahc>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons

should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

8. Lorraine Schneider, attorney, has been designated to preside over and conduct this hearing.

BOARD OF ALTERNATIVE HEALTH CARE
DOLLY BROWDER, LM, Chairman

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

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

Certified to the Secretary of State November 8, 2004

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

In the matter of the proposed)
amendment of ARM 38.5.2202 and)
38.5.2302, pertaining to Pipeline)
Safety)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On December 17, 2004, at 9:00 a.m., a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, Montana, to consider the amendment of ARM 38.5.2202 and 38.5.2302.

2. The PSC will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the PSC no later than 5:00 p.m. on December 9, 2004, to advise us of the nature of the accommodation that you need. Please contact Connie Jones, PSC Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618, e-mail conniej@state.mt.us.

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

38.5.2202 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS (1) The commission hereby adopts and incorporates by reference the U.S. Department of Transportation (DOT) Pipeline Safety Regulations, Code of Federal Regulations (CFR), Title 49, chapter 1, subchapter D, parts 191, 192, and 193, including all revisions and amendments enacted by DOT on or before October 31, ~~2003~~ 2004. A copy of the referenced regulations may be obtained from ~~DOT, Research and Special Programs Administration, Western Region, Pipeline Safety, 12600 W. Colfax Ave., Suite A 250, Lakewood, Colorado 80215 3736~~ United States Department of Transportation, Office of Pipeline Safety, Western Region, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

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

38.5.2302 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS -- DRUG AND ALCOHOL TESTING AND PREVENTION PROGRAMS (1) Except as otherwise provided in this subchapter the commission hereby adopts and incorporates by reference the DOT Pipeline Safety Regulations, Drug and Alcohol Testing, 49 CFR 199, including all revisions and amendments enacted by DOT

on or before October 31, ~~2003~~ 2004. A copy of the referenced CFRs is available from the ~~DOT, Research and Special Programs Administration, Western Region, Pipeline Safety, 12600 W. Colfax Ave., Suite A 250, Lakewood, Colorado 80215-3736 United States Department of Transportation, Office of Pipeline Safety, Western Region, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228,~~ or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

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

4. Amendment (annual update) of ARM 38.5.2202 and 38.5.2302 is necessary to allow the PSC to administer the most recent version of federal rules applicable in the PSC's administration of all federal aspects of Montana's pipeline safety programs and to note a change in address for the federal Office of Pipeline Safety, Western Region.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than December 17, 2004, or may be submitted to the PSC through the PSC's web-based comment form at <http://psc.state.mt.us> (go to "consumer assistance," "talk to us," "pending proceeding comments," then complete and submit the form) no later than December 17, 2004. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-04.11.9-RUL").

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

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

8. The PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines; motor carriers; rail carriers; and administrative procedures. Such written request may be mailed or delivered to Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Connie Jones at (406) 444-7618, e-mailed to conniej@state.mt.us, or may be made by completing a request form

at any rules hearing held by the PSC.

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

/s/ Bob Rowe
Bob Rowe, Chairman
Public Service Commission

/s/ Robin A. McHugh
Reviewed By: Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE November 8, 2004.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
adoption of New Rules I through)	ON PROPOSED ADOPTION,
III; amendment of ARM 42.19.1235,)	AMENDMENT, AMENDMENT AND
42.20.107, 42.21.132, 42.22.1301,)	TRANSFER, TRANSFER, AND
42.22.1305 and 42.22.1306;)	REPEAL
amendment and transfer of ARM)	
42.18.118, 42.18.119, 42.18.210;)	
transfer of ARM 42.18.209; and)	
repeal of ARM 42.22.1302 relating)	
to industrial property)	

TO: All Concerned Persons

1. On December 13, 2004, at 2:00 p.m., a public hearing will be held in the Director's Office (Fourth Floor) Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the adoption, amendment, amendment and transfer, transfer, and repeal of the above-stated rules relating to industrial property.

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

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Revenue no later than 5:00 p.m., December 3, 2004, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 459-2646; fax (406) 444-3696; or e-mail canderson@state.mt.us.

3. The proposed new rules do not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rules provide as follows:

NEW RULE I VALUATION METHODS FOR INDUSTRIAL PROPERTIES

(1) When determining the market value of industrial properties, department appraisers will consider, if the necessary information is available, the cost approach, the income approach and the market approach to value.

(2) The final valuation is that value which most accurately estimates market value.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-1-201, 15-7-111, 15-8-101, MCA

REASONABLE NECESSITY: The department is proposing to adopt New Rule I to clarify the data that are used by an industrial appraiser when valuing a property for ad valorem tax purposes.

NEW RULE II INCOME APPROACH (1) The income approach is based on the theory that the market value of income-producing property is related to the amount, duration, and certainty of its income-producing capacity. The formula used by the department to estimate the market value of income-producing property through application of the income approach to value is $V = I/R$ where:

(a) "V" represents the value of the property to be determined by the department;

(b) "I" represents the typical property net income which shall reflect market rents, not investment value income or other rents, for the type of properties being appraised; and

(c) "R" represents the capitalization rate determined by the department as provided in [NEW RULE III].

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-7-111, MCA

REASONABLE NECESSITY: The department is proposing to adopt New Rule II to show the formula that is used by the department's industrial appraisers when valuing industrial property as required by Montana Code Annotated in sections 15-1-201, 15-7-111, 15-8-101, MCA.

NEW RULE III CAPITALIZATION RATES (1) When using the income approach, the department will develop overall direct capitalization rates which may be according to use type, location, and age of improvements. Rates will be determined by dividing the net income of each property in the group by its corresponding valid sale price or earnings per share. The overall rate chosen for each group is the median of the rates in that group. The final overall rate must include an effective tax rate.

(2) If there is insufficient market information to implement the provisions of (1), the department will consider using a yield capitalization rate. The rate shall include a return of investment (recapture), a return on investment (discount), and an effective tax rate.

(3) The discount is developed using a band-of-investment method for types of industrial property. The band-of-investment method considers the equity rate and debt rate of other comparable industrial properties.

(4) A straight-line recapture rate and effective tax rate will be added to the discount rate to determine the yield capitalization rate.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-7-111, MCA

REASONABLE NECESSITY: The department is proposing to adopt New Rule III to explain the methods the department will use to build capitalization rates when valuing industrial property. Capitalization rates are a necessary component of the income approach to market value that converts the property's income producing potential into an indication of present value.

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

42.19.1235 TAX INCENTIVE FOR NEW ~~AND~~ OR EXPANDING INDUSTRY (1) through (9) remain the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-24-1401, and 15-24-1402, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.19.1235 to correct the catchphrase. According to 15-24-1401, MCA, the catchphrase should read "new or expanding industry".

42.20.107 VALUATION METHODS FOR COMMERCIAL PROPERTIES

(1) When determining the market value of commercial properties, ~~other than industrial properties~~, department appraisers will consider, if the necessary information is available, an income approach valuation.

(2) remains the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-7-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.20.107 because as written, the rule is inaccurate because if the necessary information is available, industrial appraisers may also consider an income approach.

42.21.132 MINING EQUIPMENT (1) through (3) remain the same.

(4) The trended depreciation schedule referred to in (1)(b) is found in ARM 42.22.1314, Table 21, Mine Mill.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-138, and 15-6-140, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.21.132 to add the reference where taxpayers can locate the trend and depreciation tables which are also applicable to this rule.

42.22.1301 ~~INDUSTRIAL~~ ~~PROPERTY~~ DEFINITIONS The following definitions apply to terms found in this subchapter:

(1) "Band-of-investment method" means a technique in which the capitalization rates attributable to components of a capital investment are weighted and combined to derive a weighted-average rate attributable to the total investment.

(2) "Industrial appraiser" means a person who has completed the necessary training and is certified to appraise industrial property in Montana.

(3) "Industrial plant" means a combination of land, land improvements, improvements and machinery that have been organized into a functioning unit. The value of the several components will be placed in the proper tax classification according to the use of the property.

(4) "Industrial property" ~~is~~ means property used in the extraction, production, distribution, and changing the form of raw materials or assembling components and parts, packing and warehousing, and shipping of the finished products.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-8-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.22.1301 to retitle the rule to a definition rule since the content of the current rule is solely a definition that defines industrial property. Additional definitions have been added that are terms used in ARM Title 42, chapter 22, subchapter 13.

42.22.1305 INDUSTRIAL PROPERTY OTHER THAN LAND (1) through (4) remain the same.

(5) See ARM 42.19.1235 for tax incentives for new or expanding industries.

(6) See 15-6-218, MCA, for exempt intangible personal property deduction for industrial property.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-8-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.22.1305 to help clarify where taxpayers can locate the information for tax incentives as they apply to new or expanding industries and the exemptions for intangible personal property deductions. These are questions that the department receives frequently and it is believed that adding this information in this rule will help reduce those questions.

42.22.1306 VALUATION OF INDUSTRIAL PROPERTY OTHER THAN LAND USING THE COST APPROACH (1) remains the same.

(2) All approaches to valuation will be considered if adequate market data exist, see [NEW RULE II].

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-8-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.22.1306 to clarify that the rule is only defining the use of the cost approach, and to let the taxpayers know that there are other rules regarding the other approaches to valuing property and direct taxpayers to where they may find the rules that address those other approaches.

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

42.18.118 ~~1997~~ 2003 INDUSTRIAL PROPERTY REAPPRAISAL (1) and (2) remain the same.

(3) This rule applies to tax years January 1, ~~1997~~ 2003, through December 31, ~~2002~~ 2008.

AUTH: Sec. 15-1-201 and 15-7-111, MCA
IMP: Sec. 15-7-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.18.118 to update the dates and to make it easier for taxpayers and staff to locate rules pertaining to industrial properties. The department further proposes to transfer this rule to ARM Title 42, chapter 22, subchapter 13.

42.18.119 2003 2008 INDUSTRIAL PROPERTY REAPPRAISAL

(1) and (2) remain the same.

(3) This rule applies to tax years January 1, ~~2003~~ 2009, through December 31, ~~2008~~ 2014.

AUTH: Sec. 15-1-201 and 15-7-111, MCA
IMP: Sec. 15-7-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.18.119 to update the dates and to make it easier for taxpayers and staff to locate rules pertaining to industrial properties. The department further proposes to transfer this rule to ARM Title 42, chapter 22, subchapter 13.

42.18.210 INDUSTRIAL APPRAISER CERTIFICATION SEQUENCE

(1) Specific positions within the department require the following multiple certifications:

~~(a) Example 1:~~ Agricultural appraiser position requires residential and agricultural certification.

~~(b) Example 2:~~ Commercial appraiser position requires residential, agricultural, and commercial certification.

~~(c) Example 3:~~ Region lead and unit manager positions require residential, agricultural, and commercial certification.

~~Example 4:~~ Industrial appraiser positions require residential, commercial, and industrial certification.

(2) The following certification sequence shall be adhered to for positions requiring multiple certification:

- (a) residential certification;
- (b) agricultural certification; and
- (c) commercial certification; ~~and~~
- ~~(d) industrial certification.~~

(3) remains the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-7-107 and 15-7-111, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.18.210 to bring the rule into compliance with the requirements that pertain to industrial properties. The department further proposes to transfer this rule to ARM Title 42, chapter 22, subchapter 13 to make it easier for the taxpayers and staff to locate the rule.

6. The rule proposed to be transferred provides as follows:

42.18.209 INDUSTRIAL PROPERTY CERTIFICATION REQUIREMENTS

(1) through (5) remain the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-7-107 and 15-7-111, MCA

REASONABLE NECESSITY: The department proposes to transfer ARM 42.18.209 to ARM Title 42, chapter 22, subchapter 13, in order to make it easier for taxpayers and staff to locate the rules pertaining to industrial properties.

7. The department proposes to repeal the following rule:

42.22.1302 INDUSTRIAL PLANT which can be found on page 42-2258 of the Administrative Rules of Montana.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-8-111, MCA

REASONABLE NECESSITY: The department proposes to repeal ARM 42.22.1302 because the text of this rule has been added to ARM 42.22.1301 as amended.

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

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

and must be received no later than December 17, 2004.

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

10. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at <http://www.discoveringmontana.com/revenue>, under "for your reference;" "DOR administrative rules;" and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this 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.

11. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking

actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 8 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Don Hoffman
DON HOFFMAN
Acting Director of Revenue

Certified to Secretary of State November 8, 2004

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 1.3.102 regarding)
guidelines governing public)
participation at public)
meetings)

TO: All Concerned Persons

1. On October 7, 2004 the Department of Justice published MAR Notice No. 23-3-150 regarding the public hearing on the proposed amendment of ARM 1.3.102 to establish guidelines governing public participation at public meetings at page 2343 of the 2004 Montana Administrative Register, Issue Number 19.

2. The agency has amended ARM 1.3.102 as proposed.

3. No comments or testimony were received.

By: /s/ Mike McGrath
MIKE MCGRATH
Attorney General

/s/ Ali Bovington
ALI BOVINGDON, Rule Reviewer

Certified to the Secretary of State November 8, 2004.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 23.10.101 to update)
the list of precursors to)
dangerous drugs)

TO: All Concerned Persons

1. On August 19, 2004 the Department of Justice published MAR Notice No. 23-10-149 regarding the public hearing on the proposed amendment of ARM 23.10.101 to update the list of precursors to dangerous drugs at page 1903 of the 2004 Montana Administrative Register, Issue Number 16.

2. The Department has amended ARM 23.10.101 as proposed.

3. No comments or testimony were received.

4. The amendments to ARM 23.10.101 will be effective January 1, 2005.

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

/s/ Ali Bovington
ALI BOVINGDON, Rule Reviewer

Certified to the Secretary of State November 8, 2004.

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

In the matter of the)
 amendment and transfer of ARM)
 42.17.501, 42.17.502,)
 42.17.505, 42.17.507,)
 24.11.813, 24.11.814, and)
 24.11.815; the adoption of)
 NEW RULES I through XV;)
 the repeal of ARM 24.11.701,)
 24.11.702, 24.11.704,)
 24.11.705, 24.11.707,)
 24.11.802, 24.11.808,)
 24.11.831, 24.11.833, and)
 24.11.840; and the)
 transfer of ARM 24.11.820,)
 42.17.503, and 42.17.504, all)
 pertaining to unemployment)
 insurance tax matters)

TO: All Concerned Persons

1. On September 23, 2004, the Department of Labor and Industry published MAR Notice No. 24-11-188 regarding the proposed amendment and transfer, adoption, repeal, and transfer of the above-stated rules pertaining to unemployment insurance tax matters at page 2149 of the 2004 Montana Administrative Register, Issue No. 18.

2. On October 18, 2004, the Department held a public hearing in Helena regarding the above-stated rules, but no members of the public attended. No comments were received from members of the public.

3. The Department has amended and transferred the following rules as proposed:

<u>OLD</u>	<u>NEW</u>	
42.17.501	24.11.2201	EXPERIENCE-RATED EMPLOYERS
42.17.505	24.11.2205	EXPERIENCE-RATING RECORD TRANSFER
24.11.813	24.11.2504	RENTAL OF EQUIPMENT OR CAPITAL ASSETS-- NOT WAGES
24.11.814	24.11.2511	PAYMENTS THAT ARE NOT WAGES--EMPLOYEE EXPENSES
24.11.815	24.11.2515	PAYMENTS THAT ARE NOT WAGES--JUROR FEES, INSURANCE PREMIUMS, ANNUITIES, DIRECTOR AND PARTNERSHIP FEES

42.17.507 24.11.2701 POSTING NOTICE TO WORKERS

4. The Department has amended and transferred the following rule as proposed, but with a change in numbering from the proposal:

~~42.17.502~~ ~~24.11.2202~~ (24.11.2225) STATE, LOCAL GOVERNMENT AND NONPROFIT ORGANIZATIONS ELECTING REIMBURSABLE ACCOUNT (1) through (3) remain as proposed.

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

IMP: 39-51-1124, 39-51-1125, and ~~39-1-1126~~ 39-51-1126, MCA

5. The Department has adopted the following NEW RULES as proposed:

NEW RULE I (24.11.2001) DEFINITIONS

NEW RULE II (24.11.2005) ESTABLISHING AN EMPLOYER'S UNEMPLOYMENT INSURANCE ACCOUNT

NEW RULE III (24.11.2007) EMPLOYER ENTITY FORMS

NEW RULE IV (24.11.2011) SPECIAL TYPES OF EMPLOYERS REQUIRED TO PROVIDE ADDITIONAL INFORMATION WHEN REGISTERING

NEW RULE V (24.11.2015) CLOSING AN EMPLOYER ACCOUNT

NEW RULE VI (24.11.2231) BENEFIT OVERPAYMENTS--CREDITING EMPLOYER ACCOUNTS

NEW RULE VII (24.11.2401) IDENTIFICATION OF EMPLOYEES

NEW RULE IX (24.11.2405) STATUS OF CERTAIN PERSONAL ASSISTANTS

NEW RULE X (24.11.2501) WAGES

NEW RULE XI (24.11.2704) RECORDS TO BE KEPT BY EMPLOYER

NEW RULE XII (24.11.2707) REPORTING OF WAGES IN EXCESS OF TAXABLE WAGE BASE FOR CERTAIN EMPLOYERS

NEW RULE XIII (24.11.2711) DUE DATE OF TAXES AND QUARTERLY REPORTS BY EMPLOYERS

NEW RULE XIV (24.11.2715) DUE DATE AND APPLICATION OF TAXES

NEW RULE XV (24.11.2801) RELEASING PROPERTY SUBJECT TO DEPARTMENT LIEN

6. The Department has adopted the following NEW RULE as proposed, but with the following changes, stricken matter interlined, new matter underlined:

NEW RULE VIII (24.11.2403) DETERMINING EMPLOYEE STATUS

(1) and (2) remain as proposed.

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

IMP: 39-51-202, 39-51-203, ~~30-51-204~~ 39-51-204, and 39-51-603, MCA

7. The Department has repealed the following rules as proposed:

24.11.701 RECORDS TO BE KEPT BY EMPLOYER

24.11.702 QUARTERLY REPORTS BY EMPLOYERS

24.11.704 IDENTIFICATION OF EMPLOYEES

24.11.705 POSTING NOTICE TO WORKERS

24.11.707 EMPLOYER'S DUTY TO NOTIFY DIVISION OF DISSOLUTION OR DISTRIBUTION

24.11.802 INTEREST ON UNPAID TAXES

24.11.808 WAGES

24.11.831 DEFINITION OF DIRECT SELLER

24.11.833 STATUS OF CERTAIN PERSONAL ASSISTANTS FOR THE PURPOSE OF UNEMPLOYMENT INSURANCE LAW

24.11.840 RELEASING PROPERTY SUBJECT TO DEPARTMENT LIEN

8. The Department has transferred the following rules as proposed:

<u>OLD</u>	<u>NEW</u>	
24.11.820	24.11.2407	DETERMINATION OF INDEPENDENT CONTRACTORS--DEPARTMENT PROCEDURES
42.17.504	24.11.2204	RATES FOR NEW EMPLOYERS

9. The Department has transferred the following rule as proposed, but with a change in numbering from the proposal:

<u>OLD</u>	<u>NEW</u>	
42.17.503	24.11.2221	STATE AND LOCAL GOVERNMENT EXPERIENCE RATING

/s/ MARK CADWALLADER
Mark Cadwallader,
Alternate Rule Reviewer

/s/ WENDY KEATING
Wendy Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State: November 8, 2004

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

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 24.30.102,)
24.30.104, 24.30.105, and)
24.30.107, relating to)
occupational safety matters)
in public sector employment)

TO: All Concerned Persons

1. On August 19, 2004, the Department of Labor and Industry published MAR Notice No. 24-30-187 regarding the proposed amendment of the above-stated rules relating to occupational safety matters in public sector employment at page 1909 of the 2004 Montana Administrative Register, Issue No. 16.

2. On September 17, 2004, the Department held a public hearing in Helena regarding the above-stated rules, but no members of the public attended. No comments were received from members of the public.

3. The Department has amended the rules as proposed.

/s/ MARK CADWALLADER
Mark Cadwallader,
Alternate Rule Reviewer

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

Certified to the Secretary of State November 8, 2004.

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

In the matter of the adoption) NOTICE OF ADOPTION
of NEW RULE I pertaining to)
safety and health in mines)
other than coal mines)

TO: All Concerned Persons

1. On August 19, 2004, the Department of Labor and Industry published MAR Notice No. 24-30-186 regarding the proposed adoption of the above-stated rule that pertains to safety and health in mines other than coal mines at page 1906 of the 2004 Montana Administrative Register, Issue No. 16.

2. On September 21, 2004, the Department held a public hearing in Helena regarding the above-stated rule, but no members of the public attended. No comments were received from members of the public.

3. The Department has adopted NEW RULE I (24.30.1311) as proposed.

/s/ MARK CADWALLADER
Mark Cadwallader,
Alternate Rule Reviewer

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

Certified to the Secretary of State November 8, 2004

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through XXXVII, pertaining to) AND REPEAL
the licensure, fees and regulation of)
barbers, cosmetologists, electrologists,)
estheticians and manicurists under the)
new Board of Barbers and Cosmetologists,)
and the repeal of all the rules in)
Chapter 120, Board of Barbers, and)
Chapter 132, Board of Cosmetologists,)
and ARM 24.121.101, interim rule)

TO: All Concerned Persons

1. On August 5, 2004, the Board of Barbers and Cosmetologists published MAR Notice No. 24-121-2 regarding the public hearing on the proposed adoption and repeal of the above-stated rules at page 1666 of the 2004 Montana Administrative Register, issue no. 15.

2. A public hearing on the proposed adoption and repeal was held on August 30, 2004. Two public comments were received concerning the proposed rule changes. The Board has thoroughly considered the comments and the Board's responses are as follows:

COMMENT 1: One commenter expressed concern that if subsections (1)(t) and (u) of proposed New Rule XXXVII are read together, any conversation where a licensee gives a personal opinion about a customer's treatment of a condition or ailment would be diagnosing a medical condition and therefore considered unprofessional conduct. The commenter questioned the Board's authority to adopt this "new" requirement

RESPONSE 1: Subsections (1)(t) and (u) of New Rule XXXVII are not "new" requirements, and were previously adopted and enforced in the former Board of Cosmetologists' administrative rules. The Board agrees that the current use of "and/or" at the end of subsection (t) could be misinterpreted as requiring (t) and (u) to be considered together. The Board never intended the two subsections to be read or considered together, and has revised the language of the rule accordingly.

COMMENT 2: One commenter stated concern that the statutes of the former Board of Barbers had been repealed and should be now included in the proposed new administrative rules of the Board of Barbers and Cosmetologists.

RESPONSE 2: The Board appreciates the comments and points out that when the former Board of Barbers was combined with the former Board of Cosmetologists in the 2003 Montana Legislature, the substance of the former barbering laws were incorporated into Title 37, chapter 31, MCA. It was the intent of the two former Boards and the Department of Labor and Industry that neither the substance of the barbering occupation nor its regulation would change with the merger of the two Boards. The new combined Board was given the statutory obligation of licensing and regulating the practice of barbering, but the Board lacks the authority to adopt rules that essentially re-enact repealed statutes.

3. After considering the comments, the Board has amended New Rules XVII (24.121.807) and XXXVII (24.121.2301) as proposed but with the following changes, stricken matter interlined, new matter underlined:

NEW RULE XVII SCHOOL CURRICULA (1) through (3)(a)(v) remain as proposed.

(vi) hair styling (pin curls, finger waving, thermal curling, blow dry styling, braiding, back combing, wet setting), ~~250~~ 205 hours;

(vii) remains as proposed.

(viii) hair cutting (including the proper uses of implements, e.g., shears, razor, clippers, thinning shears), ~~250~~ 205 hours;

(ix) through (8) remain as proposed.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-304, 37-31-305, 37-31-311, MCA

REASON: This rule is being amended as a typographical error in the proposed rule notice had transposed the number of hours in (vi) and (viii) to read 250 hours instead of the correct 205 hours required for each of these curricula areas.

NEW RULE XXXVII UNPROFESSIONAL CONDUCT (1) through (1)(s) remain as proposed.

(t) advertising or otherwise implying that the licensee is providing treatment, healing, correcting or diagnosing any medical condition; ~~and/or~~ or

(u) and (2) remain as proposed.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-31-203, MCA

IMP: 37-1-136, 37-1-137, 37-31-301, 37-31-331, MCA

REASON: The Board is amending New Rule XXXVII in response to a comment that having "and/or" between subsections (1)(t) and (u) could imply that the two sections must be read and considered together. The Board has deleted the "and" from subsection (t).

4. After considering the comments, the Board has adopted New Rules I (24.121.101), II (24.121.201), III (24.121.301), IV (24.121.407), V (24.121.403), VI (24.121.405), VII (24.121.401), VIII (24.121.601), IX (24.121.603), X (24.121.605), XI (24.121.607), XII (24.121.609), XIII (24.121.611), XIV (24.121.801), XV (24.121.803), XVI (24.121.805), XVIII (24.121.809), XIX (24.121.811), XX (24.121.1101), XXI (24.121.1103), XXII (24.121.1105), XXIII (24.121.1301), XXIV (24.121.1501), XXV (24.121.1503), XXVI (24.121.1505), XXVII (24.121.1507), XXVIII (24.121.1509), XXIX (24.121.1511), XXX (24.121.1513), XXXI (24.121.1515), XXXII (24.121.1517), XXXIII (24.121.1519), XXXIV (24.121.1521), XXXV (24.121.1523) and XXXVI (24.121.2101), and repealed ARM 24.120.101, 24.120.201, 24.120.202, 24.120.401 through 24.120.404, 24.120.601 through 24.120.603, 24.120.607 through 24.120.609, 24.120.801, 24.120.802, 24.120.1001 through 24.120.1003, 24.120.1010 through 24.120.1015, 24.120.2301, 24.121.101, 24.132.101, 24.132.201, 24.132.202, 24.132.301, 24.132.401 through 24.132.404, 24.132.501 through 24.132.506, 24.132.511, 24.132.701 through 24.132.703, 24.132.709 through 24.132.713, 24.132.901 through 24.132.905, 24.132.911 through 24.132.915, 24.132.1101 through 24.132.1105, 24.132.1111 through 24.132.1115, 24.132.1301 through 24.132.1304, 24.132.1501 through 24.132.1503, 24.132.1701 through 24.132.1706, 24.132.1716 through 24.132.1722, 24.132.2101, 24.132.2301, and 24.132.2302 exactly as proposed.

BOARD OF BARBERS AND
COSMETOLOGISTS
WENDELL PETERSON, CHAIR

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

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State November 8, 2004

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 24.150.510 regarding)
allowable dispensing fees)

TO: All Concerned Persons

1. On June 17, 2004, the Board of Hearing Aid Dispensers published MAR Notice No. 24-150-34 regarding the public hearing on the proposed amendment of the above-stated rule at page 1372 of the 2004 Montana Administrative Register, issue no. 12.

2. A public hearing on the proposed amendment was held on July 9, 2004. No comments or testimony were received.

3. The Board has amended ARM 24.150.510 exactly as proposed.

BOARD OF HEARING AID DISPENSERS
SUSAN KALARCHIK, CHAIRPERSON

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
Department of Labor and Industry

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State November 8, 2004

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment)
of ARM 32.23.301 pertaining to)
fees charged by the department) NOTICE OF AMENDMENT
on the volume on all classes)
of milk)

TO: All Concerned Persons

1. On September 2, 2004, the department of livestock published MAR Notice No. 32-4-167 regarding the proposed amendment of ARM 32.23.301, pertaining to fees charged by the department on the volume on all classes of milk at page 2358 of the 2004 Montana Administrative Register, Issue Number 19.

2. The department of livestock has amended ARM 32.23.301 exactly as proposed.

3. No comments or testimony were received.

DEPARTMENT OF LIVESTOCK

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

By: /s/ Carol Grell Morris
Carol Grell Morris,
Rule Reviewer

Certified to the Secretary of State November 8, 2004.

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

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 37.70.106, 37.70.311,)
37.70.401, 37.70.406,)
37.70.407, 37.70.408,)
37.70.601, 37.70.607 and)
37.70.901 pertaining to low)
income energy assistance)
program (LIEAP))

TO: All Interested Persons

1. On September 23, 2004, the Department of Public Health and Human Services published MAR Notice No. 37-335 pertaining to the public hearing on the proposed amendment of the above-stated rules relating to the low income energy assistance program (LIEAP) at page 2200 of the 2004 Montana Administrative Register, issue number 18.

2. The Department has amended ARM 37.70.106, 37.70.311, 37.70.401, 37.70.406, 37.70.407, 37.70.408, 37.70.601, 37.70.607 and 37.70.901 as proposed.

3. The Department has thoroughly considered all commentary received. The comments received and the Department's response to each follow:

COMMENT #1: The definition of the term "valid loan" which the Department proposes to add to ARM 37.70.401(22) states as follows: "Valid loan" means a monetary payment received from a source outside the household, including but not limited to a private individual or a commercial institution, which must be repaid at a future date. The agreement to repay may be either oral or written." The commentor does not support this definition because the commentor feels that such agreements could not be adequately documented. As a result the regulation (i.e., the rule allowing valid loans to be excluded as income to the LIEAP household) would not be fairly and equitably administered throughout the state.

Additionally, the definition of a valid loan proposed by the Department conflicts with case law and the definition currently being applied through the fair hearing process. Specifically, the proposed definition conflicts with the decision in Fair Hearing No. 94-409, the Fair Hearing of Lennie T. The Department should adopt a definition of the term "valid loan" which agrees with the definition in Black's Law Dictionary.

RESPONSE: The Department has proposed the amendment of ARM 37.70.407 regarding calculation of income to provide that funds received from a valid loan are excluded as income to the LIEAP

household. The Department has proposed to define "valid loan" in ARM 37.70.401(22) as described by the commentor, above. The proposed definition does not conflict with or overrule the decision in Fair Hearing No. 94-409, the Fair Hearing of Lennie T., cited by the commentor. That case did not address the issue of what constitutes a valid loan. Rather the issue in that case was how the equity value of business property should be determined for purposes of applying ARM 37.70.408(4). ARM 37.70.408(4) provides that a household is not ineligible for LIEAP based on resources if the equity value of the household's business assets does not exceed \$12,500. The hearing officer ruled that loans secured by a mortgage or lien on a business property could be deducted from the market value of the business property to arrive at the equity value, but loans not secured by a mortgage or lien could not be deducted from the property's market value. The definition in Black's Law Dictionary in the hearing decision cited by the commentor was not a definition of the term "valid loan" but was a definition of the term "equity value" of property.

Apparently the commentor's point is that the Department should exclude as income only loans which are secured by a lien or mortgage and should define the term "valid loan" accordingly. The Department disagrees. For purposes of calculating the equity value of a business property, the hearing officer correctly determined in Fair Hearing No. 94-409 that only the value of a secured loan could be deducted from the market value of the business property. However, the proposed policy of excluding loans as income does not apply to business loans only but to all kinds of personal loans, such as loans made to a member of the LIEAP household by a friend or relative. Personal loans between relatives and friends typically are not secured by a lien or mortgage and often the terms of such loans are not even reduced to writing. The Department therefore has decided that a loan should be considered valid and excluded as income even if there is no written repayment agreement.

The policy of excluding any loan which must be repaid, even if the loan is not reduced to writing and is not secured by a lien or mortgage, is consistent with the policy in many other public assistance programs. The policy makes sense because there is no net gain to the household in the long run because of the requirement to repay the loan. The Department does not believe that only written loans secured by a lien should be excluded as income, because non-business loans generally are not secured. However, the LIEAP applicant will be required to document that there is a legal obligation to repay the loan, even though the original agreement may not have been in writing. For example, the LIEAP applicant may be required to provide verification from the person who lent money to the applicant that the debt must be repaid. Thus, the repayment requirement will be documented even if the loan is not secured or is not in writing.

Russ Cater
Rule Reviewer

Mike Billings for
Director, Public Health and
Human Services

Certified to the Secretary of State November 8, 2004.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment)
of ARM 1.2.419 regarding the) NOTICE OF AMENDMENT
scheduled dates for the)
Montana Administrative Register)

TO: All Concerned Persons

1. On October 7, 2004, the Secretary of State published MAR Notice No. 44-2-126 regarding the public hearing on the proposed amendment of the above-stated rule at page 2366 of the Montana Administrative Register, Issue No. 19.

2. The Secretary of State has amended ARM 1.2.419 exactly as proposed.

3. No comments or testimony were received.

/s/ Bob Brown
BOB BROWN
Secretary of State

/s/ Janice Doggett
JANICE DOGGETT
Rule Reviewer

Dated this 8th day of November 2004.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

and

- ▶ Office of Economic Development.

Education and Local Government Interim Committee:

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

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

- ▶ Department of Public Health and Human Services.

Law and Justice Interim Committee:

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

Energy and Telecommunications Interim Committee:

- ▶ Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- ▶ Department of Revenue; and
- ▶ Department of Transportation.

State Administration, and Veterans' Affairs Interim Committee:

- ▶ Department of Administration;
- ▶ Department of Military Affairs; and
- ▶ Office of the Secretary of State.

Environmental Quality Council:

- ▶ Department of Environmental Quality;
- ▶ Department of Fish, Wildlife, and Parks; and
- ▶ Department of Natural Resources and Conservation.

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2004. This table includes those rules adopted during the period July 1, 2004 through September 30, 2004 and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2004, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2003 and 2004 Montana Administrative Registers.

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

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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in October, 2004 appear. Vacancies scheduled to appear from December 1, 2004, through February 28, 2005, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of November 9, 2004.

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

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2004

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Private Security Patrol and Investigators (Labor and Industry)			
Mr. Gary Gray Great Falls	Governor	reappointed	10/18/2004 8/1/2007
Qualifications (if required): representing a contract security company			
Mr. Kevin Maddox Billings	Governor	Geary	10/18/2004 8/1/2007
Qualifications (if required): representing proprietary security organizations			
Board of Psychologists (Labor and Industry)			
Dr. Stuart Hall Missoula	Governor	Klocek	10/28/2004 9/1/2009
Qualifications (if required): psychologist engaged in the teaching of psychology			
Mr. John W. Klocek Missoula	Governor	Silverman	10/11/2004 9/1/2009
Qualifications (if required): psychologist engaged in the teaching of psychology			
Dr. George Watson Bozeman	Governor	reappointed	10/11/2004 9/1/2009
Qualifications (if required): psychologist in private practice			
Board of Real Estate Appraisers (Labor and Industry)			
Mr. Tim Moore Helena	Governor	reappointed	10/18/2004 5/1/2007
Qualifications (if required): real estate appraiser			
Mr. Keith O'Reilly Bozeman	Governor	reappointed	10/18/2004 5/1/2007
Qualifications (if required): real estate appraiser			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2004

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Real Estate Appraisers (Labor and Industry) cont.			
Ms. Jennifer Seitz Billings	Governor	reappointed	10/18/2004 5/1/2007
Qualifications (if required): public member			
Board of Review (Revenue)			
Mr. Don Hoffman Helena	Governor	Francis	10/8/2004 0/0/0
Qualifications (if required): presiding officer			
Burial Preservation Board (Administration)			
Ms. Sherri Deaver Billings	Governor	reappointed	10/7/2004 8/22/2006
Qualifications (if required): representative of the Archeological Society			
Mr. Mickey Nelson Helena	Governor	reappointed	10/7/2004 8/22/2006
Qualifications (if required): representative of the Montana Coroners Association			
Mr. George Reed, Sr. Crow Agency	Governor	reappointed	10/7/2004 8/22/2006
Qualifications (if required): representative of the Crow Tribe			
Mr. Ryan C. Rusche Wolf Point	Governor	reappointed	10/7/2004 8/22/2006
Qualifications (if required): attorney			
Governor's Council on Worklife Wellness (Public Health and Human Services)			
Mr. Jay Strever Billings	Governor	Rahlf	10/18/2004 12/1/2005
Qualifications (if required): representative of retail sales and service			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2004

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Grant Review Committee (Governor's Office)			
Ms. Shona McHugh Helena	Governor	Brandt	10/1/2004 6/30/2007
Qualifications (if required): representative of the Department of Revenue			
Lewis & Clark Bicentennial Commission (Governor)			
Mr. Wyman McDonald Ronan	Governor	reappointed	10/1/2004 10/1/2007
Qualifications (if required): representative of a Montana Indian tribe			
Ms. Jeanette W. Rasmussen Choteau	Governor	reappointed	10/1/2004 10/1/2007
Qualifications (if required): public member			
Mr. Hal J. Stearns Missoula	Governor	reappointed	10/1/2004 10/1/2007
Qualifications (if required): public member			
Montana Organic Commodity Advisory Council (Agriculture)			
Mr. John Hoffland Helena	Director	reappointed	10/26/2004 8/19/2006
Qualifications (if required): organic consumer			
Mr. Mikel Lund Scobey	Director	reappointed	10/26/2004 8/19/2006
Qualifications (if required): organic producer			
Ms. Nancy Matheson Helena	Director	reappointed	10/26/2004 8/19/2006
Qualifications (if required): organic producer			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2004

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana State Historic Preservation Review Board (Historical Society)			
Mr. Rafael Chacon	Governor	reappointed	10/18/2004
Lolo			10/1/2008
Qualifications (if required): architectural historian			
Mr. Paul Filicetti	Governor	reappointed	10/18/2004
Missoula			10/1/2008
Qualifications (if required): historical architect			
Mr. Timothy Light	Governor	Aaberg	10/18/2004
Kalispell			10/1/2008
Qualifications (if required): archaeologist			
Peace Officers Standards and Training Advisory Council (Justice)			
Mr. Albert Brown	Governor	Fjelstad	10/26/2004
Red Lodge			2/9/2006
Qualifications (if required): representative of MACO			
Water and Waste Water Operators' Advisory Council (Environmental Quality)			
Ms. Joanne Hall Emrick	Governor	reappointed	10/16/2004
Kalispell			10/16/2010
Qualifications (if required): municipal representative			

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Aeronautics Board (Transportation)		
Mr. Ken D. Tolliver, Billings	Governor	1/1/2005
Qualifications (if required):	representative of the Montana Chamber and an attorney	
Ms. Debra Metz, Big Arm	Governor	1/1/2005
Qualifications (if required):	representative of the Association of Montana Aerial Applicators	
Mayor George Warner, Dillon	Governor	1/1/2005
Qualifications (if required):	representative of the Montana League of Cities and Towns	
Mr. Lanny Hanson, Glasgow	Governor	1/1/2005
Qualifications (if required):	representative of the Montana Airport Management Association	
Mr. Frank Bass, Moore	Governor	1/1/2005
Qualifications (if required):	representative of the Montana Pilots Association	
Alternative Livestock Advisory Council (Livestock and Fish, Wildlife, and Parks)		
Ms. Meg Smith, Divide	Governor	1/1/2005
Qualifications (if required):	representative of the Board of Livestock	
Mr. John Lane, Cascade	Governor	1/1/2005
Qualifications (if required):	representative of the Fish, Wildlife, and Parks Commission	
Appellate Defender Commission (Administration)		
Ms. Randi Hood, Helena	Governor	1/1/2005
Qualifications (if required):	attorney/public defender	
Mr. Todd Hillier, Bozeman	Governor	1/1/2005
Qualifications (if required):	attorney/public defender	

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Chiropractors (Labor and Industry) Dr. Daniel Prideaux, Missoula Qualifications (if required): licensed chiropractor	Governor	1/1/2005
Board of Crime Control (Justice) Mr. John Flynn, Townsend Qualifications (if required): county attorney	Governor	1/1/2005
Attorney Mike McGrath, Helena Qualifications (if required): Attorney General	Governor	1/1/2005
Ms. Janet Stevens, Missoula Qualifications (if required): public member	Governor	1/1/2005
Ms. Elaine Allestad, Big Timber Qualifications (if required): county commissioner	Governor	1/1/2005
Chief Robert Jones, Great Falls Qualifications (if required): representative of police chiefs	Governor	1/1/2005
Mr. Jim Oppedahl, Helena Qualifications (if required): public member	Governor	1/1/2005
Mr. Bill Slaughter, Helena Qualifications (if required): Director of the Department of Corrections	Governor	1/1/2005
Sheriff Clifford Brophy, Columbus Qualifications (if required): Sheriff	Governor	1/1/2005
Sen. Mack Cole, Forsyth Qualifications (if required): public member	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Crime Control (Justice) cont. Sen. Bob Keenan, Bigfork Qualifications (if required): state senator	Governor	1/1/2005
Mr. Robert Brooks, Butte Qualifications (if required): public member	Governor	1/1/2005
Mr. William Mercer, Billings Qualifications (if required): ex-officio member	Governor	1/1/2005
Mr. Godfrey Saunders, Bozeman Qualifications (if required): educator	Governor	1/1/2005
Ms. Margaret (Peg) Shea, Missoula Qualifications (if required): public member	Governor	1/1/2005
Board of Environmental Review (Environmental Quality) Mr. Ward Shanahan, Helena Qualifications (if required): having expertise in local government planning and an attorney	Governor	1/1/2005
Mr. Russell Hudson, Libby Qualifications (if required): public member	Governor	1/1/2005
Dr. Garon Smith, Missoula Qualifications (if required): scientist	Governor	1/1/2005
Mr. David Fishbaugh, Billings Qualifications (if required): having expertise in hydrology	Governor	1/1/2005
Board of Horse Racing (Livestock) Mr. T.J. Graveley, Townsend Qualifications (if required): public member representing District 4	Governor	1/20/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Housing (Commerce) Mr. William H. Oser, Billings Qualifications (if required): public member	Governor	1/1/2005
Mr. Robert J. Savage, Sidney Qualifications (if required): public member	Governor	1/1/2005
Mr. Thomas Welch, Dillon Qualifications (if required): public member	Governor	1/1/2005
Mr. Stephen Redinger, Billings Qualifications (if required): public member	Governor	1/1/2005
Board of Investments (Commerce) Mr. Dick Anderson, Helena Qualifications (if required): public representative	Governor	1/1/2005
Mr. Joel T. Long, Billings Qualifications (if required): public member	Governor	1/1/2005
Mr. Tim Ryan, Great Falls Qualifications (if required): representative of the Public Teachers' Retirement Board	Governor	1/1/2005
Mr. Jay Klawon, Hamilton Qualifications (if required): representative of the Public Employees' Retirement Board	Governor	1/1/2005
Mr. Dennis Beams, Kalispell Qualifications (if required): representative of the financial industry	Governor	1/1/2005
Board of Labor Appeals (Labor) Mr. Joseph E. Thares, Helena Qualifications (if required): public member	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Labor Appeals (Labor) cont. Ms. Carol L. Vega, Butte Qualifications (if required): public member	Governor	1/1/2005
Board of Milk Control (Livestock) Ms. Dixie S. Hertel, Moore Qualifications (if required): public member and a Republican	Governor	1/1/2005
Mr. Milton "Swede" Olson, Whitewater Qualifications (if required): public member and a Republican	Governor	1/1/2005
Mr. Jesse Russell Gleason, Fairfield Qualifications (if required): public member and a Republican	Governor	1/1/2005
Board of Occupational Therapy Practice (Commerce) Ms. Shelbi Berg, Marion Qualifications (if required): occupational therapist	Governor	12/31/2004
Board of Oil and Gas Conservation (Natural Resources and Conservation) Mr. Allen C. Kolstad, Chester Qualifications (if required): landowner with mineral rights	Governor	1/1/2005
Mr. David Ballard, Billings Qualifications (if required): representative of the oil and gas industry	Governor	1/1/2005
Mr. Gary Willis, Helena Qualifications (if required): public member	Governor	1/1/2005
Mr. Jerry Kennedy, Shelby Qualifications (if required): representative of the oil and gas industry	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Pardons and Parole (Corrections)		
Ms. Sheryl Hoffarth, Billings	Governor	1/1/2005
Qualifications (if required): auxiliary member with knowledge of Indian culture		
Rep. Matt McCann, Harlem	Governor	1/1/2005
Qualifications (if required): auxiliary member with knowledge of American Indian culture and problems		
Mr. Mark Fournier, Hamilton	Governor	1/1/2005
Qualifications (if required): public member		
Board of Personnel Appeals (Labor and Industry)		
Mr. James P. Reardon, East Helena	Governor	1/1/2005
Qualifications (if required): labor union representative		
Mr. Thomas Schneider, Helena	Governor	1/1/2005
Qualifications (if required): labor union representative		
Mr. Michael O'Neill, Butte	Governor	1/1/2005
Qualifications (if required): management representative		
Board of Public Assistance (Public Health and Human Services)		
Ms. Mary Belcher, Clancy	Governor	1/1/2005
Qualifications (if required): attorney		
Ms. Julie Ann Millam, Helena	Governor	1/1/2005
Qualifications (if required): public member		
Board of Public Education (Education)		
Ms. Diane Fladmo, Glendive	Governor	2/1/2005
Qualifications (if required): Independent residing in District 4		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Regents of Higher Education (Education)		
Mr. Richard Roehm, Bozeman	Governor	2/1/2005
Qualifications (if required): representative of District 2 and an Independent		
Board of Respiratory Care Practitioners (Commerce)		
Ms. Linda Davis, Townsend	Governor	1/1/2005
Qualifications (if required): public member		
Dr. Gregory Paulauskis, Great Falls	Governor	1/1/2005
Qualifications (if required): respiratory care practitioner		
Ms. Shirley Pollard, Stevensville	Governor	1/1/2005
Qualifications (if required): respiratory care practitioner		
Board of Social Work Examiners and Professional Counselors (Commerce)		
Ms. Mary Meis, Conrad	Governor	1/1/2005
Qualifications (if required): social worker		
Mr. Ervin Booth, Roundup	Governor	1/1/2005
Qualifications (if required): professional counselor		
Mr. Patrick Wolberd, Livingston	Governor	1/1/2005
Qualifications (if required): social worker		
Ms. Rashel Jeffrey, Missoula	Governor	1/1/2005
Qualifications (if required): professional counselor		
Board of Speech-Language Pathologists and Audiologists (Labor and Industry)		
Ms. Sheila Skinner, Belgrade	Governor	12/31/2004
Qualifications (if required): speech-language pathologist		
Ms. Julie Fiske, Kalispell	Governor	12/31/2004
Qualifications (if required): public member who is a consumer		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Speech-Language Pathologists and Audiologists (Labor and Industry) cont. Mr. Darrell Micken, Bozeman Qualifications (if required): licensed audiologist	Governor	12/31/2004
Coal Board (Commerce) Mr. Alan Evans, Roundup Qualifications (if required): representative of District 4 and an impact area	Governor	1/1/2005
Mr. Gerald Feda, Glasgow Qualifications (if required): representative of District 3	Governor	1/1/2005
Mr. Roger Knapp, Hysham Qualifications (if required): representative of District 4 and an impact area	Governor	1/1/2005
Mr. James W. Royan, Missoula Qualifications (if required): representative of District 1	Governor	1/1/2005
Commissioner of Political Practices Advisory Council (Governor's Office) Ms. Linda Vaughey, Helena Qualifications (if required): Commissioner of Political Practices	Governor	12/31/2004
Ms. Mona Jamison, Helena Qualifications (if required): public member	Governor	12/31/2004
Sen. Joe Tropila, Great Falls Qualifications (if required): member of the Montana Senate	Governor	12/31/2004
Ms. Ellen Engstedt, Helena Qualifications (if required): public member	Governor	12/31/2004
Rep. John Sinrud, Belgrade Qualifications (if required): member of the Montana House of Representatives	Governor	12/31/2004

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Commissioner of Political Practices Advisory Council (Governor's Office) cont.		
Mr. Chuck Denowh, Helena	Governor	12/31/2004
Qualifications (if required): designee of the chair of the Montana Republican Party		
Mr. David Hunter, Helena	Governor	12/31/2004
Qualifications (if required): designee of the chair of the Montana Democratic Party		
Mr. James Santoro, Helena	Governor	12/31/2004
Qualifications (if required): representative of the Governor's Office		
Mr. Jim Scheier, Helena	Governor	12/31/2004
Qualifications (if required): attorney who provides legal services for the Commissioner of Political Practices		
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services)		
Mr. Wallace Melcher, Helena	Governor	1/1/2005
Qualifications (if required): secondary consumer		
Ms. Othelia Schulz, Anaconda	Governor	1/1/2005
Qualifications (if required): representing Region IV		
Ms. Paula Holdeman, Plentywood	Governor	1/1/2005
Qualifications (if required): secondary consumer		
Ms. Sonya Standing Rock, Box Elder	Governor	1/1/2005
Qualifications (if required): consumer		
Mr. Edward James Brown, Jr., Harlem	Governor	1/1/2005
Qualifications (if required): consumer		
Ms. Diana Tavary, Helena	Governor	1/1/2005
Qualifications (if required): parent of a consumer		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services) cont.		
Ms. P.J. Rismon-Beckley, Kalispell Qualifications (if required): family member of a consumer	Governor	1/1/2005
Mr. Len Nopen, Great Falls Qualifications (if required): primary consumer	Governor	1/1/2005
Ms. Barbara Olind, Baker Qualifications (if required): parent of a developmentally disabled adult and a secondary consumer	Governor	1/1/2005
Ms. Melissa Clark, Great Falls Qualifications (if required): primary consumer	Governor	1/1/2005
Director Montana Department of Military Affairs and Adjutant General National Guard (Military Affairs)		
Brig. General Randall Mosley, Helena Qualifications (if required): appointed	Governor	12/31/2004
Fish, Wildlife, and Parks Commission (Fish, Wildlife, and Parks)		
Mr. Dan Walker, Billings Qualifications (if required): representative of District 5	Governor	1/1/2005
Mr. Michael E. Murphy, Helena Qualifications (if required): representative from District 1	Governor	1/1/2005
Mr. John Lane, Cascade Qualifications (if required): representative of District 3	Governor	1/1/2005
Mr. Rich Lane, Missoula Qualifications (if required): representative of District 1	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Flathead Basin Commission (Governor) Mr. Todd O'Hair, Helena Qualifications (if required): representative of the Governor	Governor	12/31/2004
Governor's Public Health Care Advisory Council (Public Health and Human Services) Ms. June Hermanson, Billings Qualifications (if required): consumer	Governor	12/31/2004
Ms. Rose Hughes, Helena Qualifications (if required): representative of long term care	Governor	12/31/2004
Rep. Loren Soft, Billings Qualifications (if required): representative of chemical dependency	Governor	12/31/2004
Rep. Betty Lou Kasten, Brockway Qualifications (if required): public member	Governor	12/31/2004
Dr. R. D. Marks, Missoula Qualifications (if required): physician	Governor	12/31/2004
Sen. Bob Keenan, Bigfork Qualifications (if required): representative of the legislature	Governor	12/31/2004
Rep. Trudi Schmidt, Great Falls Qualifications (if required): representative of the legislature	Governor	12/31/2004
Rep. Dan Hurwitz, White Sulphur Springs Qualifications (if required): representative of the legislature	Governor	12/31/2004
Mr. John Pipe, Wolf Point Qualifications (if required): representative of Native Americans	Governor	12/31/2004

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Public Health Care Advisory Council (Public Health and Human Services) cont. Rep. Edith J. Clark, Sweet Grass Qualifications (if required): representative of the legislature	Governor	12/31/2004
Rep. Jonathan Windy Boy, Box Elder Qualifications (if required): representative of the legislature	Governor	12/31/2004
Ms. Mary Caferro, Helena Qualifications (if required): public member	Governor	12/31/2004
Ms. Twila Costigan, Helena Qualifications (if required): consumer	Governor	12/31/2004
Dr. Gary Mihelish, Helena Qualifications (if required): dentist	Governor	12/31/2004
Mr. James Kiser, Butte Qualifications (if required): representative of hospitals	Governor	12/31/2004
Mr. Bob Bartholomew, Helena Qualifications (if required): representative of senior citizens	Governor	12/31/2004
Ms. Tanya Ask, Helena Qualifications (if required): representative of the insurance industry	Governor	12/31/2004
Dr. Patsy Vargo, Conrad Qualifications (if required): representative of rural health	Governor	12/31/2004
Governor's Wolf Management Advisory Council (Fish, Wildlife, and Parks) Dr. Charles E. Buehler, Butte Qualifications (if required): public member	Governor	2/26/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

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

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Hail Insurance Board (Agriculture)		
Mr. W. Ralph Peck, Helena Qualifications (if required): director of the Department of Agriculture	Governor	1/1/2005
Mr. John Morrison, Helena Qualifications (if required): State Auditor	Governor	1/1/2005
Hard Rock Mining Impact Board (Commerce)		
Ms. Betty Aye, Broadus Qualifications (if required): county commissioner from District 4	Governor	1/1/2005
Ms. Tammy Johnson, Whitehall Qualifications (if required): industry representative from District 2	Governor	1/1/2005
Mr. Craig Rehm, Fort Benton Qualifications (if required): representative of a financial institution and District 3	Governor	1/1/2005
Human Rights Commission (Labor & Industry)		
Ms. Evelyn Stevenson, Pablo Qualifications (if required): public member and an attorney	Governor	1/1/2005
Mr. Gary Hindoien, Clancy Qualifications (if required): public member	Governor	1/1/2005
Ms. Arleah Shechtman, Kalispell Qualifications (if required): public member	Governor	1/1/2005
Independent Living Council (Public Health and Human Services)		
Ms. Shelley Laing, Kalispell Qualifications (if required): representing consumers	Director	12/1/2004
Ms. Flo Kiewel, Missoula Qualifications (if required): none specified	Director	12/24/2004

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Independent Living Council (Public Health and Human Services) cont. Mr. Wilfred "Max" Bear, Poplar Qualifications (if required): none specified	Director	12/24/2004
Mr. Tom Tripp, Butte Qualifications (if required): none specified	Director	12/24/2004
Judicial Nomination Commission (Justice) Rep. Rick Hill, Helena Qualifications (if required): public member	Governor	1/1/2005
Mr. L. Randall Bishop, Billings Qualifications (if required): Appointed	Supreme Court	12/31/2004
Martin Luther King, Jr. Commemorative Commission (Office of Community Service) Rev. Phillip Caldwell, Great Falls Qualifications (if required): public member	Governor	1/20/2005
Mr. Robert Fourstar, Wolf Point Qualifications (if required): public member	Governor	1/20/2005
Ms. Cristina Medina, Helena Qualifications (if required): public member	Governor	1/20/2005
Ms. Carol Murray, Browning Qualifications (if required): public member	Governor	1/20/2005
Mr. Alan Thompson, Helena Qualifications (if required): public member	Governor	1/20/2005
Ms. Kathy Day, Great Falls Qualifications (if required): public member	Governor	1/20/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Martin Luther King, Jr. Commemorative Commission (Office of Community Service) cont.		
Ms. Lindley Dupree, Kalispell Qualifications (if required): public member	Governor	1/20/2005
Ms. Gwendolyn Kircher, Billings Qualifications (if required): public member	Governor	1/20/2005
Ms. Nancy Knauff, Great Falls Qualifications (if required): public member	Governor	1/20/2005
Rev. Marcus Collins, Great Falls Qualifications (if required): public member	Governor	1/20/2005
Mr. Benjamin Pease, Lodge Grass Qualifications (if required): public member	Governor	1/20/2005
Montana Alfalfa Seed Committee (Agriculture)		
Mr. John Markegard, Laurel Qualifications (if required): representative of alfalfa seed growers industry and alfalfa leaf cutting bee industry	Governor	12/21/2004
Mr. Ernest Johnson, Chinook Qualifications (if required): representative of alfalfa seed growers industry	Governor	12/21/2004
Montana Arts Council (Education)		
Mr. Bill Frazier, Big Timber Qualifications (if required): public member	Governor	2/1/2005
Mr. Monte Dolack, Missoula Qualifications (if required): public member	Governor	2/1/2005
Ms. Marilyn Olson, Sidney Qualifications (if required): public member	Governor	2/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Arts Council (Education) cont. Ms. Jennifer Earle Seifert, Troy Qualifications (if required): public member	Governor	2/1/2005
Ms. Linda Reed, Helena Qualifications (if required): public member	Governor	2/1/2005
Ms. Kari Knierim, Glasgow Qualifications (if required): public member	Governor	2/1/2005
Montana Committee for the Humanities Rep. Arla Jeanne Murray, Miles City Qualifications (if required): public member	Governor	1/2/2005
Mr. Stuart Knapp, Bozeman Qualifications (if required): public member	Governor	1/2/2005
Ms. Julie Cajune, Ronan Qualifications (if required): public member	Governor	1/2/2005
Mr. James Driscoll, Butte Qualifications (if required): public member	Governor	1/2/2005
Montana Grass Conservation Commission (Natural Resources and Conservation) Mr. Bill Loehding, Ekalaka Qualifications (if required): holder of active preference rights within the state grazing district	Governor	1/1/2005
Mr. Phil Hill, Mosby Qualifications (if required): holder of active preference rights within the state grazing district	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Health Facility Authority (Commerce) Ms. Gayle Carpenter, Helena Qualifications (if required): public member	Governor	1/1/2005
Ms. Joyce Asay, Forsyth Qualifications (if required): public member	Governor	1/1/2005
Mr. Lee Jockers, Billings Qualifications (if required): public member	Governor	1/1/2005
Ms. Kelley Evans, Red Lodge Qualifications (if required): public member	Governor	1/1/2005
Montana Small Business Development Center Advisory Council (Commerce) Rep. Ronald R. Devlin, Terry Qualifications (if required): none specified	Director	12/20/2004
Sen. Jon Tester, Big Sandy Qualifications (if required): none specified	Director	12/20/2004
Ms. Toni Broadbent, Helena Qualifications (if required): none specified	Director	12/20/2004
Mr. Ken Green, Whitefish Qualifications (if required): none specified	Director	12/20/2004
Mr. Paul Tuss, Havre Qualifications (if required): none specified	Director	12/20/2004
Mr. John Langenheim, Bozeman Qualifications (if required): none specified	Director	12/20/2004

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Small Business Development Center Advisory Council (Commerce) cont. Ms. Michelle Johnston, Helena Qualifications (if required): none specified	Director	12/20/2004
Ms. Brenda Burkartsmeier, Billings Qualifications (if required): none specified	Director	12/20/2004
Mr. Steve Holland, Bozeman Qualifications (if required): none specified	Director	12/20/2004
Ms. Kathy Jones, Great Falls Qualifications (if required): none specified	Director	12/20/2004
Mr. Dan Killoy, Miles City Qualifications (if required): none specified	Director	12/20/2004
Mr. Joe Unterreiner, Kalispell Qualifications (if required): none specified	Director	12/20/2004
Ms. Maria Valandra, Billings Qualifications (if required): none specified	Director	12/20/2004
Ms. Reatha Montoya, Colstrip Qualifications (if required): none specified	Director	12/20/2004
Montana Vocational Rehabilitation Council (Public Health and Human Services) Mr. Don Jones, Helena Qualifications (if required): federally mandated Client Assistance Program position	Director	1/17/2005
Noxious Weed Seed Free Forage Advisory Council (Agriculture) Mr. W. Ralph Peck, Helena Qualifications (if required): Director	Director	12/18/2004

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont. Mr. Dennis Cash, Bozeman Qualifications (if required): ex officio	Director	12/18/2004
Mr. Ray Ditterline, Bozeman Qualifications (if required): agricultural experiment station	Director	12/18/2004
Mr. Kelly Flynn, Townsend Qualifications (if required): outfitters and guides	Director	12/18/2004
Mr. Clay Williams, Livingston Qualifications (if required): weed districts	Director	12/18/2004
Mr. Tim Schaff, Fishtail Qualifications (if required): forage producer	Director	12/18/2004
Mr. Wayne Maughn, Fort Benton Qualifications (if required): livestock/agriculture	Director	12/18/2004
Mr. David Leininger, Lewistown Qualifications (if required): forage producer	Director	12/18/2004
Mr. Ross Wagner, Kalispell Qualifications (if required): forage producer	Director	12/18/2004
Mr. Jim Pfau, Stevensville Qualifications (if required): feed pellets/cubes products	Director	12/18/2004
Mr. Keith Kirscher, Townsend Qualifications (if required): forage producer	Director	12/18/2004
Mr. Robert Wagner, Plains Qualifications (if required): weed districts	Director	12/18/2004

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Property Tax Exemption Study Committee (Revenue)		
Mr. Dwaine J. Iverson, Shelby Qualifications (if required): representative of business	Governor	12/31/2004
Sen. Mack Cole, Forsyth Qualifications (if required): representative of local government	Governor	12/31/2004
Mr. William Parker, Malta Qualifications (if required): representative of K-12 public schools	Governor	12/31/2004
Mr. Jim Oliverson, Kalispell Qualifications (if required): representative of a property tax-exempt organization	Governor	12/31/2004
Mr. Gary Hickle, Billings Qualifications (if required): representative of a property tax-exempt organization	Governor	12/31/2004
Mr. Randy Wilke, Helena Qualifications (if required): representative of the executive branch	Governor	12/31/2004
State Compensation Insurance Fund Study Committee (State Compensation Insurance Fund)		
Mr. George Wood, Missoula Qualifications (if required): representative of a plan #1 insurer	Governor	1/1/2005
Sen. Thomas Beck, Helena Qualifications (if required): representative of the Governor's Office	Governor	1/1/2005
Mr. Jack Morgenstern, Lewistown Qualifications (if required): representative of the State Fund Board and an insured employer of state fund	Governor	1/1/2005
Ms. Jacqueline Lenmark, Helena Qualifications (if required): representative of a plan #2 insurer	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Group Benefits Advisory Council (Administration) Sen. Mike Cooney, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. Thomas Schneider, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. Dale Taliaferro, Helena Qualifications (if required): none specified	Director	1/1/2005
Ms. Mary Dalton, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. Steve Barry, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. John W. Northey, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. Todd Lovshin, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. Richard Cooley, Helena Qualifications (if required): none specified	Director	1/1/2005
Ms. Barbara Smith, Helena Qualifications (if required): none specified	Director	1/1/2005
Mr. Monte Brown, Helena Qualifications (if required): none specified	Director	1/1/2005
Ms. Amy Carlson, Helena Qualifications (if required): none specified	Director	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Lottery Commission (Commerce) Sheriff Clifford Brophy, Columbus Qualifications (if required): law enforcement officer	Governor	1/1/2005
State Lottery Commission (Administration) Mr. Donald Sterhan, Billings Qualifications (if required): public member	Governor	1/1/2005
State Tax Appeal Board (Administration) Ms. JereAnn Nelson, Helena Qualifications (if required): public member	Governor	1/1/2005
Tax Reform Study Committee (Revenue) Mr. Myles Watts, Bozeman Qualifications (if required): representative of agriculture	Governor	12/31/2004
Mr. Ken Morrison, Helena Qualifications (if required): representative of large industry	Governor	12/31/2004
Mr. Jerry Driscoll, Helena Qualifications (if required): representative of labor	Governor	12/31/2004
Ms. Mary Whittinghill, Helena Qualifications (if required): representative of small business	Governor	12/31/2004
Transportation Commission (Transportation) Rep. Shiell W. Anderson, Livingston Qualifications (if required): representative of District 2 and a Republican	Governor	1/1/2005
Mr. Daniel Rice, Great Falls Qualifications (if required): representative of District 3 and an Independent	Governor	1/1/2005

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2004 through FEBRUARY 28, 2005

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Transportation Commission (Transportation) cont. Mr. Meredith Reiter, Billings Qualifications (if required): representative of District 5 and a Republican	Governor	1/1/2005
Traumatic Brain Injury Advisory Council (Public Health and Human Services) Ms. Ruby Clark, Poplar Qualifications (if required): family member of a survivor	Governor	1/1/2005
Mr. Reg Gibbs, Billings Qualifications (if required): representative of injury control or prevention programs	Governor	1/1/2005