

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 5

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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

In the matter of the )  
adoption of a new rules I )  
through VII pertaining to )  
exotic wildlife )

NOTICE OF PUBLIC HEARING ON  
PROPOSED ADOPTION

TO: All Concerned Persons

1. On April 6, 2005, at 7 p.m., the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East Sixth Ave., Helena, Montana, to consider the adoption of new rules I through VII pertaining to exotic wildlife.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on April 1, 2005, to advise us of the nature of the accommodation that you need. Please contact Tim Feldner, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4039; fax (406) 444-4952; email tfeldner@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I EXOTIC WILDLIFE: DEFINITIONS The following definitions apply to this subchapter:

(1) "Condition" or "conditions" means specific requirements a person must abide by to receive or retain a permit.

(2) "Controlled species" means a live, exotic wildlife species, subspecies, or hybrid of that species that may not be imported, possessed, sold, purchased or exchanged in Montana unless a person obtains written authorization from the department.

(3) "Department" means the Montana department of fish, wildlife and parks.

(4) "Exotic wildlife" means a wildlife species that is not native to Montana; foreign or introduced.

(5) "Permit" means written authorization issued by the department to possess, sell, purchase or exchange a controlled or prohibited species in the state of Montana.

(6) "Person" means any individual, corporation, association, firm, joint venture, partnership, municipality, school district or board, agency or political subdivision of the state or state-law-created special or other district.

(7) "Prohibited species" means a live, exotic wildlife species, subspecies, or hybrid of that species, including viable embryos or gametes, that may not be possessed, sold, purchased, exchanged, or transported in Montana, except as provided in 87-5-709, MCA, or this subchapter.

(8) "Uncontrolled species" means a live, exotic wildlife species, subspecies, or hybrid of that species that may be possessed, sold, purchased or exchanged in the state without a permit, except as provided in this subchapter or in Montana statutes or federal statutes. An uncontrolled species may not be released into the wild unless authorized in writing by the department. This definition does not authorize the sale, possession, transportation, importation or exportation of an uncontrolled species in violation of any applicable federal or state statute or regulation or county or city ordinance.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA  
IMP: 87-5-701, 87-5-703, 87-5-705, 87-5-707, 87-5-708,  
87-5-709, 87-5-711, 87-5-712, MCA

NEW RULE II EXOTIC WILDLIFE: LIST OF UNCONTROLLED SPECIES (1) The following mammals are classified as uncontrolled species:

- (a) African pygmy hedgehog - Atelerix albiventris and Atelerix algirus;
- (b) Wallaby (Bennets) - Macropus rufogriseus;
- (c) Wallaby (Tammar) - Macropus eugenii; and
- (d) Sugar gliders - Petaurus breviceps.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA  
IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

NEW RULE III CONTROLLED SPECIES PERMITS (1) The department may authorize a permit for possession, sale, purchase, or exchange of a controlled species in Montana. A permit may be conditioned to protect Montana's native wildlife and plant species, livestock, horticultural, forestry, agricultural production, and human health and safety. A person must comply with permit conditions in order to receive or retain a permit. The department may suspend or cancel a permit if the permittee violates or fails to comply with a permit condition or is convicted of violating a federal or state law, or county or city ordinance associated with possession of the exotic wildlife species.

(2) The department may amend, suspend, or cancel a permit if necessary to protect public health, public safety, or the environment.

(3) The department shall document compliance with conditions, either through inspection by representatives of the department or through affidavit by the permittee prior to possession of the exotic wildlife species in Montana.

(4) A person that displays, exhibits or uses a controlled species for exhibition or commercial photography or television may import the species into Montana without a controlled species permit if:

- (a) the species is accompanied by evidence of lawful possession;
- (b) the species is not in this state for more than 90 days; and

(c) the species is maintained under complete control and prohibited from coming into contact with members of the general public unless authorized for such contact by the department. If the person is displaying, exhibiting or using animals for commercial purposes other than food or fiber, he/she must possess the appropriate license issued by the United States department of agriculture.

(5) An interstate shipment of a species listed in this rule may be transported through this state, without a permit or license issued by the department, if:

(a) the shipper or transporter has evidence of lawful possession of the species issued by the state or country where the species originated;

(b) mammals, birds or fish are accompanied by a health certificate issued by the state or country where the species originated that indicates the destination, origin and proof of ownership of the species being transported; and

(c) the species is not unloaded or otherwise released while being transported through this state.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-709, 87-5-711, 87-5-712,  
MCA

NEW RULE IV LIST OF PROHIBITED SPECIES (1) The following amphibians are classified as prohibited species:

(a) African clawed frog - Xenopus laevis; and

(b) North American bullfrog - Rana catesbeiana.

(2) The following crustaceans are classified as prohibited species:

(a) Rusty crayfish - Orconectes rusticus.

(3) The following fish are classified as prohibited species:

(a) Bighead carp - Hypophthalmichthys nobilis;

(b) Black carp - Mylopharyngodon piceus;

(c) Grass carp - Ctenopharyngodon idella;

(d) Silver carp - Hypophthalmichthys molitrix; and

(e) Snakehead fish - genera Channa and Parachanna (29 species).

(4) The following mammals are classified as prohibited species:

(a) Short tailed opossum - Monodelphis domestica; and

(b) Nutria - Myocastor coypus.

(5) The following mollusks are classified as prohibited species:

(a) New Zealand mudsnail - Potamopyrgus antipodarum; and

(b) Zebra mussel - Dreissena polymorpha.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

NEW RULE V PROHIBITED SPECIES PERMITS (1) The department may issue a permit for possession of a prohibited species only to the following:

(a) a zoo or aquarium which is an accredited institutional member of the American association of zoological parks and aquariums;

(b) a business that displays, exhibits or uses the species for exhibition or commercial photography or television if the species:

(i) is accompanied by evidence of lawful possession;

(ii) is not in this state for more than 90 days; and

(iii) is maintained under complete control and prohibited from coming into contact with members of the general public unless authorized for such contact by the department. If the person is displaying, exhibiting or using animals for commercial purposes other than food or fiber, he must possess the appropriate license issued by the United States department of agriculture;

(c) a college, university, or government agency, for scientific or public health research;

(d) any other scientific institution, as determined by the department, for research or medical necessity;

(e) a tax-exempt nonprofit organization licensed by the United States department of agriculture that exhibits wildlife solely for educational or scientific purposes; or

(f) a person who, due to a medical necessity, has assistance requirements that may be provided by the prohibited species and that requirement is certified by a doctor.

(2) An interstate shipment of a species listed in this rule may be transported through this state, without a permit or license issued by the department, if:

(a) the shipper or transporter has evidence of lawful possession of the species issued by the state or country where the species originated;

(b) mammals, birds or fish are accompanied by a health certificate issued by the state or country where the species originated that indicates the destination, origin and proof of ownership of the species being transported; and

(c) the species is not unloaded or otherwise released while being transported through this state.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-709, 87-5-711, 87-5-712,  
MCA

NEW RULE VI DETERMINING EXOTIC WILDLIFE CLASSIFICATION

(1) The classification review committee described in 87-5-708, MCA, shall consider petitions for species classification. Any individual, government agency, or interested group may petition the classification review committee to recommend to the commission classification of a species.

(2) The classification review committee must make its recommendations based on the best available information and scientific knowledge of the following:

(a) the environmental impacts caused by the animal if it is released or escapes from captivity, including ecological and economic impacts;

(b) the risk the animal would pose to the health or safety of the public, wildlife, and agriculture; and

(c) the ability of a person to readily control and contain the animal in captivity.

(3) Based on recommendations made by the classification review committee, the commission may classify exotic wildlife to either an uncontrolled, controlled, or prohibited list. The commission shall adopt exotic wildlife classifications as administrative rules, amendments, or repeals according to the Montana Administrative Procedure Act.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

NEW RULE VII EXOTIC WILDLIFE PERMIT APPEAL PROCESS

(1) A person who has been denied a permit, denied renewal of a permit, or whose permit has been suspended or cancelled may appeal the permitting decision in writing to the director within 30 days of the date of mailing of the notice of the permitting decision. Persons not appealing within 30 days have waived their right to appeal.

(2) The director or the director's designee shall issue a written decision on the appeal. The director's decision is final.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-711, 87-5-712, MCA

4. In 2001, the Montana Legislature passed HJR 16 calling for the Department of Fish, Wildlife and Parks, Department of Agriculture, Department of Livestock, and Department of Public Health and Human Services to prepare a report evaluating the potential threats exotic wildlife may have to the state of Montana and to evaluate the status of current laws in place in Montana and other states to alleviate those threats. The legislature also requested that the committee preparing this report identify solutions to minimize potentially harmful impacts from exotic wildlife species and identify specific exotic wildlife species that pose threats to the state.

The committee submitted its findings to Governor Martz and the 2003 Legislature. This committee found that the introduction of exotic wildlife species into Montana's environment has the potential to cause deleterious effects, both ecologically and economically. There are six primary issues of concern associated with exotic wildlife species:

- 1) potential serious threats to human safety
- 2) transport of exotic diseases or parasites from their place of origin

- 3) threat of hybridization with native species
- 4) severe habitat destruction affecting a variety of wildlife populations or agricultural interests
- 5) competition for existing habitat or predation by exotic species
- 6) economic costs incurred in removing or controlling escaped exotic species or in mitigating damages that may have been caused

Subsequently, the 2003 Legislature passed SB 442 pertaining to the regulation of exotic wildlife, effective on January 1, 2004. The intent of SB 442 was to protect Montana's native wildlife and plant species, livestock, horticulture, forestry, agricultural production, and human health and safety from the harmful effects of unregulated exotic animals. This legislation provided the state with authority to regulate the importation, transplantation, possession, and sale of exotic wildlife in the state. In addition, the legislation granted the commission authority to adopt rules regarding the importation, possession, and sale of exotic wildlife through the operation of a "classification review committee." The function of the classification review committee is to recommend classification of individual exotic animal species as uncontrolled species, controlled species, and prohibited species for importation, possession, and sale. If approved by the commission, these recommendations are incorporated into lists designated as uncontrolled species, controlled species, and prohibited species.

The proposed rules are necessary in order to implement SB 442. The proposed rules establish a formal process and criteria whereby the classification review committee can review a species of exotic wildlife not currently classified by the state.

The proposed rules also include the first additions of exotic wildlife species to the uncontrolled and prohibited lists as recommended by the classification review committee and approved by the commission. These additions have been made following recommendation of placement of the species by the classification review committee based on the potential for significant harmful effects to occur if importation of the animals were allowed or were allowed without any type of conditioned permit. It is expected that these lists will be expanded as additional exotic wildlife species that have not been classified are requested for importation into the state.

Finally, these new rules provide for a permitting system. The permitting system will enable the department to deal the importation and possession of controlled or prohibited species in the following circumstances: 1) non-permanent conditions, 2) species kept by well qualified organizations such as zoos, or 3) the transport of controlled or prohibited species through Montana as long as they are not unloaded at any time



during transport. Exceptions to importation and possession of controlled and prohibited species are necessary to provide educational and scientific opportunities for specific individuals or organizations while maintaining the measures of safety required to protect Montana's native wildlife and plant species, livestock, horticulture, forestry, agricultural production and human health and safety.

5. Concerned persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Eileen Ryce, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-2448; fax (406) 444-4952; or emailed to fwpfish@mt.gov, and must be received no later than April 14, 2005.

6. Tim Feldner or another officer appointed by the department has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

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

By: /s/ John F. Lynch  
John F. Lynch  
Rule Reviewer

Certified to the Secretary of State March 7, 2005

BEFORE THE BOARD OF LANDSCAPE ARCHITECTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 24.153.403, ) ON PROPOSED AMENDMENT  
fee schedule )

TO: All Concerned Persons

1. On April 7, 2005, at 2:00 p.m., a public hearing will be held in room 489 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact George Edwards no later than 5:00 p.m., March 31, 2005, to advise us of the nature of the accommodation you need. Please contact George Edwards, Board of Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1-800-253-4091; TDD (406) 444-2978; Facsimile (406) 841-2305; e-mail dlibsdlar@mt.gov.

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

24.153.403 FEE SCHEDULE (1) Fees for ~~examinations administered on paper must be~~ shall be transmitted by ~~money order or check payable to the~~ Montana state board of landscape architects or third party examination vendor (for examinations). Fees for examination sections administered by electronic means must be paid directly to the council of landscape architect registration boards. The board assumes no responsibility for loss in transit of such remittances. All fees are non-refundable.

(2) The fees for landscape architects are as follows:

(a) <u>Application fee for license by examination</u> <u>(includes original license fee)</u> <del>(examination fee not included)</del>	\$150	\$575
<del>(b) License</del>		<del>50</del>
<del>(c) (b) License renewal</del>	<del>150</del>	<del>500</del>
<del>(d) (c) Late fee</del>	<del>75</del>	<del>100</del>
<del>(e) (d) Duplicate license</del>		<del>35</del>
<del>(f) (e) Examination administration fee</del>	<del>50</del>	<del>100</del>
<u>(f) Proctored examination by other</u> <u>jurisdictions</u>		<u>150</u>
<u>(g) Exam review</u>		<u>50</u>

(3) remains the same.

AUTH: 37-1-131, 37-1-134, 37-66-202, MCA

5-3/17/05

MAR Notice No. 24-153-28

IMP: 37-1-134, 37-66-202, 37-66-301, 37-66-304, 37-66-307,  
MCA

REASON: It is reasonable and necessary to amend ARM 24.153.403 to fulfill the Board of Landscape Architects' (Board) statutory requirement of 37-1-134, MCA, to set Board fees commensurate with costs. The Board is also proposing to combine the payment of applicants' examination fees and license fees. The collection and processing of applications, licenses and the related fees will be completed in a single step, instead of two or more separate steps and the combination will ultimately decrease Board expenses.

When the Board was transferred in 2001 from the Department of Commerce to the Department of Labor and Industry, a change was made in the way operating expenses were charged to licensing boards. Prior to the transfer, small boards such as Landscape Architects were not charged for the individual boards' actual operating expenses. This resulted in the larger boards effectively paying for the smaller boards. Following the transfer, all licensing boards, including Landscape Architects, began being assessed for the boards' actual operating expenses. This change significantly and immediately increased the amount the Board is responsible for in paying its own operating expenses.

It is necessary to increase the fees as proposed to adequately cover the daily operating expenses of the Board's licensing and regulatory functions. The Board is currently operating at a negative cash balance and will continue to operate at a loss without increasing the fees as proposed. The Board began fiscal year 2005 with a negative cash balance of -\$12,409.18. Without increasing the fees as proposed, it is estimated that the Board will accrue an additional deficit of -\$18,351.56 by the end of fiscal year 2005, and the resulting deficit will total -\$30,760.74. The proposed fee increases are designed to enable the Board to function in a self-supporting, fiscally responsible capacity.

The proposed combination of the processing of application fees and license fees will decrease the expenses of staff processing time and mailing by enabling the processing to be done in one step instead of two. Additionally, when the licensing examination is proctored for a Montana applicant in another jurisdiction, the examination vendor charges the Board a \$100 fee per proctored examination. Historically, the Board has paid the proctoring fee and not passed this additional cost onto the examinee(s). The Board is proposing to amend the rule at this time to allow the Board to recover the proctoring fees from the examinees.

The Board is proposing to implement a fee for instances where examinees request one of two levels of review of a failed examination(s). If an examinee fails an examination and

requests a review, the examination vendor requires that a Board staff person attend and monitor the review session. In the past, the Board has not charged the examinee for the review, but is now proposing to amend the rule to allow for the charge. This fee will cover the cost for Board staff to schedule, attend and monitor the examination reviews.

Based on the number of persons licensed as landscape architects in fiscal year 2005, the Board estimates that the proposed rule changes will affect approximately 109 currently licensed individuals. The proposed fee increases will affect approximately 12 new applicants taking the examination in Montana, eight applicants taking the examination in other states, and approximately one late-renewing licensee per year, who would be charged the late renewal fee. In summary, it is estimated that all current licensees and all new applicants for licensure with the Board (approximately 130 individuals) will be affected by the proposed fee increases. The Board estimates that the annual aggregate fiscal impact of the proposed fee changes is an increase of \$44,475.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to George Edwards, Board of Landscape Architects, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdlar@mt.gov](mailto:dlibsdlar@mt.gov) and must be received no later than 5:00 p.m., April 15, 2005.

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

6. The Board of Landscape Architects 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 that 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 Landscape Architects

administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdlar@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

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

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

BOARD OF LANDSCAPE ARCHITECTS  
SHELLEY ENGLER, CHAIRPERSON

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

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

Certified to the Secretary of State March 7, 2005.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 24.207.502 ) ON PROPOSED AMENDMENT  
pertaining to application )  
requirements )

TO: All Concerned Persons

1. On April 11, 2005, at 9:00 a.m., a public hearing will be held in room B07 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact Barb McAlmond no later than 5:00 p.m., April 6, 2005, to advise us of the nature of the accommodation you need. Please contact Barb McAlmond, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2325; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdua@mt.gov.

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

24.207.502 APPLICATION REQUIREMENTS (1) through (3) remain the same.

(4) The applicant shall prepare and provide three appraisal reports of their choice, with three true and correct copies of each a demonstration report in conformance with the format approved by the board. A demonstration report is a narrative appraisal report that is intended to demonstrate that the appraiser has a complete understanding of the appraisal process. Narrative reports must be completed in every detail, be totally self explanatory and self supporting, along with being factual and demonstrating competence, ethics and expertise.

(5) through (8) remain the same.

AUTH: 37-1-131, 37-54-105, MCA  
IMP: 37-1-131, 37-54-105, 37-54-202, MCA

REASON: It is reasonable and necessary to amend ARM 24.207.502(4) for the protection of the public, and to ensure that applicants for licensure in this state understand completely the procedures and processes that will enable them to be licensed or certified, and what the license or certification encompasses. Additionally, the board believes

it is reasonable and necessary to amend this rule due to the large number of inadequate reports received with license/certified applications.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to Barb McAlmond, Board of Real Estate Appraisers, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to [dlibsirea@mt.gov](mailto:dlibsirea@mt.gov) and must be received no later than 5:00 p.m., April 19, 2005.

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

6. The Board of Real Estate Appraisers 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 that 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 Real Estate Appraisers administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2323, e-mailed to [dlibsirea@mt.gov](mailto:dlibsirea@mt.gov) or may be made by completing a request form at any rules hearing held by the agency.

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

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

BOARD OF REAL ESTATE APPRAISERS  
TIM MOORE, CHAIRPERSON

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State March 7, 2005



BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the repeal            )       NOTICE OF REPEAL  
of ARM 2.21.701 through                )  
2.21.708 and 2.21.711                 )  
pertaining to Leave of                 )  
Absence without Pay                    )

TO: All Concerned Persons

1. On January 27, 2005, the Department of Administration published MAR Notice No. 2-2-351 regarding the proposed repeal of ARM 2.21.701 through 2.21.708 and 2.21.711 pertaining to Leave of Absence without Pay at page 141 of the 2005 Montana Administrative Register, issue number 2.

2. The department has repealed the rules as proposed.

3. No comments or testimony were received.

BY: /s/ Dal Smilie                                /s/ Janet Kelly  
Dal Smilie    Janet Kelly  
Rule Reviewer                                     Director

Certified to the Secretary of State March 7, 2005.

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

In the matter of the )  
amendment of ARM 12.11.3985 ) NOTICE OF AMENDMENT  
pertaining to a no wake zone )  
on Seeley Lake )

TO: All Concerned Persons

1. On December 2, 2004, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-302 regarding the public hearing on the proposed amendment to ARM 12.11.3985 pertaining to a no wake zone on Seeley Lake at page 2874 of the 2004 Montana Administrative Register, Issue Number 23.

2. The commission has amended ARM 12.11.3985 as proposed.

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

COMMENT 1: Eleven individuals expressed support for the proposed no wake zone. Several individuals stated that the loon population has decreased dramatically because of the speed, noise, wakes and lack of respect for wildlife exhibited by those operating high speed watercraft. These individuals thought the no wake zone was necessary to protect one remaining pair of loons nesting on the lake. Others offering comments stated that the no wake zone would increase public safety and lessen water related conflicts on the lake. Two individuals stated that the no wake zone would increase the safety of those using the Clearwater canoe trail. A few individuals stated that the no wake zone would protect prime fish and wildlife habitat.

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

COMMENT 2: A few individuals thought that the 40 acre no wake zone on Seeley Lake is not large enough. They wanted a larger no wake area. Another individual thought the recreational experience on Seeley Lake and Salmon Lake is declining because of the noise, congestion, constant wave activity, and fumes generated by high speed watercraft. This individual thought the no wake zone would improve the situation on Seeley Lake but would increase the problems on Salmon Lake. This person thought this rulemaking should be expanded to add boating restrictions to Salmon Lake.

RESPONSE: The commission believes that the no wake zone adopted in this rulemaking is sufficient to protect public safety, wildlife habitat, and reduce recreational conflicts on Seeley Lake. Restrictions on Salmon Lake are beyond the scope of this rulemaking. The commission notes that under ARM 12.11.3980,

Salmon Lake has three no wake areas: the Clearwater River from the Placid Lake Road Bridge to Salmon Lake, Legendary Lodge Narrows near the south end of the lake, and the area south of Salmon Cove Point to the lake's outlet.

COMMENT 3: One individual wanted the no wake zone boundary to curve inward so that high speed watercraft have more room to make a turn. This individual commented that while the loons need protection, boaters think they are losing something in this rulemaking.

RESPONSE: The area was inspected to evaluate the feasibility of curving the no wake zone. It was determined that significant safety and wildlife habitat benefits would be lost if the no wake boundary was any closer to the weed beds. Therefore, the commission believes the no wake boundaries should remain as proposed. High speed watercraft still have 1007 acres on Seeley Lake on which to recreate.

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

By: /s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State March 7, 2005

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the transfer ) NOTICE OF TRANSFER  
of ARM 8.34.101 through )  
8.34.422, pertaining to the )  
board of nursing home )  
administrators )

TO: All Concerned Persons

1. Pursuant to Chapter 483, Laws of Montana 2001, effective July 1, 2001, the Board of Nursing Home Administrators was transferred from the Department of Commerce to the Department of Labor and Industry, ARM Title 24, Chapter 162.

2. The Department of Labor and Industry has determined that the transferred rules will be renumbered as follows:

<u>OLD</u>	<u>NEW</u>	
8.34.101	24.162.101	Board Organization
8.34.201	24.162.201	Procedural Rules
8.34.202	24.162.202	Public Participation Rules
8.34.404A	24.162.301	Definitions
8.34.402	24.162.401	Quorum
8.34.407	24.162.402	Public Information
8.34.408	24.162.403	<del>Requests and Submittals</del> <u>Submittals And Requests</u>
8.34.410	24.162.407	Record Of Minutes And Hearings
8.34.411	24.162.408	Application Denial
8.34.421	24.162.409	Hearings Or Proceedings
8.34.405	24.162.415	General Requirements
8.34.418	24.162.420	Fee Schedule
8.34.414A	24.162.501	<u>Application And Documentation</u> For Licensure
8.34.414	24.162.504	Examinations
8.34.413	24.162.506	Temporary Permit
8.34.419	24.162.509	Reinstatement
8.34.417	24.162.510	Reciprocity Licenses
8.34.412	24.162.515	Requirements - <u>For</u> Inactive Nursing Home Administrators
8.34.415	24.162.2101	Renewals
8.34.416	24.162.2105	Continuing Education
8.34.406	24.162.2301	<del>Disciplinary Action</del> <u>Unprofessional Conduct</u>

3. The transfer of rules is necessary because this board was transferred from the Department of Commerce to the Department of Labor and Industry by the 2001 legislature by Chapter 483, Laws of Montana 2001.

BOARD OF NURSING HOME ADMINISTRATORS  
DEBORAH WILSON, CHAIRPERSON

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State March 7, 2005

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 8.34.415, renewals and )  
ARM 8.34.416, continuing education )

TO: All Concerned Persons

1. On September 23, 2004, the Board of Nursing Home Administrators published MAR Notice No. 8-34-35 regarding the public hearing on the proposed amendment of the above-stated rules relating to renewals and continuing education at page 2138 of the 2004 Montana Administrative Register, issue no. 18.

2. A public hearing on the proposed amendment was held on October 18, 2004. Members of the public spoke at the public hearing. In addition, written comments were received prior to the closing of the comment period on October 22, 2004.

3. The Board of Nursing Home Administrators (Board) has thoroughly considered all of the comments made. A summary of the comments received (grouped by rule) and the Board's responses are as follows:

ARM 8.32.415 RENEWALS

Comment 1: One commenter stated that the proposed amendment is confusing and may be misinterpreted. Changing the filing date for renewal applications to "on or before January 1" for the subsequent calendar year, appears to mean that a licensee would be required to renew a full year in advance. The December 31 renewal date conveys the message the next subsequent year begins the next day, January 1, 2005.

Response 1: The Board acknowledges the comment and agrees that the language could be clearer. As per ARM 8.2.208, the renewal date is January 1. The Board has amended the language to more clearly identify a licensee's renewal obligations.

ARM 8.32.416 CONTINUING EDUCATION

Comment 2: Eleven comments were received in opposition to the proposed amendment regarding the removal of carry-over continuing education.

Response 2: The Board acknowledges and concurs with the comments. The carry-over continuing education portion of the rule was inadvertently struck. The Board wishes to retain that portion and they by no means had that intent for the

rule. The Board will keep the carry-over provision, formerly subsection (3)(b), and now renumbered as subsection (4)(a).

Comment 3: Two comments were received in opposition to the proposed amendment stating there was lack of opportunity for interested parties to make comment or have input regarding changes in the criteria for approval of education.

Response 3: The Board acknowledges the comments, but does not agree. The public has many opportunities for input regarding Board issues. The Board meetings are open to the public and posted on the Board's website which is public. In addition, the rule notice was publicly noticed with a public hearing, inviting any member of the public to comment or provide input.

Comment 4: One licensee was in opposition to the proposed amendment regarding the change from 25 to 15 hours of college courses.

Response 4: The Board acknowledges the comment and wishes to clarify the intent of the rule. College courses are not limited to fifteen hours, although any more hours than that need to have prior approval by the Board.

Comment 5: One licensee was in opposition to the proposed amendment regarding courses sponsored by pre-approved providers/sponsors needing to be germane to long term care and course/programs accepted by other state boards/associations.

Response 5: The Board acknowledges the comment and wishes to clarify the intent of the rule. The list of pre-approved providers/sponsors is quite broad. Some pre-approved providers/sponsors target several professions in one conference. Many times not all courses are germane to long term care. However, the Board recognizes special situations, which occur where outwardly the courses may not seem germane, but will review an explanation by a licensee who demonstrates why the course may be germane. This same discretion is used for course/programs accepted by other state boards/associations. The Board recognizes the need for flexibility, but feels general guidelines are necessary.

Comment 6: One licensee supported the proposed amendment as written.

Response 6: The Board acknowledges the comment. The Board will retain the portion of the rule to retain the carry-over of continuing education credits, as noted in Response 2.

4. After consideration of the comments, the Board has amended the rules as proposed, with the following changes, stricken matter interlined, new matter underlined:

8.34.415 RENEWALS (1) An application for renewal of license for ~~the next subsequent calendar~~ any year shall be filed on or before January 1 of ~~each that~~ year and must be accompanied by the required fee, which shall not be refunded.

(2) The renewal fee for ~~the next subsequent calendar~~ any year ~~shall be~~ is due and payable on or before January 1 of ~~each that~~ year. Renewal fees paid by mail shall be considered as paid when due if the envelope bears a postmark of January 1 or earlier.

AUTH: 37-9-201, MCA  
IMP: 37-9-304, 37-9-305, MCA

8.34.416 CONTINUING EDUCATION (1) through (4) remain as proposed.

(a) Up to 25 hours earned in excess of 25 hours in a calendar year may be carried over into the succeeding year.

(a) through (c) remain as proposed but are renumbered (b) through (d).

(5) remains as proposed.

AUTH: 37-1-131, 37-1-319, 37-9-201, 37-9-203, MCA  
IMP: 37-1-319, 37-9-203, 37-9-305, MCA

BOARD OF NURSING HOME ADMINISTRATORS  
DEBORAH WILSON, CHAIRPERSON

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State March 7, 2005



BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the transfer ) NOTICE OF TRANSFER  
of ARM 8.42.101 through )  
8.42.706, pertaining to the )  
board of physical therapy )  
examiners )

TO: All Concerned Persons

1. Pursuant to Chapter 483, Laws of Montana 2001, effective July 1, 2001, the Board of Physical Therapy Examiners was transferred from the Department of Commerce to the Department of Labor and Industry, ARM Title 24, Chapter 177.

2. The Department of Labor and Industry has determined that the transferred rules will be numbered as follows:

<u>OLD</u>	<u>NEW</u>	
8.42.101	24.177.101	Organizational Rule
8.42.201	24.177.201	Procedural Rules
8.42.202	24.177.202	Public Participation <u>Rules</u>
8.42.403	24.177.401	Fees
8.42.409	24.177.405	<u>Licensure Exemptions,</u> <u>Supervision And Delegation</u>
8.42.411	24.177.410	List Of Licensed Physical Therapists
8.42.402	24.177.501	Examinations
8.42.405	24.177.504	Temporary Licenses
8.42.406	24.177.507	Licensure Of Out-Of-State Applicants
8.42.410	24.177.510	Foreign-Trained Physical Therapist Applicants
8.42.501	24.177.701	Use Of Topical Medications
8.42.502	24.177.704	Topical Medication Protocols
8.42.503	24.177.707	Application and Administration Of Topical Medication
8.42.404	24.177.2101	Renewal Of License
8.42.416	24.177.2105	Continuing Education
8.42.412	24.177.2301	Unprofessional Conduct
8.42.415	24.177.2401	Complaint Procedure
8.42.414	24.177.2405	Screening Panel

3. The transfer of rules is necessary because this board was transferred from the Department of Commerce to the Department of Labor and Industry by the 2001 legislature by Chapter 483, Laws of Montana 2001.

BOARD OF PHYSICAL THERAPY EXAMINERS  
BRENDA MAHLUM, PT, CHAIRPERSON

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State March 7, 2005

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.216.402, and ARM 24.216.502 )  
pertaining to fee schedule and )  
minimum standards for licensure )

TO: All Concerned Persons

1. On, December 16, 2004, the Board of Sanitarians published MAR Notice No. 24-216-16 regarding the public hearing on the proposed amendment of the above-stated rules relating to fee schedule and minimum standards for licensure, at page 2994 of the 2004 Montana Administrative Register, issue no. 24.

2. On January 14, 2005, at 10:00 a.m., a public hearing was conducted in Helena, Montana. No members of the public were present at the public hearing. In addition, no written comments were received prior to the closing of the comment period.

3. The Board has amended ARM 24.216.402 and ARM 24.216.502 exactly as proposed.

BOARD OF SANITARIANS  
TED KYLANDER, CHAIRPERSON

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

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State March 7, 2005.

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

In the matter of the amendment of )  
ARM 32.28.501, 32.28.503, )  
32.28.504, 32.28.609, 32.28.611, ) NOTICE OF AMENDMENT  
and 32.28.1808; and the adoption ) AND ADOPTION  
of NEW RULE I pertaining to )  
horse racing )

TO: All Concerned Persons

1. On January 13, 2005, the Board of Horse Racing, Department of Livestock, published MAR Notice No. 32-5-170 regarding the proposed amendment of ARM 32.28.501, 32.28.503, 32.28.504, 32.28.609, 32.28.611, and 32.28.1808 pertaining to breeders' bonuses, jockey incentive program, stewards, veterinarians and superfectas and the proposed adoption of a new rule concerning purse disbursement at page 45 of the 2005 Montana Administrative Register, Issue Number 1.

2. The Board of Horse Racing has amended ARM 32.28.501, 32.28.503, 32.28.504, 32.28.611, and 32.28.1808 exactly as proposed and adopted New Rule I (32.28.505) exactly as proposed.

3. The Board of Horse Racing has amended ARM 32.28.609 as proposed, but with the following changes. Stricken matter interlined, new matter underlined:

32.28.609 STEWARDS (1) Stewards are selected as follows:

(a) The board shall maintain a listing of the licensed racing officials who ~~have been~~ are qualified for the position of steward ~~by the board~~, and the ~~selecting~~ selection of stewards shall be made by the board from ~~such this listing~~. There shall be three stewards to supervise each race meet, who will comprise the board of stewards for the race meet. One steward shall be ~~hired~~ designated by the board to be the presiding steward. ~~Two stewards shall be contracted by the board to be deputy state stewards. The three stewards so selected will comprise the board of stewards for the race meeting.~~ All stewards shall be compensated by the board at an amount set by the board. The selection of stewards for a race meeting shall be made as soon as possible after the allocation of dates for a racing meet, but in no event later than 30 days before the race meeting.

(b) through (28) remain as proposed.

AUTH: Sec. 23-4-104, 23-4-202, MCA

IMP: Sec. 23-4-104, 23-4-201, 23-4-202, 23-4-301, MCA

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

COMMENT 1: One comment was received stating ARM 32.28.609(1)(a) was not clearly worded regarding the Board's intent to hire and compensate all three stewards. The comment suggested the word "contract" be deleted.

The comment also suggested ARM 32.28.609(1)(a) should not use the terms "state steward" and "deputy state steward," as those positions would no longer be applicable. Instead, the Board should designate a "presiding steward."

RESPONSE 1: The Board agrees with the comment and will amend the rule as shown above.

DEPARTMENT OF LIVESTOCK

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

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

Certified to the Secretary of State, March 7, 2005

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

In the matter of the adoption )  
of new rule I and the amendment )  
of ARM 37.86.805 and 37.86.1807 )  
pertaining to Medicaid )  
reimbursement rates for )  
ambulance services, hearing )  
aids and durable medical )  
equipment )

NOTICE OF ADOPTION AND  
AMENDMENT

TO: All Interested Persons

1. On January 13, 2005, the Department of Public Health and Human Services published MAR Notice No. 37-340 pertaining to the proposed adoption and amendment of the above-stated rules relating to Medicaid reimbursement rates for ambulance services, hearing aids and durable medical equipment, at page 53 of the 2005 Montana Administrative Register, issue number 1.

2. The Department has adopted rule I [37.86.2606] as proposed.

3. The Department has amended ARM 37.86.805 and 37.86.1807 as proposed.

Dawn Sliva  
Rule Reviewer

Robert E. Wynia, MD  
Director, Public Health and  
Human Services

Certified to the Secretary of State March 7, 2005.

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

In the matter of the amendment            )       NOTICE OF AMENDMENT  
of ARM 38.5.2202 and 38.5.2302,         )  
pertaining to Pipeline Safety            )

TO: All Concerned Persons

1. On November 18, 2004, the Department of Public Service Regulation, Public Service Commission (PSC) published MAR Notice Number 38-2-186 regarding a public hearing on the proposed amendment of ARM 38.5.2202 and 38.5.2302, concerning pipeline safety, at page 2795 of the 2004 Montana Administrative Register, issue number 22.

2. The PSC has amended ARM 38.5.2202 and 38.5.2302 exactly as proposed:

38.5.2202 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS

38.5.2302 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS -- DRUG AND ALCOHOL TESTING AND PREVENTION PROGRAMS

3. No comments or testimony were received.

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

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

Certified to the Secretary of State March 7, 2005.

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES  
OF THE STATE OF MONTANA

In the matter of the adoption )  
of New Rule I relating to ) NOTICE OF ADOPTION  
lobbying and regulation of )  
lobbying )

TO: All Concerned Persons

1. On January 27, 2005, the Commissioner of Political Practices published MAR Notice No. 44-2-128 pertaining to the proposed adoption of the above-stated rule relating to lobbying and regulation of lobbying, at page 158 of the 2005 Montana Administrative Register, issue number 2.

2. The Commissioner has adopted new rule I (44.12.204) as proposed.

3. No comments or testimony were received.

/s/ Gordon Higgins  
Gordon Higgins  
Commissioner

/s/ Jim Scheier  
Jim Scheier  
Rule Reviewer

Certified to the Secretary of State March 7, 2005.



**NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE**

**Interim Committees and the Environmental Quality Council**

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

**Economic Affairs Interim Committee:**

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

and

- ▶ Office of Economic Development.

**Education and Local Government Interim Committee:**

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

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

- ▶ Department of Public Health and Human Services.

**Law and Justice Interim Committee:**

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

**Energy and Telecommunications Interim Committee:**

- ▶ Department of Public Service Regulation.

**Revenue and Transportation Interim Committee:**

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

**State Administration, and Veterans' Affairs Interim Committee:**

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

**Environmental Quality Council:**

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

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

- |                                     |   |
|-------------------------------------|---|
| Known<br>Subject                    | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>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 December 31, 2004. This table includes those rules adopted during the period January 1, 2005 through March 31, 2005 and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 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 2004 and 2005 Montana Administrative Registers.

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

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