ISSUE NO. 13

The Montana Administrative Register (MAR or Register), 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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 Secretary of State's Office, Administrative Rules Bureau, at (406) 444-2055.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.85.101, 17.85.103, 17.85.105, 17.85.107, 17.85.110, 17.85.111, 17.85.114, and the adoption of New Rule I pertaining to the Alternative Energy Revolving Loan Program	)	NOTICE OF PROPOSED AMENDMENT AND ADOPTION (ALTERNATIVE ENERGY) NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On August 7, 2006, the Department of Environmental Quality proposes to amend and adopt the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., July 17, 2006, to advise us of the nature of the accommodation that you need. Please contact Kathi Montgomery, Air, Energy, and Pollution Prevention Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 841-5243; fax (406) 841-5222; or e-mail kmontgomery@mt.gov.

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

17.85.101 POLICY AND PURPOSE OF RULES (1) Title 75, chapter 25, part 1, MCA, establishes a revolving loan program administered by the department for the purpose of increasing the number of alternative energy systems installed in Montana ~~homes and small businesses~~ that generate energy for the~~ir own~~ use, either off-grid or grid-connected, of the entities listed in Title 75, chapter 25, part 1, MCA. This subchapter provides criteria and guidelines to aid the department in implementing the law, defines eligibility criteria, identifies the processes and procedures for disbursing loans, and prescribes the terms and conditions for making loans, including repayment schedules and interest.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The Legislature amended 75-25-101(1), MCA, in Section 1, Chapter 110, Laws of 2005, to add units of local government, units of the university system, and nonprofit organizations to the list of eligible borrowers. The department proposes to refer to the statute for the list of entities that may obtain loans, rather than list the eligible entities, to eliminate the need to amend the rule in the future to reflect statutory changes.

17.85.103 DEFINITIONS Unless the context requires otherwise, as used in this subchapter:

(1) remains the same.

(2) "Alternative energy system", has the same meaning as defined in 15-32-102, MCA, means the generation system or equipment used to convert energy sources into usable sources using fuel cells that do not require hydrocarbon fuel, geothermal systems, low emission wood or biomass, wind, photovoltaics, geothermal, small hydropower plants under one megawatt, and other recognized nonfossil forms of energy generation.

(3) (5) "Customer-generator", has the same meaning as defined in 69-8-103, MCA, means a user of a net metering system.

(4) and (5) remain the same but are renumbered (5) and (6).

(6) (7) "Low emission wood or biomass combustion device", has the same meaning as defined in 15-32-102, MCA, means a noncatalytic stove or furnace that:

(a) is specifically designed to burn wood pellets or other nonfossil biomass pellets; and

(i) has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department pursuant to 15-32-203, MCA; or

(ii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, as adopted by the department pursuant to 15-32-203, MCA; or

(b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department pursuant to 15-32-203, MCA.

(7) (8) "Net metering", has the same meaning as defined in 69-8-103, MCA, means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

(8) (9) "Net metering system", has the same meaning as defined in 69-8-103, MCA, means a facility for the production of electrical energy that:

(a) uses as its fuel solar, wind, or hydropower;

(b) has a generating capacity of not more than 50 kilowatts;

(c) is located on the customer-generator's premises;

(d) operates in parallel with the distribution services provider's distribution facilities; and

(e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(8) (11) "Recognized nonfossil forms of energy generation", has the same meaning as defined in 15-32-102, MCA, means:

(a) a system that captures energy or converts energy sources into usable sources, including electricity, by using:

(i) solar energy, including passive solar systems;

(ii) wind;

~~(iii) solid waste;~~
~~(iv) the decomposition of organic wastes;~~
~~(v) geothermal;~~
~~(vi) fuel cells that do not require hydrocarbon fuel; or~~
~~(vii) an alternative energy system;~~
~~(b) a system that produces electric power from biomass or solid wood wastes; or~~
~~(c) a small system that uses water power by means of an impoundment that is not over 20 acres in surface area~~.

(3) "Capital investment" has the same meaning as in Title 15, chapter 32, part 1, MCA.

(4) "Capital investments for energy conservation purposes when done in conjunction with an alternative energy system" means a capital investment that is used for an energy conservation purpose that is in the same structure as, and is constructed, installed, or otherwise put in service as part of, or at about the same time as, an alternative energy system.

(12) "Small business" means one that is independently owned and operated and that is not dominant in its field of operation.

(10) "Nonprofit organization" means a corporation in good standing that is organized under the Montana Nonprofit Corporation Act, Title 35, chapter 2, MCA, or under an equivalent law of another state if that corporation has registered to do business in Montana.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The 2005 Legislature amended 75-25-101(3), MCA, in Section 1, Chapter 110, Laws of 2005, to expand the types of projects that are eligible for loans under the Alternative Energy Revolving Loan Program (AERLP) to include "capital investments ... for energy conservation purposes ... when done in conjunction with an alternative energy system."

In 75-25-102(1)(a), MCA, the Legislature directed the department to adopt administrative rules defining the phrase "capital investments for energy conservation purposes." Because the Legislature has already defined the terms "capital investment," "energy conservation purposes," and "alternative energy system" in the Montana Revenue Code's provision on tax credits for alternative energy and conservation (see 15-32-102, MCA), and the same definitions would be useful in this section, the department is proposing to adopt those definitions in ARM 17.85.103, which contains definitions of terms used in the AERLP rules. The department believes that it makes sense to use common definitions from a related program so that interpretations will be uniform.

The department is proposing to add a definition in ARM 17.85.103 for the phrase "capital investments ... for energy conservation purposes ... when done in conjunction with an alternative energy system." The department proposes to use the definitions of "capital investments," "energy conservation purposes," and "alternative energy system" just discussed, and is proposing to define "in conjunction with" to

mean "that is in the same structure as, and is constructed, installed, or otherwise put in service as part of, or at about the same time as, an alternative energy system."

The reason for this proposed addition is that the Legislature directed the department to define the phrase. Also, the department believes that the Legislature intended that the department make loans available for such projects as: building envelope improvements, which would include increasing insulation and reducing leakage; heating/ventilation improvements, which would include purchase and installation of more efficient furnaces, boilers, and fans; and electric load reductions, which would include the purchase and installation of more efficient capital items so that less electricity would be used. Because the Legislature specified that such capital investments for energy conservation purposes could be funded through AERLP loans if done in conjunction with an alternative energy system, the department is proposing a definition of "in conjunction with" that includes a capital investment for energy conservation purposes that is "in the same structure as, and is constructed, installed, or otherwise put in service as part of, or at about the same time as" an alternative energy system.

The department believes that this definition would give effect to the Legislature's intent. For instance, this would allow a loan to be approved for a photovoltaic system (solar panels generating electricity) and more efficient lighting fixtures. Similarly, a loan application for buying and installing a pellet stove to generate heat and increasing insulation to reduce the demand for heat could be approved under this definition. Finally, installation of solar panels to generate electricity, along with insulation to reduce the volume of natural gas needing to be burned in a furnace, could be funded if undertaken at about the same time and in the same building as the solar panels are to be installed.

The reason for this interpretation is that the goal of the AERLP is to make loans to increase the production of alternative energy and to reduce demand for energy by conserving. Funding projects in the same structure as and done as part of, or at about the same time as, an alternative energy system accomplishes that goal. Also, if the borrower is allowed to install a system that reduces demand for energy, the borrower will be likely to save money on energy and have more money available to pay back the loan.

The Legislature, in 75-25-102(1)(a), MCA, directed the department to adopt definitions of "nonprofit" and "small business." The department is proposing definitions that use language commonly used in state and federal statutes to describe such entities. So, a "nonprofit organization" would be defined as an organization existing under the Montana Nonprofit Corporation Act or a similar law from another state. The definition of "small business," as a business that is independently owned and operated and not dominant in its field, is taken from the definition used by the federal Commerce Department's Small Business Administration in 15 U.S.C. 632.

Section (8) was used for two different sections in the current version of ARM 17.85.103, so the department is proposing to renumber the second one to make it correct.

17.85.105 ELIGIBLE PROJECTS (1) remains the same.

(2) To be eligible for funding, a project or portion of a project must be:

(a) and (b) remain the same.

(c) ~~directly related to~~ the construction or installation of an alternative energy system~~s~~ that generate~~s~~ energy through a proven methodology for the sole use of the customer-generator or for net metering, or for capital investments for energy conservation purposes when done in conjunction with an alternative energy system in a ~~residence or small business~~ structure owned by an entity listed in Title 75, chapter 25, part 1, MCA, as an eligible recipient of a loan.

(3) remains the same.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The department proposes to amend this rule to have it conform to the current statute, 75-25-101(3), MCA, which was amended by the 2005 Legislature in Section 1, Chapter 110, Laws of 2005, to allow loans for projects owned by additional types of entities (units of local government, units of the university system, and nonprofit organizations) and to allow funding of energy conservation measures done in conjunction with alternative energy projects. The proposed amendments to ARM 17.85.105(2)(c) would allow the department to make loans to the entities and for the types of projects that the Legislature directed.

17.85.107 SIZE OF AWARDS (1) The maximum amount of money that the department may ~~loan~~ lend for a single project or applicant is ~~$10,000~~ the amount set in Title 75, chapter 25, part 1, MCA.

~~(2) The minimum amount of money that the department may loan for a single project or applicant is $2,000.~~

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The proposed amendment to (1) would set the maximum loan amount by reference to the limit set by the Legislature. The 2005 Legislature amended 75-25-101(4), MCA, in Section 1, Chapter 100, Laws of 2005, to increase the maximum loan amount from $10,000 to $40,000. The reason for having the rule refer to the statute for the maximum amount is that the amount would change automatically if the Legislature were to amend the statute. This will save the department from having to propose and adopt amendments to the rule, which can take many months, each time the Legislature amends the statute. The department is proposing to eliminate the minimum amount of a loan in (2). The Legislature did not specify a minimum loan amount. The department believes that a minimum amount is not necessary, and that a minimum loan amount could unnecessarily limit the use of the program.

17.85.110 APPLICATION PROCEDURE (1) An applicant shall submit to the department an application on forms prescribed and made available by the department. An applicant ~~shall submit two copies of the application to the~~

~~department at the time of filing, and~~ shall provide additional copies ~~as~~ upon request~~ed by~~ of the department or its contractor.

(2) remains the same.

(3) ~~An applicant may revise an application after the application is formally filed, but before the department issues a decision on the application by submitting a revision to the department in writing. A substantial revision to an application constitutes a new application.~~ The department may require a new application and fee if the applicant makes substantial revisions to the application.

(4) remains the same.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The department is proposing to amend (1) to reduce the amount of paper required to apply for a loan from the program. The department has not been requiring additional copies of application material as it has seldom had more than one person reviewing the application at a time. The proposed rule amendment would allow the department to reduce unnecessary copying and paper consumption by loan applicants and to set an example by reducing waste.

The department is proposing to amend (3) to allow it to require a new application and to charge an additional fee if the applicant makes substantial revisions. This is necessary because substantial changes to the application may require new information and additional review, which can take significant staff or contractor time. It is necessary for the department to be able to obtain the additional information, and to charge enough to pay the costs of the additional review.

17.85.111 APPLICATION EVALUATION PROCEDURE (1) The department shall review each application to determine ~~whether it includes information necessary to begin the evaluation process~~ if it is complete. If the department determines that an application is not ~~substantially~~ complete, the ~~application shall be considered deficient and the~~ department shall ~~return the application to~~ inform the applicant within 30 days after ~~receipt by~~ the department receives the application. The department shall list the application deficiencies in writing. An applicant may re-submit after correcting all identified deficiencies.

(2) through (2)(c) remain the same.

(3) ~~Applications that meet~~ The department, or a third party designated by the department, shall evaluate whether an applicant whose application met the criteria in (2) ~~will be sent to the department's contracted financial institution for credit approval~~ is credit worthy. ~~The financial institution shall evaluate the credit-worthiness of applicants and shall~~ If the evaluation is performed by a third party, that party shall advise the department whether to approve or deny credit. The ~~financial~~ evaluation must be consistent with the standard practices of financial institutions and must consider~~ing~~ the type, size, risk, ~~and~~ repayment period, complexity of the loan requested, ~~and the type of applicant~~ and any other factor the department believes is necessary to meet the loss ratio required in Title 75, chapter 25, part 1, MCA.

(4) ~~After approval by the financial institution~~ When the loan fund reaches a point where there are applications for more money than is available, the department

shall prioritize applications based on the following criteria, which are not necessarily listed in the order of priority:

(a) and (b) remain the same.

(c) investment/return ratio; ~~and~~

(d) the use of a process, a system, or equipment generally available in Montana~~.~~;

(e) the geographical diversity of the project portfolio;

(f) the demographic diversity of the project portfolio; and

(g) any other criterion the department deems appropriate at the time the action is taken.

(5) ~~The department shall award loans in the priority established in (4), subject to the availability of funds.~~ The department shall post the ranking of the criteria listed in (4) on the loan program website and on printed program materials when it becomes necessary to prioritize the award of available funds.

(6) If the department approves an application pursuant to these rules, the department shall indicate its decision to ~~participate in~~ issue a loan by ~~executing~~ authorizing a servicing agreement and the release of funds.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The department proposes to amend (1) to provide applicants ample opportunity to submit the information necessary for it to evaluate each application, while clarifying that the department does not have a duty to process an incomplete application. The department is proposing to use "complete" to describe an application that has all information necessary for the department to make a decision. This is the same definition of "complete" used in the Montana Environmental Policy Act at 75-1-110, MCA, to define what constitutes a "complete application," and the department believes it is appropriate to use the same term and interpretation in the AERLP. The intent of the program is to make the application process as simple as possible and encourage the public to participate fully.

The proposed amendment to (3) would clarify the process the department would use to evaluate credit-worthiness of applicants, and would amend the current rule, which requires the use of a contracted financial institution to evaluate credit-worthiness, to allow the department the flexibility to either conduct the evaluation itself or to use the services of qualified third-party contractors. The addition of the term "Repayment period" is necessary because the length of time over which payments are spread determines the payment amount, which is necessary to determine an applicant's ability to make payments. The phrase "any other factor that the department believes is necessary to meet loss ratios required in Title 75, chapter 25, part 1, MCA" would give the department the ability to use factors that have not yet been encountered if it becomes apparent that such a factor or factors would enhance the department's ability to issue loans in accordance with the intent of the law.

The proposed amendment to (4) is necessary to provide the department with a method to prioritize projects when money sought in applications exceeds available funds, without limiting its ability to fund all appropriate projects until that time. This

would allow the department to fully utilize the funds available to achieve the Legislature's desired impact on the alternative energy industry and on cumulative alternative energy production in the state. The department proposes to add geographic and demographic diversities because the department believes that the legislature intended that the funds be distributed as widely as possible across the state, and to a diverse selection of applicants of the types listed in the statute. The addition of the term "any other criterion the department deems appropriate at the time the action is taken" is necessary to give the department the ability to use criteria that have not yet been encountered if it becomes apparent that such criteria would enhance the department's ability to issue loans in accordance with the intent of the law.

The proposed amendment to (5) is necessary to disclose to the public and applicants the ranking of factors used by the department to prioritize the granting of loans under the AERLP.

The department is proposing to amend (6) to substitute "issue a loan" for "participate in a loan" and to substitute "authorizing a servicing agreement" for "executing a servicing agreement." The reason for these proposed amendments is that the department currently uses a financial contractor to perform many of the tasks associated with the execution of loans, and does not, itself, enter into a servicing agreement with the borrower. It must, however, authorize any servicing agreement entered into by the contractor before it can become effective. The department wishes to be able to issue loans directly, without having to use a contractor. The proposed amendments are necessary to clarify that the department may either issue a loan directly or through a contractor.

The department is proposing to add the phrase "and the release of funds" in (6). The reason for this addition is to clarify that the final step in issuing a loan is to release the funds. The department may release the funds either to the loan applicant directly or to the contractor if one is being used.

17.85.114 LOAN CONDITIONS (1) ~~The maximum term for loans is five years.~~ The repayment period of a loan may be agreed upon by the borrower and the department, but may not exceed the period set forth in Title 75, chapter 25, part 1, MCA.

(2) ~~Loans~~ A borrower shall use the money obtained from a loan made under the Act and these rules ~~must be used~~ only for the purposes described in the loan application. ~~Loan projects must be implemented~~ A borrower shall implement a loan project within the time specified in the loan documents unless the department grants a written extension.

(3) The department may not issue a loan unless the applicant ~~shall~~ financially ~~qualify for the loan~~ qualifies as credit-worthy based on the ~~credit scoring guidelines adopted by the department's contracted financial institution~~ evaluation in ARM 17.85.111(3).

(4) ~~The department shall charge a fixed interest rate that may be set to cover administrative costs, but shall not be less than one percent. The department shall review the interest rate annually.~~ The department shall set the loan interest rate annually in January after evaluating:

(a) current commercial interest rates for similar loans;

(b) administrative costs of the program, including processing and evaluation costs;

(c) loan delinquency and default rates;

(d) the legislature's requirements for a low interest rate and that the rate be at least 1%; and

(e) any other factor the department determines appropriate.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The 2005 Legislature amended 75-25-101(4), MCA, to increase the maximum loan repayment term from five to ten years. See Section 1, Chapter 11, Laws of 2005. The department believes that the Legislature intended for these changes to produce additional energy generation capacity through the AERLP. The department proposes to amend (1) to allow the parties to the loan to negotiate the repayment period, up to the limit set by the Legislature. This is necessary to give the department the flexibility to meet the needs of borrowers within the limits set by law. The department proposes to refer to the statute for the maximum duration of the repayment period rather than to specify the duration in rule. This would allow future amendments by the Legislature of the maximum loan repayment period to take effect automatically without the need for the department to engage in the time-consuming and inefficient process of having to propose an amendment to the rule. This would give applicants the benefits intended by the Legislature without delay.

The department is proposing to amend (2) to use active voice to make the duty clearer.

The proposed amendment to (3) would make that section conform to rule writing standards and adopt active voice for clarity. The proposed amendment is necessary to have the loan approval rule refer to the rule on evaluation of credit-worthiness. The proposed amendment is also necessary to give the department the flexibility to either contract for services or perform the services in-house.

The Legislature has directed the department, in 75-25-102(4), MCA, to establish the loan interest rate at a low rate that may cover the department's administrative costs, but not less than 1%. The department believes it is necessary to amend (4) to establish the factors that it will use to set the rate. Commercial interest rates are relevant to whether the loans are low interest and attractive to the public. The administrative cost of the program is an appropriate factor, because the Legislature has permitted the department to set the rate to cover its administrative costs, and the interest received may be used to cover those costs. Loan delinquency and default rates are appropriate to consider because they will reduce the amount of money available to the program, so the interest rate might have to be raised to provide more income to the program to make up for the loss from default or delinquency. The department is also proposing to allow for use of other appropriate factors to make the annual rate determination flexible and responsive to circumstances that are not yet known.

4. The proposed new rule provides as follows:

NEW RULE I PROGRAM ADMINISTRATION (1) The department may enter into a contract with, and compensate, a third party to perform any of the duties necessary to fulfill the purposes of this subchapter including, but not limited to:

(a) technically review, evaluate, and approve applications;

(b) executive loan agreements;

(c) secure and service loans;

(d) collect loan payments; and

(e) conduct collections for defaulted loans.

(2) The department, or a third party performing services under a contract entered into pursuant to this rule, may charge an applicant or borrower usual and customary fees including, but not limited to:

(a) application fees;

(b) loan origination fees;

(c) delinquency fees; and

(d) costs of collection.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The statute, 75-25-102(1)(b) and (2), MCA, allows the department to enlist outside help to administer the program. The proposed rule is necessary to make it clear that the department may contract and pay for services that department employees may not be able to provide to the program, either because the expertise is not available in-house or because there is insufficient staff time available.

The department is proposing to adopt a new provision in (2) that would allow the department, or a third party performing services under contract to the department, to charge fees for applications, loan origination, delinquency, and costs of collection.

Financial and service institutions typically charge these fees to cover their costs. The department wishes to be able to use these kinds of institutions to help administer the AERLP, because it does not currently have the expertise or staffing to administer the program. It has analyzed the costs and revenues of its current contractor, Gateway Economic Development Corporation of Helena, and it believes that these fees are currently necessary to cover the costs of the AERLP. If the department needs those fees to make the program pay its own way, subject to the limits set in 75-25-102(3), MCA, now set at $23,000 or 10% of the total loans issued, it wishes to have the flexibility to charge them. The department is proposing to require that the fees be in amounts and kinds that are usual and customary, because it is reasonable to allow such “normal” fees, and it is reasonable not to allow fees that are not normal.

Since the AERLP began, there have been 31 applications for which the department's contractor has collected $2,000 ($50 for an individual application, and $100 for a joint application). Each application fee charged could affect one or two persons, depending upon the type of application submitted. To date, the department has authorized loans totaling $273,255. Loan origination fees on those loans have totaled $5,465, or 2%. Theoretically, the program could loan out up to $1.4 million, the amount available from the loan fund, on which loan origination fees would total

$28,000. The current loan fund, if completely loaned out, could support 35 loans at the maximum of $40,000, or a larger number of loans at lower amounts. There is no minimum loan amount. Application fees are charged to each applicant, and each application is not necessarily approved and funded, so it is estimated that up to 500 persons could possibly be affected by the fees outlined in this proposed rule, with a total cost of about $25,000 ($50/person) for loan application fees. The fees for delinquency and costs of collection are not easy to estimate; so far, only two loans have had fees assessed against them for delinquency or collection, for a total of $70. The statute (75-25-103, MCA) sets a target for a loan loss ratio of under 5%, so the department and its contractor have strived, successfully, to keep delinquent and defaulted loans under that level. The delinquency and collection fees would be those normal and reasonable in the financial, collection, and legal businesses. A borrower can avoid these fees by paying according to the terms of the loan.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to Kathy Montgomery, Air, Energy, and Pollution Prevention Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; fax (406) 841-5222; or e-mail kmontgomery@mt.gov no later than August 3, 2006. To be guaranteed consideration, the comments must be postmarked on or before that date. Written data, views, or arguments may also be submitted electronically via e-mail addressed to kmontgomery@mt.gov no later than 5:00 p.m. August 3, 2006.

6. If persons who are directly affected by the proposed actions wish to express their data, views, and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Kathy Montgomery, Air, Energy, and Pollution Prevention Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; fax (406) 841-5222; or e-mail kmontgomery@mt.gov. A written request for hearing must be received no later than August 3, 2006.

7. If the department receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed actions; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 50 based on the potential number of loan applicants.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation;

hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Joyce Wittenberg, Director's Office, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to jwittenberg@mt.gov or may be made by completing a request form at any rules hearing held by the department.

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

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ John F. North BY: */s/ Richard H. Opper*
JOHN F. NORTH RICHARD H. OPPER, Director
Rule Reviewer

Certified to the Secretary of State, June 26, 2006.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the proposed amendment of ARM 23.17.101, and 23.17.103 through 23.17.108, regarding MLEA attendance; 23.17.311 through 23.17.314, and 23.17.316, regarding MLEA performance criteria; and the proposed adoption of NEW RULE I - rules, regulations, policies, and procedures; and NEW RULE II - waiver of rules	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND ADOPTION

TO: All Concerned Persons

1. On July 26, 2006, at 10:00 a.m., the Montana Department of Justice will hold a public hearing in the auditorium of the Scott Hart Building, 303 North Roberts, Helena, Montana, to consider the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 12, 2006, to advise us of the nature of the accommodation that you need. Please contact Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail jellingson@mt.gov.

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

23.17.101 REQUIREMENTS FOR ~~SWORN~~ PEACE OFFICERS AND PUBLIC SAFETY OFFICERS TO ATTEND BASIC PROGRAMS (1) An applicant to attend MLEA basic programs must be employed by a law enforcement or public safety agency within the state of Montana as a peace officer, ~~detention officer , or~~ a reserve officer, ~~as defined in 7-32-303, MCA; 44-4-302(3), MCA; and 7-32-201(5), MCA.~~ or public safety officer. For purposes of this rule:

(a) a peace officer is defined by 7-32-303(1), 61-10-154(5), and 61-12-201, MCA;

(b) a reserve officer is defined by 7-32-201(5), MCA; and

(c) a public safety officer shall mean the following (which are defined in 7-4-2901, 7-4-2904, 7-4-2905, 7-31-203, 41-5-1701 through 41-5-1706, 44-4-302 through 44-4-305, and 46-23-1003 through 46-23-1005, MCA):

(i) a detention officer;

(ii) a corrections officer;

(iii) a juvenile detention officer;

(iv) a juvenile corrections officer;

(v) a public safety communications officer;

(vi) a detention center administrator;
(vii) a juvenile probation officer;
(viii) a juvenile parole officer;
(ix) an adult probation and parole officer;
(x) a misdemeanor probation officer;
(xi) county coroners; or
(xii) deputy county coroners.

(2) remains the same.

(3) Reserve officers, ~~or detention officers~~ peace officers, or public safety officers who apply to attend ~~the peace officer~~ basic courses must meet the qualifications and requirements for pre-service applicants.

AUTH: 44-10-202, MCA
IMP: 44-10-301, MCA

REASON: This amendment broadens and clarifies who may attend the basic program at the Montana Law Enforcement Academy.

23.17.103 ~~PEACE OFFICER~~ BASIC COURSE ATTENDANCE REQUIREMENTS FOR PRE-SERVICE APPLICANTS (1) Pre-service applicants are persons not employed as full-time or part-time bona fide ~~law enforcement~~ peace officers and public safety officers. Pre-service applicants shall be selected to attend the MLEA basic course based on their ability to meet minimum qualifications. This includes successfully completing the pre-test screening, a written and physical ability test, and post-test screening. Successful applicants will be ranked in accordance with ARM 23.17.107. Scheduled attendance by the successful applicants to the basic course will be by order of rank from the applicant list and by course availability. Pre-service applicants scheduled to attend the basic course shall receive reporting instructions and other information from the academy administrator. ~~Qualified pre-service applicants to the basic course are not qualified to be accepted into any other basic programs presented at the law enforcement academy.~~

AUTH: 44-10-202, MCA
IMP: 44-10-301, MCA

REASON: This amendment defines the requirements for preservice applicants to the MLEA basic course in a manner consistent with the proposed amendment to ARM 23.17.101.

23.17.104 MINIMUM QUALIFICATIONS FOR TESTING AND PRE-TEST SCREENING (1) Pre-service applicants must meet the minimum qualifications for peace officers or public safety officers as stated in 7-32-303, MCA, with the following exceptions:

(a) through (2) remain the same.

(3) Upon receiving an application and prior to acceptance, the academy will conduct a criminal history and pre-employment records check. ~~before the applicant is tested.~~

AUTH: 44-10-202, MCA
IMP: 44-10-301, MCA

REASON: This amendment specifically adds a criminal history and pre-employment records check to be conducted prior to acceptance by the MLEA.

23.17.105 TESTING PROCEDURES (1) remains the same.

(2) The pre-service applicant tests shall consist of ~~the P.O.S.T. J-2 multi-jurisdictional peace officer selection test, the P.O.S.T. R-2 law enforcement officer reading skill examination, the P.O.S.T. W-2 multi-jurisdictional peace officer writing skills examination and the P.O.S.T. Montana law enforcement physical ability test~~ a written examination that measures general aptitudes, reading, and writing skills. A copy of the test used will be filed annually with POST.

AUTH: 44-10-202, MCA
IMP: 44-10-301, MCA

REASON: This amendment broadens the ability of the MLEA to use the examinations that the administration feels are best suited to test applicants.

23.17.106 POST-TEST SCREENING PROCEDURES (1) and (2) remain the same.

(3) The academy administrator or designee shall conduct criminal history, prior employment, and character and background checks on each applicant selected for post-test screening.

(4) An oral interview board shall be created consisting of the academy administrator~~, the basic programs bureau chief,~~ or designee, a representative of a county sheriff's ~~department~~ office, a representative of a municipal police department, and a member of the general public.

(a) An alternate representative of a county sheriff's ~~department~~ office, representative of a municipal police department, and a member of the general public will also be appointed to serve whenever a representative person is unable to attend an interview. All appointments to the board shall be made by the academy administrator and confirmed by the P~~.~~O~~.~~S~~.~~T~~.~~ advisory council.

(5) through (7) remain the same.

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This amendment allows the academy administrator to designate another individual to serve for the administrator on the oral interview board.

23.17.107 RANKING OF PRE-SERVICE APPLICANTS FOR ELIGIBILITY TO ATTEND THE BASIC COURSE (1) Pre-service applicants who pass the ~~J-2, R-2, W-2~~ written tests shall be ranked according to the sum total of the ~~three~~ scores achieved in ~~these~~ the tests and this score shall be converted to a percentage of the

total possible ~~score on all three tests of 207. Total possible percentage points will be~~ 100.

(2) through (5) remain the same.

(6) This ranking is meant only to qualify the applicants for attending the MLEA basic course and is not meant to qualify these individuals for employment as peace officers or public safety officers.

AUTH: 44-10-202, MCA
IMP: 44-10-301, MCA

REASON: This amendment is necessary to provide consistency with the proposed amendments to ARM 23.17.101 and 23.17.105.

23.17.108 PROCEDURES FOR REGISTRATION, ATTENDANCE, AND FEES FOR PRE-SERVICE APPLICANTS (1) through (5) remain the same.

(6) A $2,000 tuition fee, together with payment for meals, ~~and~~ room, necessary uniforms, equipment, and supplies, will be required from each pre-service applicant to be paid in full by the first day of the basic course session to be attended. Proof of tuition subsidies, grants, or scholarships will be accepted in lieu of cash payment.

(7) through (9) remain the same.

AUTH: 44-10-202, MCA
IMP: 44-10-202, 44-10-301, MCA

REASON: This amendment allows the collection of payment for lodging and equipment by the first day of the basic course to be attended.

23.17.311 STUDENT ACADEMIC PERFORMANCE REQUIREMENTS FOR THE BASIC COURSE (1) A student must achieve a final grade score of 75% of ~~a~~ the total possible ~~100% as required by ARM 23.14.413 to pass the course. The total possible score is based on the following criteria:~~ points that can be accumulated for all graded examinations, exercises, and assignments.

~~(a) weekly spelling exams, 10% of final grade;~~
~~(b) notebook grade, 10% of final grade;~~
~~(c) other exams, 10% of final grade;~~
~~(d) mid-term exam, 30% of final grade;~~
~~(e) final exam, 40% of final grade.~~

(2) The total accumulative points possible for each basic course shall be filed with the POST advisory council in conjunction with the annual review of the curriculums as prescribed in ARM 23.14.416(3).

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This amendment gives the administration of the MLEA greater flexibility in weighting the components that are used in determining the final grade of a student.

23.17.312 OTHER STUDENT PERFORMANCE MEASURES (1) remains the same.

(a) the scores ~~will not~~ may be part of the final grade, ~~but will~~ and can be used to establish class ranking of the student;

(b) and (c) remain the same.

(2) Performance evaluations will be conducted on a ~~weekly~~ regular basis by the academy administrator or their designee. Performance evaluations will be summarized orally and in writing and will be based upon the following behavioral categories:

(a) through (4) remain the same.

(a) a total of three "needs to improve" evaluations in any one specific category or a total of any two "not acceptable" evaluations will result in a corrective action plan, or could result in immediate dismissal from the basic course by the academy administrator.

(5) A copy of the written summary of a student's performance evaluation will be provided to the student ~~each week,~~ and to the student's agency administrator when applicable, and to any potential employer who inquires. A copy will be kept on file in the student's record maintained by the academy administrator.

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This amendment gives the administration greater flexibility in evaluating other student performance measures and defining appropriate consequences.

23.17.313 MLEA FIREARMS PERFORMANCE REQUIREMENTS FOR THE LAW ENFORCEMENT OFFICER BASIC COURSE (1) A student must achieve a ~~qualification~~ passing score ~~of not less than eighty (80) percent of a possible 100 percent~~ in the MLEA firearms ~~qualification~~ training course.

(2) The total accumulative points possible for the firearms training course shall be filed with the POST advisory council in conjunction with the annual review of the curriculums as prescribed in ARM 23.14.416(3).

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This amendment provides the administration with greater flexibility in determining a passing score in the MLEA firearms training course.

23.17.314 PHYSICAL PERFORMANCE REQUIREMENTS FOR THE LAW ENFORCEMENT OFFICER BASIC COURSE (1) remains the same.

(2) A student may request a substitution for any of the above physical tests, but before any substitution is granted, the request will be reviewed by the academy

~~and the POST advisory council~~ administrator. The student may be asked to provide medical records documenting the need for the substitution, and these medical records may be submitted for review by a physician designated by the academy before any request for substitution is granted.

(3) A ~~manual~~ document detailing fitness ~~standards~~ requirements, academy expectations, and student preparation procedures will be furnished to all students who register for the basic course.

(4) Student performance will be measured at ~~the following~~ times during and/or before the basic course~~:~~. These testing times may consist of the following:

(a) entry fitness ~~assessment during week one~~ test within 40 days of the start of the basic course;

(b) midterm fitness ~~assessment during week five~~ test; and

(c) final fitness ~~assessment during week ten~~ test.

(5) Students who arrive at the academy with an injury or condition that prevents them from attempting ~~the entry~~ any of the prescribed fitness ~~assessment~~ tests will not be allowed to complete the basic course.

(6) At the ~~midterm and final~~ prescribed fitness ~~assessments~~ tests, the student must pass every physical test, ~~by placing in the fortieth (40th) percentile of the national norms as defined by the institute of aerobics research, Dallas, Texas. At the midterm and final fitness assessments,~~ meeting the required levels of performance as prescribed by administrative policy. ~~s~~Students who fail to meet ~~40th percentile~~ the required performance ~~standards~~ levels will be given one opportunity for retest in all ~~four~~ physical tests within ten business days of the posted date of failure. Failure to pass the prescribed physical fitness test may result in expulsion or termination from the basic course.

(7) All basic course students ~~must successfully complete the midterm fitness assessment. Students who fail to perform to 40th percentile performance standards during the midterm fitness assessment~~ expelled or terminated due to failure of the physical fitness tests may be dropped from the basic course session and required to reapply to complete a future session of the entire ~~ten-week~~ course. ~~Students who fail to perform to 40th percentile performance standards during the midterm fitness assessment will be notified that they may be allowed to return to the academy within six months to complete only the remaining five weeks of training if:~~

~~(a) the student reapplies to complete the last five weeks of basic course training before the end of the original basic course session;~~

~~(b) the student's agency training officer meets with the academy administrator to discuss fitness performance and other aspects of student performance during the first half of the basic course;~~

~~(c) the academy and the affected agency negotiate and develop a plan to manage the student's fitness performance problems, keep the student's initial basic training updated, match the portions of the curriculum that are missed to those that will be taken, account for any increased costs which will arise as a result of the student's return and schedule attendance in accordance with the current basic course waiting list; and~~

~~(d) the student completes the academy midterm fitness assessment to 40th percentile performance standards immediately upon return to the last half of the basic course~~.

~~(8) Students who fail to complete the midterm fitness assessment because of an injury or an illness which occurs during the basic course may be allowed to continue in the basic course subject to:~~

~~(a) compliance with all reporting guidelines as detailed in the student handbook;~~

~~(b) a case-by-case review of the circumstances surrounding the incident during which an injury occurred; and~~

~~(c) medical review completed by a physician approved by the academy.~~

~~(9)~~ (8) All basic course students must successfully complete the final fitness ~~assessment~~ test in order to complete the basic course and attend graduation. Students who ~~successfully complete the midterm fitness assessment but~~ fail the final fitness ~~assessment~~ test will be given one opportunity for retest within ~~six months of the course completion date~~ ten business days of the posted date of failure. Failure to successfully complete a retest within ~~six months~~ ten business days of the posted date of failure or failure to meet the fitness requirements upon re-entry of the next successive basic course, will require reapplication and completion of the entire ~~ten-week~~ basic course.

~~(10) When an injury occurs subject to the guidelines noted in ARM 23.17.314(8), students who have completed either the entry fitness assessment or the midterm fitness assessment to 40th percentile performance standards but who do not attempt the final fitness assessment because of the injury will be allowed to attend graduation but will not be issued a diploma and will be required to return for a retest within six months. Injured students who never complete any fitness assessment to 40th percentile performance standards will not be allowed to attend graduation but may be allowed to retest within six months.~~

AUTH: 44-10-102, 44-10-202, MCA
IMP: 44-10-102, 44-10-202, MCA

REASON: This amendment provides greater flexibility to the administration in determining and using the tests that will best evaluate the physical performance of the students.

23.17.316 BASIC COURSE ACHIEVEMENT AWARDS (1) remains the same.

(2) Additional awards may be presented, when authorized by the academy administrator, for recognition of excellence or outstanding performance.

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This amendment allows the administration to make awards in addition to those specifically listed when the circumstances justify it.

4. The proposed new rules provide as follows:

NEW RULE I RULES, REGULATIONS, POLICIES, AND PROCEDURES

(1) The Montana Law Enforcement Academy shall implement rules, regulations, policies, and procedures that shall govern the operations of the various courses, students, and staff.

(2) The Montana Law Enforcement Academy rules, regulations, policies, and procedures manual may be revised through removal, addition, or modification on an as-needed basis, as determined by the academy administrator.

(3) The Montana Law Enforcement Academy rules, regulations, policies, and procedures manual will be filed with the POST advisory council and attorney general's office and will be available for public inspection.

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This new rule expressly authorizes the administration of the MLEA to develop, implement, and modify internal rules, regulations, policies, and procedures in the administration of the academy that are consistent with Montana statutes and Administrative Rules.

NEW RULE II WAIVER OF RULES (1) The academy administrator, with the advice and consent of the Attorney General, may issue waivers on the rules and/or standards contained herein, separately or collectively upon a showing of good cause.

AUTH: 44-10-202, MCA
IMP: 44-10-202, MCA

REASON: This new rule allows the academy administrator the ability to waive any of the administrative rules contained within ARM Title 23, chapter 17 related to the MLEA but only after the concurrence of the Attorney General and upon a showing of good cause.

5. 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 Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, fax (406) 444-3549; or e-mail jellingson@mt.gov, and must be received no later than August 3, 2006.

6. Jon Ellingson, assistant attorney general, Department of Justice, Legal Services Division, has been designated to preside over and conduct the hearing.

7. The Department of Justice 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 of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division

of Criminal Investigation, the Legal Services Division, the Consumer Protection Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to Jon Ellingson, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, faxed to the office at (406) 444-3549, ATTN: Jon Ellingson, e-mailed to jellingson@mt.gov, or may be made by completing a request form at any rules hearing held by the Department of Justice.

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

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

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State June 26, 2006.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment of ARM 24.11.452A, 24.11.613, and 24.11.2205, all related to unemployment insurance	)))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 28, 2006, at 1:30 p.m., the Department of Labor and Industry will hold a public hearing in the first floor conference room, Room 104, of the Walt Sullivan Building, 1327 Lockey, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., July 24, 2006, to advise us of the nature of the accommodation that you need. Please contact Don Gilbert, Management Analyst, Unemployment Insurance Division, Department of Labor and Industry, P.O. Box 8020, Helena, Montana 59604-8020; telephone (406) 444-4336; fax (406) 444-2993; TDD (406) 444-0532; or e-mail dgilbert@mt.gov.

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

24.11.452A ELIGIBILITY FOR BENEFITS (1) and (1)(a) remain the same.

(b) provide to the department, within ~~10~~ eight days of the date of a mailed, faxed, or telephoned request, such information as the department may require for the proper administration of the claim.

(2) through (4) remain the same.

AUTH: 39-51-301, 39-51-302, MCA
IMP: 39-51-2101, 39-51-2104, 39-51-2304, MCA

REASON: It is reasonably necessary to shorten the time allowed for a claimant to respond with information requested by the department in order to meet performance standards established by the U.S. Department of Labor. The U.S. Department of Labor allows 21 days from the filing date of a claim for a state unemployment insurance agency to obtain statements and rebuttals from the claimant and the last employer(s) before any resultant decision is considered “untimely”. If a state has 21% or more of its claims classified as “untimely”, the state must draft and implement corrective action plans, which Montana has done during the past years.

Current rules permit a ten day response period for the employer and the claimant, which leaves only one day for the agency to receive and act upon the information before the claim is "untimely". The proposed changes are an attempt to reduce periods by a small amount, ten days to eight days, thus providing five days for the department to receive and issue a "timely" decision. Given the speedier methods of communicating by fax, e-mail, and telephone versus mailed letters, the department does not believe this change will adversely impact employers or claimants. This same change was made to other unemployment insurance rules in MAR Notice No. 24-11-200. The proposed amendment to this rule was inadvertently left out of the earlier rules notice.

24.11.613 CHARGING BENEFIT PAYMENTS TO EXPERIENCE-RATED EMPLOYERS -- CHARGEABLE EMPLOYERS (1)~~(a) Beginning with initial claims filed on or after October 1, 1989, benefit~~ Benefit payments are charged to each employer who paid wages to the claimant during the base period. The charge will be based on the percentage of wages the employer paid to the claimant during the base period. For example, if the claimant earned 10% of the base period wages working for an employer, that employer would be chargeable for 10% of the benefits drawn by the claimant.

(b) through (d) remain the same, but are renumbered (a) through (c).

(2) remains the same.

(3)~~(a)~~ When the first benefit check is issued, the department mails a "Potential Benefit Charge Notice" to the chargeable employer. This notice tells the employer that the benefits paid to the claimant will be charged to the employer's account unless the employer shows that the claimant was fired for misconduct or quit without good cause attributable to employment. The explanation of the separation must contain specific details of the separation, including copies of any supporting documents.

(b) remains the same, but is renumbered (a).

~~(c)~~(b) An employer has ~~10~~ eight calendar days from the date of the notice to respond to the "Potential Benefit Charge Notice" and/or "Notice of Claim Filing and Potential Benefit Charge". If an employer fails to show good cause for delay in responding to either notice, the employer response will not be considered timely and will not be used in the department's determination.

(d) and (e) remain the same, but are renumbered (c) and (d).

(4) remains the same.

AUTH: 39-51-301, 39-51-302, MCA
IMP: 39-51-1214, MCA

REASON: It is reasonably necessary to change this rule for the same reasons as discussed for the previous rule. There is reasonable necessity to delete the archaic reference to claims filed on or after October 1, 1989, while otherwise amending the rule. In addition, there is reasonable necessity while otherwise amending the rule, to revise the earmarks (numbering) to conform to current standards issued by the Secretary of State's Administrative Rules Bureau.

24.11.2205 EXPERIENCE-RATING RECORD TRANSFER (1) remains the same.

(2) Except as otherwise provided in this rule, an application for transferring the experience-rating record is automatically sent to the successor employer if, within 90 days of the change of ownership, the department discovers that an account involves a predecessor employer. ~~After 90 days, the successor employer must request the form.~~

(3) An experience-rating record is automatically transferred from the predecessor employer to the successor employer if the ~~predecessor employer had a deficit rate and the~~ ownership, ~~or~~ management, or control of the successor entity is substantially the same as ~~that of~~ the predecessor entity. Such a record includes the amount of contributions paid, benefits charged, and taxable wages reported. For purposes of transferring the ~~deficit~~ experience rating, "substantially the same" means ~~that~~ at least 50% of the successor entity is owned, managed, or controlled by the same ~~individuals~~ persons or entities who owned, managed, or controlled the predecessor entity.

(4) and (5) remain the same.

AUTH: 39-8-201, 39-51-301, 39-51-302, MCA
IMP: 39-8-201, 39-51-1219, MCA

REASON: The 2005 unemployment insurance housekeeping bill, Chap. 466, L. of 2005 (House Bill 159), contained amendments to Montana's unemployment tax laws that were required by federal unemployment insurance laws. The federal law prohibits "State Unemployment Tax Act dumping", known as "SUTA dumping." This phrase describes what occurs when an employer is able to artificially change the rate of its state unemployment insurance tax by transferring ownership to a new entity that can qualify for a lower tax rate. It is reasonably necessary to change the above rule in order to make it comply with the new language in 39-51-1219, MCA. The department anticipates additional proposed new rules and rule amendments in order to administer the new SUTA dumping statute, but is not ready to propose those additional changes at this time.

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: Don Gilbert, Management Analyst, Program Support Bureau, Unemployment Insurance Division, Department of Labor and Industry, P.O. Box 8020, Helena, Montana 59604-8020; by facsimile to (406) 444-2993; or by e-mail to dgilbert@mt.gov, and must be received no later than 5:00 p.m., August 4, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department's website at http://dli.mt.gov/events/calendar.asp, under the Calendar of Events, Administrative Rules Hearings 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 difficulties in accessing the website or sending an e-mail do not excuse late submission of comments.

6. The department maintains lists 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 all Department of Labor and Industry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department of Labor and Industry attention: Mark Cadwallader, 1327 Lockey St., P.O. Box 1728, Helena, Montana, 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

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

8. The department's Hearings Bureau has been designated to preside over and conduct the hearing.

/s/ MARK CADWALLADER
Mark Cadwallader
Rule Reviewer

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

Certified to the Secretary of State June 26, 2006

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment of ARM 24.29.2831 related to penalties assessed against uninsured employers	)))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 28, 2006, at 11:00 a.m., or as soon thereafter as is feasible, a public hearing will be held in the first floor conference room, Room 104, of the Walt Sullivan Building, 1327 Lockey Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on July 24, 2006, to advise us of the nature of the accommodation that you need. Please contact the Employment Relations Division, Department of Labor and Industry, Attn: Cathy Brown, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-7720; fax (406) 444-3465; TDD (406) 444-5549; or e-mail cabrown@mt.gov.

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

24.29.2831 COLLECTION OF PENALTIES AND OTHER PAYMENTS FROM UNINSURED EMPLOYERS (1) and (2) remain the same.

(3) To the extent that the state compensation insurance fund (plan no. 3) has a multiple pricing of premium structure in effect during any period in which the employer was uninsured, the penalty ~~will~~ may be calculated using the ~~rate~~ highest tier (or pricing level) that ~~would~~ could have been charged by the state fund during that period. ~~If there is evidence that a premium modifier would have been applied by plan no. 3, the penalty will be calculated according to a premium rate that includes the modifiers.~~

(a) For good cause shown, the penalty will be calculated using the rate the state fund would have actually charged the employer during the uninsured period. The employer has the burden of proof of establishing what rate or rates would have been charged by the state fund during the uninsured period.

(b) The employer has the burden of proof of establishing good cause for use of the lower rate as provided in (3)(a).

(i) The employer's alleged financial inability to pay the cost of workers' compensation insurance premium during the uninsured period does not constitute "good cause" for the purposes of this rule.

(ii) The employer's alleged financial inability to pay the penalty imposed by this rule does not constitute "good cause" for the purposes of this rule.

(4) remains the same.

AUTH: 39-71-203, MCA
IMP: 39-71-504, MCA

REASON: There is reasonable necessity to amend ARM 24.29.2831 in order to clarify the process that the uninsured employers' fund ("the UEF") assesses penalties against uninsured employers, as provided by 39-71-504, MCA. With the relatively recent change by the state compensation insurance fund ("the state fund") to a five-level pricing structure from a three-tiered structure, the existing rule provisions did not provide suitable clarity or guidance to UEF auditors or uninsured employers to readily calculate the amount of penalty being imposed. In proposing the amendments, the UEF considered using either the highest rate (tier 5) or the median rate (tier 3) set by the state fund for each applicable classification code. The state fund's current practice is to assign a new employer [one without a history of doing business with the state fund] initially to tier 4. The UEF believes that using the highest tier (pricing level) is consistent with the legislative requirement that an uninsured employer pay a penalty for failing to provide legally required workers' compensation coverage for its employees. The UEF notes that using a lower tier for establishing the penalty may provide some economic incentive for an employer to flaunt the coverage requirements of the law, figuring that if caught, the employer would only have to pay the rates it likely would have been charged had it complied with the law. In addition, deletion of the word "rate" and the use of "tier" or "price level" clarifies that the pricing structure, rather than classification codes, is what is being discussed in the rule. The UEF believes that the proposed "good cause" provisions provide a means to ameliorate any perceived harshness of the proposed amendments. Finally, the UEF also believes that it is reasonably necessary to advise uninsured employers in advance that a claim of inadequate financial resources is not, and will not be, considered to be "good cause" under the rule.

Based upon approximately 650 uninsured employers penalized during fiscal year 2005, and assuming the same level of enforcement activity, the UEF estimates that approximately 650 uninsured employers a year may be affected by the proposed amendments. The UEF is unable to estimate the fiscal impact on uninsured employers, because of the variability of the factors (amount of payroll, worker classification codes, length of time uninsured, and dates of uninsured periods) that make up the penalty, and due to the relatively low payment (collection) level on penalties.

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: Keith Messmer, Bureau Chief, Workers' Compensation Regulations Bureau, Employment Relations Division, Department of Labor and Industry, P.O. Box 8011, Helena, Montana 59604-8011; by facsimile to (406) 444-3465; or by e-mail to kmessmer@mt.gov, and must be received no later than 5:00 p.m., August 4, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department's site at http://dli.mt.gov/events/calendar.asp, under the Calendar of Events, Administrative Rules Hearings 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 difficulties in accessing the website or sending an e-mail do not excuse late submission of comments.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Department of Labor and Industry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1327 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@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. The department's Hearings Bureau has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER	/s/ DORE SCHWINDEN
Mark Cadwallader	Dore Schwinden, Deputy Commissioner
Alternate Rule Reviewer	DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 26, 2006

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment of ARM 24.30.1302 and 24.30.1311, relating to occupational health and safety in mines	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 28, 2006, at 10:00 a.m., a public hearing will be held in the first floor conference room, Room 104 of the Walt Sullivan Building, 1327 Lockey Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on July 24, 2006, to advise us of the nature of the accommodation that you need. Please contact the Employment Relations Division, Department of Labor and Industry, Attn: Jolene Loomis, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-6401; fax (406) 444-9396; TDD (406) 444-9696; or e-mail jloomis@mt.gov.

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

24.30.1302 COAL MINING CODE (1) remains the same.

(2) The Department of Labor and Industry adopts under 50-73-103, MCA, coal mine safety standards to protect employees who work in coal mines in this state. The following standards are adopted by reference to certain safety and health rules and standards that have been adopted by the federal government and are found in the Code of Federal Regulations (CFR), Title 30, revised as of July 1, ~~1997~~ 2006:

(a) ~~30 CFR 41.1 through 30 CFR 41.30~~ 30 CFR part 41, pertaining to notification by the mine of its legal identity;

(b) ~~30 CFR 70.1 through 30 CFR 70.210~~ 30 CFR part 47, pertaining to hazard communication;

(c) ~~30 CFR 70.220~~ 30 CFR part 48, pertaining to training and retraining of miners;

(d) ~~30 CFR 70.300 through 70.511~~ 30 CFR part 62, pertaining to occupational noise exposure;

(e) ~~30 CFR 71.1 through 71.300~~ 30 CFR part 70, pertaining to mandatory health standards in underground coal mines;

(f) ~~30 CFR 70.1900~~ 30 CFR part 71, pertaining to mandatory health standards in surface coal mines and surface work areas of underground coal mines;

(g) ~~30 CFR 71.400 through 30 CFR 74.3~~ 30 CFR part 72, pertaining to health standards for coal mines;

(h) ~~30 CFR 75.1 through 30 CFR 75.154~~ 30 CFR part 74, pertaining to coal mine dust personal sampler units;

(i) ~~30 CFR 75.159 through 30 CFR 1200-1~~ 30 CFR part 75, pertaining to mandatory safety standards in underground coal mines, except:

(i) 30 CFR 75.155, which is not applicable because Montana licensing statutes for crane and hoist operators apply; and

(ii) 30 CFR 75.1200-2, which is not applicable because 50-73-201, MCA, provides that mine maps must be made to a scale of not less than 200 feet to 1 inch; and

(j) ~~30 CFR 75.1201 through 30 CFR 77.104; and~~ 30 CFR part 77, pertaining to mandatory safety standards in surface coal mines and surface work areas of underground coal mines, except:

~~(k) 30 CFR 77.106 through 77.1916; but~~

(i) as to the requirements of 30 CFR 77.807.1, the minimum height for high voltage power lines is 20 feet above the ground; and

(ii) through (4) remain the same.

AUTH: 50-71-301 50-73-103, MCA
IMP: 50-73-103, 50-73-201, 50-73-302, MCA

REASON: There is reasonable necessity to amend ARM 24.30.1302 in order to incorporate by reference the current federal rules promulgated by the Mine Safety and Health Administration (MSHA). These rules are periodically updated by MSHA. The July 1, 2006, version of the Code of Federal Regulations is proposed for incorporation by reference because it is the most current version. Updating the reference to the most current set of federal regulations is appropriate and necessary in order to ensure that mine operators and workers are subject to a consistent set of safety and health standards by both state and federal authorities.

In addition, there is reasonable necessity to reorganize the format of the portions of the rules incorporated by reference to enhance clarity and ease of use while the rule is otherwise being amended. There is also reasonable necessity to amend (2)(j)(i) to correct a citation to the CFR that omitted the part number while the rule is otherwise being amended. There is reasonable necessity to amend the AUTH citation to add the specific statute that grants the department rulemaking authority with respect to coal mines. There is reasonable necessity to amend the IMP citation to include a reference to 50-73-201, MCA, which is specifically referenced in the proposed amendments, as well as the hoisting engineer licensing provisions provided by 50-73-302, MCA.

The department notes that the existing exceptions contained in (2)(i) are based upon Montana's licensing laws for crane and hoist operators, as described in Title 50, chapter 76, MCA, and referenced by 50-73-302, MCA, and the map scale requirements found at 50-73-201, MCA. The existing exceptions contained in (2)(j) are based upon Montana electrical standards as found in ARM 24.301.401, and the

prohibition about wearing rings or having unrestrained long hair is based on the department's experience and accepted occupational safety practices.

24.30.1311 INCORPORATION BY REFERENCE OF RULES REGARDING EMPLOYEE HEALTH AND SAFETY IN MINES OTHER THAN COAL MINES

(1) The Department of Labor and Industry adopts and incorporates by reference the United States Department of Labor, Mine Safety and Health Administration's regulations, Title 30, Code of Federal Regulations, parts 46, 47, 48, 49, 50, 56, 57, 58, and 62, revised as of July 1, ~~2004~~ 2006.

(2) and (3) remain the same.

AUTH: 50-71-301, 50-71-311, MCA
IMP: 50-71-301, 50-71-311, 50-71-312, 50-72-102, MCA

REASON: There is reasonable necessity to amend ARM 24.30.1311 in order to incorporate by reference the current federal rules promulgated by the Mine Safety and Health Administration (MSHA). These rules are periodically updated by MSHA. The July 1, 2006, version of the Code of Federal Regulations is proposed for incorporation by reference because it is the most current version. Updating the reference to the most current set of federal regulations is appropriate and necessary in order to ensure that mine operators and workers are subject to a consistent set of safety and health standards by both state and federal authorities.

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: Chris Catlett, Bureau Chief, Safety Bureau, Employment Relations Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728; by facsimile to (406) 444-9396; or by e-mail to ccatlett@mt.gov, and must be received no later than 5:00 p.m., August 4, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department's site at http://dli.mt.gov/events/calendar.asp, under the Calendar of Events, Administrative Rules Hearings 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 difficulties in accessing the website or sending an e-mail do not excuse late submission of comments.

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

wishes to receive notices regarding all Department of Labor and Industry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1327 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@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. The department's Hearings Bureau has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER	/s/ DORE SCHWINDEN
Mark Cadwallader	Dore Schwinden, Deputy Commissioner
Alternate Rule Reviewer	DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 26, 2006

BEFORE THE BOARD OF PRIVATE SECURITY PATROL
OFFICERS AND INVESTIGATORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment of ARM 24.182.401 fee schedule, 24.182.501 and 24.182.505 licensure requirements, the proposed adoption of New Rule I type of firearm, New Rule II requirements for firearms instructor licensure, New Rule III armed requalification required annually and New Rule IV company licensure and branch offices and the proposed repeal of 24.182.413 rules for branch office	) NOTICE OF PUBLIC HEARING) ON PROPOSED AMENDMENT,) ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On July 27, 2006, at 9:00 a.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Private Security Patrol Officers and Investigators (board) no later than 5:00 p.m., July 21, 2006, to advise us of the nature of the accommodation that you need. Please contact Sandy Matule, Board of Private Security Patrol Officers and Investigators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2387; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdpsp@mt.gov.

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

24.182.401 FEE SCHEDULE (1) through (1)(a)(iii) remain the same.
(iv) Branch office 25
(b) through (2)(a)(iii) remain the same.
(iv) Branch office 25
(b) through (3)(a) remain the same.
~~(b) FBI processing fee 24~~
~~(c) Department of Justice processing fee 8~~
(d) through (j) remain the same but are renumbered (b) through (h).
(4) remains the same.

(5) Fees for applicant fingerprint checks are set by the FBI and Montana Department of Justice, and are subject to change. Current fee amounts for fingerprint checks are available at the board office.

AUTH: 37-1-134, 37-60-202, MCA
IMP: 25-1-1104, 37-1-134, 37-60-202, 37-60-304, 37-60-312, MCA

REASON: The board has determined that reasonable necessity exists to amend this rule to further implement 37-60-202(3)(b), MCA, requiring the establishment of license fees for branch offices. The board is proposing to charge a $25 license fee to cover the costs of the administrative steps required to process branch office applications. This amendment will affect approximately 100 branch offices of companies that are currently not licensed, and the board estimates that the aggregate fiscal impact will be approximately $2,500 per year.

It is reasonably necessary to amend the rule to no longer specifically enumerate the fees for applicant fingerprint checks. These fees are set by the Federal Bureau of Investigation (FBI) and the Montana Department of Justice and are therefore subject to change by these entities. The board is amending the rule to clarify that the board does not set the fees, but only collects and forwards the money to the appropriate agencies. This process is not changing and there is no estimated fiscal impact to licensees or license applicants. Also, the board is clarifying that the current fees for fingerprint checks may be obtained by contacting the board office. Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

24.182.501 REQUIRED INFORMATION FOR APPLICATION (1) through (7) remain the same.

~~(8) Contract security companies, proprietary security organizations and electronic security companies shall provide proof of registration with the Montana secretary of state's office and provide the following information:~~

~~(a) for individual ownership, the name of the owner and the owner's address;~~

~~(b) for a partnership, a list of partners and their addresses;~~

~~(c) for a limited liability company, a list of the members and their addresses; or~~

~~(d) for a corporation, a list of principal officers and their addresses.~~

AUTH: 37-1-131, 37-60-202, MCA
IMP: 37-60-304, MCA

REASON: It is reasonably necessary to amend this rule to delete section (8) as the board is proposing New Rule IV elsewhere in this notice. New Rule IV will address the requirements particular to company licensees and will include the requirements formerly in (8) of this rule.

24.182.505 WRITTEN EXAMINATION (1) An applicant for licensure as a private investigator, a resident manager, a firearms instructor, or a security alarm installer shall take and pass a written examination.

(1) through (8) remain the same but are renumbered (2) through (9).

AUTH: 37-1-131, 37-60-202, MCA
IMP: 37-60-303, MCA

REASON: The board determined that reasonable necessity exists to amend this rule and specify which license applicants must take and pass written examinations. Section 37-60-303, MCA, permits the board to require applicants to demonstrate licensure qualifications by written examination. The board concluded that requiring private investigators, resident managers of security companies, firearms instructors, and security alarm installers to successfully complete a written examination will further safeguard the public health, safety, and welfare by ensuring the board is licensing qualified and competent applicants.

4. The proposed new rules provide as follows:

NEW RULE I TYPE OF FIREARM (1) Upon receipt of armed endorsement, a licensee is endorsed and approved by the board to carry the firearm(s) (by make and caliber) with which the licensee trained or qualified with a board approved licensed firearms instructor and course.

AUTH: 37-1-131, 37-60-202, MCA
IMP: 37-60-202, 37-60-405, MCA

REASON: The board determined there is reasonable necessity to adopt New Rule I and further implement 37-60-405, MCA, which requires board approval of weapons carried by armed licensees. The types of firearms for which licensees could receive armed endorsement were previously listed in a now-repealed administrative rule. Following board review and discussion, the board concluded that licensees should receive approval and endorsement to carry any and all firearms for which the licensee is adequately trained or qualified to carry.

NEW RULE II REQUIREMENTS FOR FIREARMS INSTRUCTOR LICENSURE (1) An applicant for licensure as a firearms instructor shall submit evidence that the applicant:

(a) is at least 21 years of age;

(b) maintains or is otherwise insured under a policy with a minimum of $500,000 occurrence form of commercial general liability which includes personal injury; and

(c) has successfully completed a firearms instructor training course conducted by any of the following:

(i) National Rifle Association (NRA);

(ii) Peace Officers' Standards and Training (POST);

(iii) United States military; or

(iv) federal law enforcement.

(2) An applicant shall provide the following additional information at the time of application:

(a) detailed outlines of all courses to be instructed; and
(b) proof of education and training, which may include:
(i) transcripts;
(ii) diplomas;
(iii) seminar certificates;
(iv) course completion certificates; or
(v) other supporting evidence.

(3) An applicant must successfully pass any required written examination with a score of 70% or higher.

(4) Licensed firearms instructors shall:
(a) file a yearly certificate of insurance with the board; and
(b) conduct at least one board approved combat shooting course annually.

(5) Instructors may only offer courses in which they have been approved by the board to instruct.

AUTH: 37-60-202, MCA
IMP: 37-1-131, 37-60-202, MCA

REASON: The board determined there is reasonable necessity to adopt New Rule II to implement 37-60-202, MCA, which requires the board to adopt and enforce rules for the licensure of firearms instructors. The board is proposing to adopt this rule to identify the minimum requirements for initial and continued licensure as a firearms instructor as determined by the board to be necessary for the public's protection.

NEW RULE III REQUALIFICATION REQUIRED ANNUALLY (1) Licensees with armed status shall requalify annually with a board-approved firearms instructor to maintain their firearm endorsement each year. Requalification will be based upon satisfactory completion of a board-approved combat shooting course at least once during each year.

AUTH: 37-60-202, MCA
IMP: 37-60-202, 37-60-303, MCA

REASON: It is reasonably necessary to adopt New Rule III to implement 37-60-303(5), MCA, that requires armed status applicants to submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board. The board concluded that requiring annual completion of a board-approved combat shooting course to renew and maintain licensees' armed endorsement would heighten the public's protection by increasing the competency and performance of the board's armed licensees.

NEW RULE IV COMPANY LICENSURE AND BRANCH OFFICES (1) An applicant for licensure as a contract security company, electronic security company, or proprietary security organization must obtain a company license for the applicant's principal place of business within Montana. Subsequent company locations within Montana may be licensed as branch offices.

(2) Company licensees shall provide proof of registration with the Montana Secretary of State's office and provide the following information:

(a) for individual ownership, the name of the owner and the owner's address;

(b) for a partnership, a list of partners and their addresses;

(c) for a limited liability company, a list of the members and their addresses; or

(d) for a corporation, a list of principal officers and their addresses.

(3) No branch office shall be authorized for any category of licensure without board approval.

(4) An applicant for licensure for a branch office shall provide the name of the resident manager appointed to exercise direct supervision, control, charge, management, or operation of each branch office located in Montana.

(5) Each branch office shall have at least one resident manager who is:

(a) typically present during regular Monday through Friday office hours; and

(b) who has established to the board's satisfaction that the resident manager meets the necessary experience qualifications of ARM 24.182.503.

AUTH: 37-1-131, 37-60-202, MCA
IMP: 37-60-202, 37-60-302, 37-60-303, MCA

REASON: It is reasonably necessary to adopt New Rule IV to set forth the particular requirements of company and branch office licensees. The new rule clarifies that all security companies doing business within Montana must obtain a company license for the principal business location in Montana and may then license subsequent locations as branch offices. Further, the new rule requires that company licensees submit the names of all appointed resident managers to the board prior to licensure of the branch offices. The remaining rule text contains current requirements of company licensees that are being clarified and incorporated from ARM 24.182.413 and 24.182.501 so company licensure requirements are consolidated in one rule.

5. The rule proposed to be repealed is as follows:

24.182.413 RULES FOR BRANCH OFFICE found at ARM page 24-20833.

AUTH: 37-60-202, MCA
IMP: 37-60-302, MCA

REASON: It is reasonable and necessary to repeal ARM 24.182.413 as the rule text is being incorporated for better organization and increased clarity into New Rule IV of this notice.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted by mail to Sandy Matule, Board of Private Security Patrol Officers and Investigators, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdpsp@mt.gov and must be received no later than 5:00 p.m., August 4, 2006.

7. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.privatesecurity.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.

8. The Board of Private Security Patrol Officers and Investigators 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 Private Security Patrol Officers and Investigators administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Private Security Patrol Officers and Investigators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdpsp@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

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

10. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PRIVATE SECURITY PATROL
OFFICERS AND INVESTIGATORS
LINDA SANEM, CHAIRPERSON

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State June 26, 2006

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment of ARM 24.213.402 application for licensure and 24.213.408 examination	)))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 28, 2006, at 9:00 a.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Respiratory Care Practitioners no later than 5:00 p.m., on July 21, 2006, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrcp@mt.gov.

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

24.213.402 APPLICATION FOR LICENSURE (1) An application for a license or temporary practice permit must be made on a form provided by the ~~board~~ department and completed and signed by the applicant with the signature acknowledged before a notary public.

(2) The application must be typed or legibly written in ink, accompanied by the appropriate application and license fees, and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 28, MCA, and rules promulgated thereunder. Pursuant to 37-28-202, MCA, a copy of the National Board for Respiratory Care (NBRC) card, showing that the applicant has successfully completed the NBRC examination, demonstrates that the applicant has completed the requirements for licensure.

(3) through (6) remain the same.

(7) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, at 42 USC sections 12101, et seq., must be made on forms provided by the ~~board~~ department and submitted with the application ~~prior to any application deadline set by the board~~.

(8) remains the same.

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-28-104, MCA
IMP: 37-1-104, 37-1-134, 37-28-201, 37-28-202, MCA

REASON: Montana's 59th Legislature enacted House Bill (HB) 182 (Chapter 467, L. 2005) that became effective July 1, 2005. This legislation generally revised and consolidated professional and occupational licensing laws; provided distinction between department and board or program duties regarding licensure, examination, and fees; required standardization of forms; set uniform standards for license renewal, including renewal periods; removed specific board or program references if duties are assigned to the department or provided generally to all boards; and repealed certain board-specific or program-specific references to licensure, examinations, and fees. The amended rule implements the change in distinction between department and board duties.

Possession of the National Board for Respiratory Care (NBRC) practitioners card confirms that the applicant has completed high school or the equivalent; and has completed a respiratory care educational program accredited or provisionally accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education and passage of the entry-level examination written by the National Board for Respiratory Care or another examination that satisfies the standards of the National Commission for Health Certifying Agencies or commission's equivalent pursuant to 37-28-202, MCA. The proposed amendment is reasonably necessary in order to clarify to applicants that submission of the NBRC card means that applicants do not have to also supply the underlying documents (high school and college transcripts, and independent verification of having passed the NBRC examination) as part of the application process. In addition to being reasonably necessary to reduce the burden upon applicants, the proposed amendments are reasonably necessary in order to provide a reduced volume of documents that will allow department staff to more efficiently process applications.

There is also reasonable necessity to amend the authority and implementing citations to the rule, while the rule is otherwise being amended, in order to correctly reflect the board's rulemaking authority and the statutes being implemented by the rule.

24.213.408 EXAMINATION (1) The board determines that a scaled score of 75 on a 0 to 99 scale of the certification examination for entry-level respiratory therapy practitioners examination, or the registry examination, utilized by the National Board ~~of~~ for Respiratory Care (NBRC), shall be prescribed as the accepted testing requirement for licensing in this state.

(2) Applicants for original licensure shall provide evidence that they have successfully passed the examination. A copy of the National Board for Respiratory Care (NBRC) card, showing that the applicant has successfully completed the NBRC examination, is evidence that the applicant has successfully passed the examination requirement for licensure.

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-28-104, MCA
IMP: 37-28-104, 37-28-202, MCA

REASON: Possession of the National Board for Respiratory Care (NBRC) practitioners card confirms that the applicant has completed high school or the equivalent; and has completed a respiratory care educational program accredited or provisionally accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education and passage of the entry-level examination written by the National Board for Respiratory Care or another examination that satisfies the standards of the National Commission for Health Certifying Agencies or commission's equivalent pursuant to 37-28-202, MCA. The proposed amendment is reasonably necessary in order to clarify to applicants that submission of the NBRC card means that applicants do not have to also supply the underlying documents (high school and college transcripts, and independent verification of having passed the NBRC examination) as part of the application process. In addition to being reasonably necessary to reduce the burden upon applicants, the proposed amendments are reasonably necessary in order to provide a reduced volume of documents that will allow department staff to more efficiently process applications.

There is also reasonable necessity to amend the authority and implementing citations to the rule, while the rule is otherwise being amended, in order to correctly reflect the board's rulemaking authority and the statutes being implemented by the rule.

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 Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrcp@mt.gov, and must be received no later than 5:00 p.m., August 7, 2006.

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 www.respcare.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. 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 technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Respiratory Care Practitioners 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 Respiratory

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

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

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

BOARD OF RESPIRATORY CARE PRACTITIONERS
EILEEN CARNEY, CHAIRPERSON

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State June 26, 2006

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

In the matter of the adoption of RULE I and amendment of ARM 37.78.102, 37.78.416, 37.78.420, 37.78.807, and 37.78.832 pertaining to temporary assistance for needy families (TANF)	))))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Interested Persons

1. On July 26, 2006, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption and amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on July 17, 2006, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rule as proposed to be adopted provides as follows:

RULE I TANF: PARTICIPATION CRITERIA UNDER PARENTS AS SCHOLARS PROGRAM (1) Based on current federal TANF participation rates, the department will set and allow a limited number of TANF recipients to continue post-secondary education activities under the Parents as Scholars Program if:

(a) the participant has completed an assessment/screening which includes 12 months of successful post-secondary school attendance as a TANF recipient;

(b) the participant's course work will lead to a degree or certificate in the approved program;

(c) the participant does not have a baccalaureate degree or a certification in a field for which a degree or certificate was previously awarded;

(d) the participant is enrolled full time in an approved educational program in a unit of the Montana university system as provided in 20-25-201, MCA, or any other accredited college in Montana, or enrolled online with an accredited college whose credits are transferable in their entirety to an approved educational program in Montana, or is enrolled in an accredited high school or training program approved by the department by rule;

(e) the participant is making satisfactory progress in accordance with the requirements of the institution the participant is attending;

(f) the participant has developed a comprehensive plan for the completion of the course of study and the attainment of a degree or certificate, regardless of the number of months remaining on the individual's TANF time clock;

(g) the training provides skills that will lead to gainful employment in Montana in an area where the participant lives, or the participant is willing to relocate to an area within the United States where the acquired skills will lead to gainful employment;

(h) the participant is cooperating with paternity and child support enforcement requirements; and

(i) the participant completes a 180-hour work activity requirement in a 12-month period that may include work study, internships, or paid employment.

(2) If applicants for the Parents as Scholars Program exceed the number of available openings as determined by the department, applicants will be chosen on the basis of merit determined on the basis of:

(a) proximity to graduation with a degree or certification;

(b) probability of the degree or certification leading to gainful employment in the state;

(c) academic history, including but not limited to grade point average and any history of academic probation;

(d) any sanctions history; and

(e) chronology of application.

AUTH: 53-4-209, 53-4-212, MCA
IMP: 53-4-211, 53-4-601, MCA

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

37.78.102 TANF: FEDERAL REGULATIONS ADOPTED BY REFERENCE

(1) The TANF program shall be administered in accordance with the requirements of federal law governing temporary assistance for needy families (TANF) as set forth in Title IV of the Social Security Act, 42 USC 601 et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997.

(2) The "Montana TANF ~~c~~Cash ~~a~~Assistance ~~m~~Manual" ~~in effect July 1, 2005~~ dated July 1, 2006 is adopted and incorporated by this reference. A copy of the Montana TANF ~~c~~Cash ~~a~~Assistance ~~m~~Manual is available for public viewing at each local office of public assistance, and at the Department of Public Health and Human Services, Human and Community Services Division, 1400 Broadway, P.O. Box 202952, Helena, MT 59620-2952. Manual updates are also available on the department's website at www.dphhs.mt.gov.

AUTH: 53-4-212, MCA
IMP: 53-4-211, 53-4-601, MCA

37.78.416 TANF: TANF CASH ASSISTANCE; EXCLUDED UNEARNED INCOME (1) remains the same.

(2) In testing gross monthly income and in determining grant amount, the following unearned income shall be excluded:

(a) through (w) remain the same.

(x) money received pursuant to a valid loan as defined in ARM 37.78.103; ~~and~~

(y) emergency assistance payments provided under ARM 37.78.601 and 37.78.602; and

(z) interest earned on countable resources.

AUTH: 53-4-212, MCA
IMP: 53-4-211, 53-4-601, MCA

37.78.420 TANF: ASSISTANCE STANDARDS; TABLES; METHODS OF COMPUTING AMOUNT OF MONTHLY BENEFIT PAYMENT (1) Income standards as set forth in this rule are used to determine whether need exists with respect to income for any person who applies for or receives TANF cash assistance and to determine the benefit amount the assistance unit will receive if eligible. ~~Three~~ Four sets of assistance standards are used which are as follows:

(a) and (b) remain the same.

(c) The benefit standard sets the level of net countable income which cannot be exceeded if the assistance unit is to be eligible for assistance. ~~It is also used~~

(d) The payment standard is used to determine the amount of the monthly cash payment in the TANF cash assistance program and is based on the size of the assistance unit. The net countable income is subtracted from the payment standard to determine the amount of the payment for the TANF cash assistance unit. This amount is prorated for the month of application if eligibility is for less than a full month.

(2) through (3)(b) remain the same.

(4) The GMI standards, NMI standards, and benefits standards are as follows:

(a) through (c) remain the same.

(d) The payment standards are compared to the assistance unit's net countable income as defined in ARM 37.78.103.

PAYMENT STANDARDS

(33% of the FY 2005 Federal Poverty Level)

1	$263
2	353
3	442
4	532
5	622
6	711

7	801
8	891
9	980
10	1,070
11	1,160
12	1,249
13	1,339
14	1,429
15	1,518
16	1,608
17	1,698
18	1,787
19	1,877
20	1,967

~~(5) The GMI limit for post employment services (PES) and post employment training and education (PETE) is 150% of federal poverty level and it varies depending on the number of people in the assistance unit. The GMI limit sets the level of GMI for each size assistance unit which cannot be exceeded if the assistance unit is to be eligible for PES payments or PETE payments.~~

~~(6)~~ (5) The adult's gross monthly earned income as defined in ARM 37.78.103 is compared to the applicable GMI limit. If the assistance unit's GMI exceeds the GMI limit, the assistance unit is ineligible for assistance. Monthly income is compared to the full limit even if the eligibility is being determined for only part of the month.

~~(a) Eligibility for PES payments and PETE payments is determined prospectively based on the department's best estimate of income and other circumstances which will exist in the application month.~~

~~(b)~~ When comparing income to the income limits, income anticipated to be received in the benefit month is used.

AUTH: 53-4-212, MCA
IMP: 53-4-211, 53-4-241, 53-4-601, MCA

37.78.807 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING ACTIVITIES (1) Participants in TANF cash assistance, regardless of whether they are members of a single-parent or two-parent family, may, in accordance with their WoRC employability plan, subject to availability in their community, participate in the

following activities:

(a) through (d) remain the same.

(e) vocational educational training as defined at ARM 37.78.103. Vocational educational training is limited in a lifetime for each participant by ~~federal rule~~ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Section 407;

(f) remains the same.

(g) educational activities as defined at ARM 37.78.103;

(i) Educational activities are not limited ~~to~~ for individuals under the age of 20 who do not have a high school diploma or GED.

(ii) remains the same.

(2) In addition, a limited number of participants in TANF cash assistance households may participate in Parents as Scholars as defined in [Rule I]. The number of slots allowed, if any, may differ for single or two-parent households due to federal participation rate requirements for each and the penalties that would result from not meeting them.

AUTH: 53-4-212, MCA
IMP: 53-2-201, 53-4-211, 53-4-613, MCA

37.78.832 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING: SUPPORTIVE SERVICES (1) through (6) remain the same.

(7) Supportive service payments will not exceed ~~$1,000~~ $1,250 per household per state fiscal year.

(8) remains the same.

AUTH: 53-4-212, MCA
IMP: 53-2-201, 53-4-211, 53-4-601, 53-4-613, MCA

4. The Temporary Assistance for Needy Families (TANF) cash assistance program provides cash assistance to eligible low income Montanans. To qualify for the TANF Program, families must meet the eligibility requirements as set forth in ARM Title 37, chapter 78. The program is jointly funded by the state and federal governments and is administered by the state in accordance with federal and state law and regulations.

Rule I is proposed to be adopted in order to fulfill the mandate of House Bill 555. House Bill 555, Session Law Chapter No. 184, which created the Montana Parents as Scholars Program and requires the use of Temporary Assistance to Needy Families (TANF) or Maintenance of Effort (MOE) funds to fund a limited number of public assistance recipients who are in an approved educational program for the purpose of continuation of education leading toward a high school diploma, a general equivalency degree, an associate's degree, or a baccalaureate degree.

Pursuant to this proposed new rule, a TANF recipient approved to participate in Parents as Scholars Program would be required to complete an assessment evaluating his skills, education, job readiness, and barriers to employment. Before

approving a TANF recipient for participation in the program, the recipient must have satisfactorily completed 12 months of countable educational activities.

Code of Federal Regulations 261.21 and 261.23 mandate that states maintain a work participation rate of 50% for all family households and 90% for two-parent households. The hours recipients participate in Parents as Scholars education activities are not countable in determining if the state meets the participation rate requirements. The Parents as Scholars Program and the number of slots available in that program, if any, will therefore be limited in order to ensure the state complies with the work participation rate requirements set forth in the Code of Federal Regulations. The number of available slots, if any, may also differ for single and two-parent households in order to ensure state compliance with the work participation requirements.

The department will carefully monitor the impact of Parents as Scholars on the state participation rates to avoid the potential penalties of 1 to 5% of the federal TANF block grant, replacement of the penalty with state general fund dollars, and an increased Maintenance of Effort funding and adjust the number of slots as needed.

House Bill 555 required the use of TANF or Maintenance of Effort funds for a limited number of recipients in the Parents as Scholars Program. As previously discussed, the department must limit the number of openings available in the Parents as Scholars Program to ensure compliance with federal work participation rates as set forth in the Code of Federal Regulations. Based upon these limitations, the department estimates approximately 56 recipients might participate in the program without jeopardizing the participation rate. All initial openings will be filled on the basis of the eligibility criteria set forth in (1); thereafter, the department will maintain a waiting list of interested applicants and will fill any subsequent openings in the program by evaluation of applicants on the waiting list based upon the merit criteria set forth in (2).

It is estimated that 56 current TANF cash recipients could be allowed to participate in Parents as Scholars without jeopardizing the 50% all-family participation rate so the department would designate $252,000 for the purpose of this program. This would continue to provide benefits for 56 qualified participants, based on an average benefit payment of $375 per month. $375 x 12 x 56 = $252,000. Since the individuals are existing recipients who are currently receiving TANF cash assistance, the bill has no additional fiscal impact. The qualified participants will already be receiving case management services through the WoRC contracts and child care at a copay cost of $10 per month per TANF household, so no additional case management or childcare costs will be incurred.

It is assumed that there will be no impact to the TANF or Child Care MOE since the same recipients who will be in the Parents as Scholars Program presently access the services.

ARM 37.78.102 currently adopts and incorporates by reference the TANF policy

manual effective July 1, 2005. The department has made revisions to these manuals that took effect on January 1, 2006, and proposes amendments that will be applied retroactively to July 1, 2006. Amendment of ARM 37.82.102 is therefore necessary in order to incorporate into the Administrative Rules of Montana the revised versions of the policy manuals, to permit all interested parties to comment on the department's policies and to offer suggested changes. It is estimated that changes to the TANF Manual could affect 10,247 TANF recipients. Manuals and draft manual material are available for review in each local Office of Public Assistance and on the department's website at www.dphhs.mt.gov. Following is a brief overview of the changes being made to each manual section for the TANF manual.

TANF 001 Monthly Income Standards. To comply with the language included in House Bill 2, Session Law Chapter No. 606, a new standard must be used for determining benefit payment levels for households that are income eligible for TANF cash assistance. Currently TANF uses a measure of 30% of Fiscal Year ("FY") 2002 Federal Poverty Level Index as a basis for three sets of TANF Cash Assistance income eligibility standards:

(a) Gross Monthly Income Standard (“GMI Standard”);
(b) Benefit Standard; and
(c) Net Income Standard.

The GMI Standard and the Benefit Standard set requirements for income eligibility for households filing for assistance. Each month TEAMS tests the income of each household against the GMI Standard and against the Benefit Standard. The Net Income Standard is used to deem income to a TANF household for a person who is not otherwise included in the household is nevertheless "deemed" to be so; such a "deemed" person is allowed to disregard part of his earned income including the NMI amount for their deemed household size.

Previously, TEAMS was programmed to round net income up before testing against the Benefit Standard. Effective with the benefit month of October 2005, the process is changed to round net income down prior to testing against the Benefit Standard.

If, after allowable disregards, the net income of a household is less than the Benefit Standard and the household passes the GMI and Benefit Standards using the 30% FY 2002 Federal Poverty Level Index for income eligibility, then the monthly cash assistance benefit level for the household must be determined.

To implement changes outlined in House Bill 2, a fourth standard, i.e., "TANF Payment Standard" had to be added for calculating the cash assistance benefit level of an income eligible household. The "TANF Payment Standard" is 33% of Fiscal Year 2005 Federal Poverty Level Index for the appropriate household size. The monthly cash assistance benefit level of an income eligible household is determined by subtracting the household’s net countable income from the TANF Payment Standard. This impacts 5070 cases per month at a cost of $3,814,308 per year to

TANF.

TANF 306-3 Child Support Payments and Collections. TANF 306-3 is being changed in order to comply with language in House Bill 529, Session Law Chapter No. 558, that requires child support supplement payments to be included as a type of income available to TANF families. House Bill 259 requires a child support supplement payment using TANF block grant funds be issued to TANF families, with the amount of the payment being based on current child support collected from a noncustodial parent. This payment will be an amount equal to the amount of current child support collected up to but not exceeding $100.00 per month per TANF households. This impacts 814 cases per month at a cost of $749,002 per year to TANF.

TANF 500 Income Overview. TANF 500 is being changed to require each household member to apply for all available benefits and to access all available countable income he might be eligible for or entitled to receive. Each household member must apply for such benefits and access such income even if he would prefer to wait and apply to access at a later time. The amount of such income, if it can be determined, is deemed countable to the household. If the amount of such benefits or income the individual would receive if he applied for or accessed it cannot be determined, the case is to be closed or the application is to be denied under the proposed amendment on the grounds that there is not sufficient information to determine financial eligibility. By requiring the use of alternate sources of income, the TANF expenditures may be reduced.

TANF 501-1 Unearned Income. This manual section is being changed to comply with language in House Bill 529, Session Law Chapter No. 558, that requires child support supplement payments to be included as a type of income available to TANF families. House Bill 259 provides that a child support supplement payment using TANF block grant funds will be issued to TANF families, with the amount of the payment being based on current child support collected from a noncustodial parent. This payment will be an amount equal to the amount of current child support collected up to but not exceeding $100.00 per month per TANF households. This impacts 814 cases per month at a cost of $749,002 per year to TANF.

This manual section is also being revised to exclude interest income on a countable resource and to count interest income on an excluded resource, thereby providing consistent policy between the Family Medicaid Manual and the TANF Manual. The fiscal impact of this change would be negligible since the amount of interest income involved is minimal.

TANF 701-3 Participation Components. This manual section was updated to add Parents as Scholars participation as a possible participation activity for a limited number of TANF recipients.

TANF 701-3(a) Parents as Scholars - New to Manual. This manual section is being

added to comply with House Bill 555, Session Law Chapter No. 184, which allows a limited number of TANF recipients to attend an approved educational program leading to an associate or baccalaureate degree. The proposed manual section requires the recipient to meet the requirements established for PAS eligibility. In order to meet the federally mandated participation rates, participation slots in the Parents as Scholars Program will be limited and monitored.

TANF 704-1 Supportive Services. This manual section is being changed to incorporate new financial guidelines for issuing supportive services for participants' efforts to participate fully in Family Investment Agreement/WoRC Employability Plan ("FIA/EP") activities and to obtain and maintain employment. These new guidelines are required due to increases in the cost of these supportive activities. Pursuant to the new guidelines, each case would be limited to payment of no more than $1,250 for supportive services in each state fiscal year, reflecting an increase in participation related expenses to $600 per case per state fiscal year, and in employment related expenses of $650 per case per state fiscal year.

TANF 704-3 Child Support Supplemental Payments. This manual section is being changed in order to comply with language in House Bill 529, Session Law Chapter No. 558, that requires child support supplement payments to be included as a type of income available to TANF families. House Bill 259 provides that a child support supplement payment using TANF block grant funds will be issued to TANF families, with the amount of the payment being based on current child support collected from a noncustodial parent. This payment will be an amount equal to the amount of current child support collected up to but not exceeding $100.00 per month per TANF households. This impacts 814 cases per month at a cost of $749,002 per year to TANF.

ARM 37.78.416 TANF Cash Assistance; Excluded Unearned Income. It is proposed that (2)(z) be added to reflect interest earned on countable resources is excluded unearned income. This change will provide for consistent policy between Family Medicaid and TANF. The fiscal impact of this change will be negligible since the amount of interest income involved is minimal.

ARM 37.78.420 TANF Assistance Standards; Tables; Methods of Computing Amount of Monthly Benefit Payment. It is proposed that (1)(d) be added to reflect the use of a new standard in determining the monthly cash assistance payment amounts in the TANF cash assistance program. This new standard, titled the TANF Payment Standard, was developed in order to comply with the language included in House Bill 2, Session Law Chapter No. 606. This TANF Payment Standard is based on the size of the household assistance unit. The net countable income will be subtracted from the TANF Payment Standard to determine the amount of the payment for the TANF cash assistance unit. This amount will continue to be prorated for the month of application if eligibility is for less than a full month.

It is proposed that (4)(d) be added to reflect the comparison of the assistance unit's net countable income as defined in ARM 37.78.103 to the TANF Payment Standard

to determine the amount of the payment. It is also proposed that a table listing the Payment Standard based on 33% of the FY 2005 Federal Poverty Level be added to this section.

It is proposed that (5) be deleted as the PES and PETE payments have been discontinued.

It is proposed that (6) become (5).

It is proposed that (6)(a) be deleted as the PES and PETE payments have been discontinued.

It is proposed that (6)(b) become (6)(a).

ARM 37.78.807 TANF Cash Assistance Employment and Training Activities. It is proposed that (1)(g)(i) be updated to correct an error regarding education and training for those under the age of 20 who have not graduated from high school or attained a GED. The proposed update makes it clear that educational activities are not limited for those under the age of 20 years who have not received a high school diploma or a GED.

It is proposed that section (2) pertaining to the Parents as Scholars Program be added as an activity option for a limited number of TANF recipients as mandated by House Bill 555.

ARM 37.78.832 TANF Cash Assistance Employment and Training: Supportive Services. It is proposed that (7) be amended to reflect the increased cost of supporting participants' efforts to participate fully in TANF Family Investment Agreement/WoRC Employability Plan (FIA/EP) activities and to obtain and maintain employment. Pursuant to the proposed amendment, the maximum annual allowable amount per household in each state fiscal year would be increased from $1,000 to $1,250. This increase is primarily due to higher transportation costs and also reflects the increased costs of employment-related tools and clothing. Supportive services assist participants in finding and stabilizing new employment and are an integral part of the service package that moves participants from cash assistance to employment. Supportive services will continue to be granted according to household need, consideration of all rules governing supportive services to TANF households, and available designated supportive service dollars. 3,869 TANF households are eligible for supportive services based on need, rules governing supportive services, and available designated dollars. $250,000 from TANF federal funds has been added to the supportive services allocation.

5. The department intends that the manual sections of the Montana TANF Cash Assistance Manual incorporated by reference in ARM 37.78.102 be adopted as follows:

TANF 001 Monthly Income Standards will be applied retroactively to October 1,

2005.

TANF 306-3 Child Support Payments and Collections will be applied retroactively to January 1, 2006.

TANF 500 Income Overview will be applied retroactively to July 1, 2006.

TANF 501-1 Unearned Income will be applied retroactively to January 1, 2006.

TANF 701-3 Participation Components - New to Manual will be applied retroactively to July 1, 2006.

TANF 701-3(a) Parents as Scholars will be applied retroactively to July 1, 2006.

TANF 704-1 Supportive Services will be applied retroactively to July 1, 2006.

TANF 704-3 Child Support Supplemental Payments will be applied retroactively to July 1, 2006.

All other portions of the manual which have not been changed will be applied retroactively to July 1, 2006. No detrimental effects are anticipated as a result of these applicability dates. The adoption of Rule I and all other rule amendments are intended to be applied retroactively to July 1, 2006.

6. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on August 3, 2006. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

/s/ Dawn Sliva
Rule Reviewer

/s/ Russell Cater for
Director, Public Health and Human Services

Certified to the Secretary of State June 26, 2006.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 4.13.1001A relating to state grain laboratory fees	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On May 18, 2006, the Montana Department of Agriculture published MAR Notice No. 4-14-168 relating to state grain laboratory fees at page 1193 of the 2006 Montana Administrative Register, Issue Number 10.

2. The agency has amended ARM 4.13.1001A exactly as proposed.

3. No comments or testimony were received.

DEPARTMENT OF AGRICULTURE

/s/ Nancy K. Peterson
Nancy K. Peterson, Director

/s/ Timothy J. Meloy
Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State, June 26, 2006.

BEFORE THE BOARD OF HOUSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment of ARM 8.111.409 pertaining to cash advances made to borrowers or third parties) NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On May 4, 2006, the Department of Commerce published MAR Notice No. 8-111-53 regarding the proposed amendment of the above-stated rule at page 1102 of the 2006 Administrative Register, Issue No. 9.

2. No comments or testimony were received.

3. The department has amended rule 8.111.409 as proposed.

DEPARTMENT OF COMMERCE
BOARD OF HOUSING

By: /s/ ANTHONY J. PREITE
ANTHONY J. PREITE, DIRECTOR
DEPARTMENT OF COMMERCE

By: /s/ G. MARTIN TUTTLE
G. MARTIN TUTTLE, RULE REVIEWER

Certified to the Secretary of State June 26, 2006

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

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

TO: All Concerned Persons

1. On October 6, 2005, the Board of Environmental Review published MAR Notice No. 17-231 regarding a notice of public hearing on the proposed amendment and adoption of the above-stated rules at page 1844, 2005 Montana Administrative Register, issue number 19. On November 23, 2005, the board published MAR Notice No. 17-236 regarding a notice of extension of comment period on the proposed amendment and adoption of the above-stated rules at page 2288, 2005 Montana Administrative Register, issue number 22. On May 18, 2006, the board published a Notice of Amendment at page 1247, 2006 Montana Administrative Register, issue number 10.

2. This corrected notice of amendment is being published to delete an internal reference to (7) in ARM 17.30.670(1) that should have been deleted in the Notice of Amendment when (7) was deleted. Section (1) should have been amended in the Notice of Amendment as follows:

17.30.670 NUMERIC STANDARDS FOR ELECTRICAL CONDUCTIVITY (EC) AND SODIUM ADSORPTION RATIO (SAR) (1) No person may violate the numeric water quality standards or the criteria for determining nonsignificant changes in water quality identified in (2) through (6). ~~Compliance with the standards and criteria contained in (2) through (6) will be determined according to the procedures specified in (7).~~

(2) through (6) remain as adopted.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North By: *[illegible]*
JOHN F. NORTH
Rule Reviewer

/s/ Joseph W. Russell
JOSEPH W. RUSSELL, M.P.H.,
Chairman

Certified to the Secretary of State, June 26, 2006.

BEFORE THE PETROLEUM TANK RELEASE COMPENSATION BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.58.326 and 17.58.336 pertaining to applicable rules governing the operation and management of petroleum storage tanks and review of claims	NOTICE OF AMENDMENT (PETROLEUM BOARD)

TO: All Concerned Persons

1. On May 18, 2006, the Petroleum Tank Release Compensation Board published MAR Notice No. 17-247 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 1202, 2006 Montana Administrative Register, issue number 10.

2. The board has amended the rules exactly as proposed.

3. No comments or testimony were received.

Reviewed by: PETROLEUM TANK RELEASE COMPENSATION BOARD

/s/ James M. Madden By: */s/ Greg Cross*
JAMES M. MADDEN GREG CROSS
Rule Reviewer Chairman

Certified to the Secretary of State June 26, 2006.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I -accounting system vendor license fee; NEW RULE II-general specifications of approved automated accounting and reporting systems; NEW RULE III-modification of approved automated accounting and reporting systems; NEW RULE IV-system may not be utilized for player tracking; NEW RULE V-testing of automated accounting and reporting systems; NEW RULE VI-application to utilize an approved system; NEW RULE VII-continuation of use of when vendor license lapses; and the amendment of ARM 23.16.101, 23.16.102, 23.16.1911, and 23.16.1918, concerning definitions for vendors and system licensing of system vendors, information to be provided to department, and testing fees	) NOTICE OF ADOPTION) AND AMENDMENT

TO: All Concerned Persons

1. On May 18, 2006, the Department of Justice published MAR Notice No. 23-16-177 regarding the public hearing on the proposed adoption and amendment of the above-stated rules at page 1206, 2006 Montana Administrative Register, Issue Number 10.

2. The Department of Justice has adopted New Rules III (23.16.2111), IV (23.16.2115), V (23.16.2109), VI (23.16.2107), and VII (23.16.2113) as proposed, and amended ARM 23.16.101, 23.16.102, 23.16.1911, and 23.16.1918 exactly as proposed.

3. The department adopts the remaining rules with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (23.16.1916A) ACCOUNTING SYSTEM VENDOR LICENSE
(1) through (1)(e) remain as proposed.
(i) ~~$1,000~~ $500 annual license fee; and
(ii) through (3) remain as proposed.

NEW RULE II (23.16.2105) GENERAL SPECIFICATIONS OF APPROVED AUTOMATED ACCOUNTING AND REPORTING SYSTEMS (1) Each automated accounting and reporting system must be inspected ~~in the state~~ for approval by the department. The department may inspect any approved automated accounting and reporting system sold or operated in the state. Any approval granted by the

department to a person is not transferable. Upon request, the department must be allowed immediate access to an approved accounting and reporting system.

(2) through (2)(a) remain as proposed.

(i) ~~at a minimum~~ an approved tier I system shall communicate the following information to the department:

(a)(i)(A) through (I) remain as proposed.

(J) soft meter total cents in, total cents played, total cents won, total cents paid;

~~(K) number of games played;~~

~~(L) number of games won;~~ and

(M) remains the same but is renumbered (K).

(a)(ii) through (iv) remain as proposed.

(v) ~~a list of events required to be reported to the department is available from the gambling control division.~~ the following events must be recorded and reported:

(A) slot door opened;

(B) slot door closed;

(C) drop door opened;

(D) drop door closed;

(E) card cage opened;

(F) card cage closed;

(G) AC power applied to the VGM;

(H) AC power was lost from the VGM;

(I) cashbox door opened;

(J) cashbox door was closed;

(K) cashbox removed;

(L) cashbox installed;

(M) belly door opened;

(N) belly door closed;

(O) operator changed configuration options; and

(P) soft meter reset to zero.

(b) through (6) remain as proposed.

4. A public hearing was held on June 8, 2006. The following comments were received and appear with the Department of Justice's responses.

Proposed Rule I:

Comment 1: Written testimony from Rich Miller, executive director, Gaming Industry Association of Montana, Inc. (GIA), and oral testimony from Ronda Wiggers, Montana Coin Machine Operators Association (MCMOA), was given to the effect that the $1,000 annual license fee may be expensive for small vendors.

Response 1: The division will reduce the annual license fee to $500.

Proposed Rule II:

Comment 2: Written testimony from Rich Miller and oral testimony from Ronda Wiggers was received that the systems must be in the state to be tested.

Response 2: The phrase "in the state" will be eliminated. The language was copied from the video gambling machine testing requirements. If testing is to require out of state travel, the expenses will be added to the costs of testing.

Comment 3: Written testimony from Rich Miller and oral testimony from Ronda Wiggers was received that language related to approval of an accounting system “to a person” not being transferable was confusing.

Response 3: The intent of this rule is to assure that the new vendor of an approved system has the resources, technical skill, and ability to operate and maintain the system.

Comment 4: Written testimony from Rich Miller and oral testimony from Ronda Wiggers was provided that the phrase “at a minimum” created some confusion about the actual requirements for the information to be communicated by a tier I system.

Response 4: The division has determined that the phrase "at a minimum" can be eliminated without changing the substance of the proposed rule.

Comment 5: Written testimony was received from Rich Miller that the department lacks implementation authority to require that tier I systems report “games played” and “games won.”

Response 5: The department believes that implementation authority is found in 23-5-621(1)(e), MCA, 23-5-637(1), MCA, and 23-5-610(3), MCA. However, the division will modify the rule to not require the information.

Comment 6: Written testimony was received from Rich Miller that there is no necessity to have tier I accounting systems monitor video gambling machine performance and events. A related concern was that the SAS Serial Protocol Implementation Guide was not available on the department website.

Response 6: This rule is central to the entire streamlining of the accounting system; by recording all events on a tier I accounting system, the need for physical records can be reduced and the entire tax reporting system can be streamlined. The necessity for this rule is found in 23-5-637, MCA. The SAS Serial Protocol Implementation Guide will be posted on the department website.

Comment 7: Written testimony was received from Rich Miller that the division should not refer to a “list of events” to be reported but rather the specific events should be adopted in rule.

Response 7 The department will modify the proposed rule to include the list of events.

Comment 8: Oral testimony from Ronda Wiggers raised concerns about the requirement that tier I systems be required to have power from two sources.

Response 8: The requirement is needed to maintain electrical independence from the video gambling machines power source so that the accounting system does not interfere with the operation or warranty of the video gambling machine.

Proposed Rule IV:

Comment 9: Written testimony was received from Rich Miller that indicates that the proposed rule on player tracking is more restrictive than the following statutory language in 23-5-621(1)(e)(i), MCA:

> "specify that the data made available as a result of an approved automated accounting and reporting system may not be used by licensees for player tracking purposes."

Response 9: The proposed rule directly implements the statute. The rule provides:

> "(2) An automated accounting and reporting system may not record or communicate the identity of individual players, club membership or characteristics of players."

Comment 10: Comments and questions were raised by Rich Miller, Mark Staples (Montana Tavern Association), and Mike Kenneally (Lucky Lil's) regarding merging data from an approved automated accounting and reporting system with other data such as player rewards data.

Response 10: The statute clearly provides that data from an automated accounting and information system may not be used for player tracking.

Proposed Rule V:

Comment 11: Written comments were provided by Rich Miller that question reference to ARM 23.16.2102.

Response 11: The proposed rule refers to the proposed numbering of New Rule II. The final rule will utilize ARM 23.16.2105.

Comment 12: Ronda Wiggers orally expressed concerns that tier II systems are required to record and communicate complex transactions which have not been specifically defined.

Response 12: Testing of the tier II systems will require the systems to be able to record and communicate transactions that can be expected to occur in the day-to-day business of gambling operator. Examples of transactions may include: reporting from two locations in a 24 hour period if a machine is moved; or, reports negative income for a quarter.

Proposed Rule VI:

Comment 13: Oral comments by Ronda Wiggers indicate a concern that the 60-day lead time for applying to utilize an approved automated accounting and reporting system might conflict with the 90-day notice provision in ARM 23.16.2101.

Response 13: The division agrees that this time period needs clarification. The division will propose an amendment to ARM 23.16.2101 to establish that the 90-day notice will be given prior to "application date" rather than the connection date. This will result in a period of 150 days from the time an operator receives notice to connect as provided in the multi-game agreement, and the date the accounting system will be put into service.

Proposed Rule VII:

Comment 14: Written testimony was received from Rich Miller that indicates this rule should be interpreted to allow a user of a tier II reporting system which becomes obsolete or noncompliant to convert to the department's web entry system.

Response 14: The department agrees with this interpretation. The rule is intended to allow the gambling operator to convert to any approved system, including the department web entry system.

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

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State June 26, 2006.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

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

TO: All Concerned Persons

1. On May 18, 2006, the Department of Labor and Industry published MAR Notice No. 24-30-206 regarding the proposed amendment of the above-stated rule at page 1220 of the 2006 Montana Administrative Register, Issue No. 10.

2. On June 9, 2006, 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 amended the rule as proposed.

/s/ MARK CADWALLADER	/s/ DORE SCHWINDEN
Mark Cadwallader	Dore Schwinden, Deputy Commissioner
Alternate Rule Reviewer	DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 26, 2006

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 44.3.2203, 44.3.2303, and 44.3.2304 regarding absentee and mail ballot voting	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On May 18, 2006, the Secretary of State published MAR Notice No. 44-2-133 regarding the proposed amendment of the above-stated rules at page 1242 of the 2006 Montana Administrative Register, Issue Number 10.

2. The following rules are amended exactly as proposed: ARM 44.3.2203, 44.3.2303, and 44.3.2304.

3. The following comments were received and appear with the Secretary of State's responses:

COMMENT 1: The Montana Conservation Voters Education Fund (MCVEF) supported the election rule amendments, many of which are already in effect through statutes passed by the legislature. The MCVEF was disappointed with the delay in issuing the amendments, and wanted to ensure that election administrators, civic groups, and electors were well informed about the laws and rules so that all qualified voters had the opportunity to vote in the June 6, 2006, primary election under the current applicable statutes.

RESPONSE 1: The Secretary of State's office appreciates the comments of MCVEF, and made every effort to inform election administrators, civic groups, and electors about the laws and rules so that all qualified voters had the opportunity to vote in the June 6, 2006, primary election under the current applicable statutes.

COMMENT 2: The League of Women Voters (LWV) supports voting systems that are secure, accurate, recountable, and accessible. Increased testing before, on election day, and after elections can increase voters' confidence that systems are operating correctly to produce an accurate record of votes case. The LWV proposed an unannounced, random test of 5% of all DREs, their hybrids, and other voting systems, a minimum of one per county, during an election to validate the accuracy of voted paper ballots with the voting system results. The rationale for this is that the AutoMARK is a hybrid direct recording electronic (DRE) voting system, an iVotronic DRE machine adapted for the handicapped that uses only one optical scanner element, the optical scanner ballot. The machine, not the voter, marks the ballot. Thus testing on election day must be implemented per 13-17-212(3), MCA. Testing on election day of other voting systems is not prohibited by 13-17-211(1), MCA, but it directs the Secretary of State to specify voting procedures. These may include testing on election day. Because no one has attempted hacking of ES&S scanners,

it leaves open the question of whether they are vulnerable. The more election officials do to test, the more confident voters will be that their vote is counted accurately.

RESPONSE 2: The Secretary of State's office appreciates the comments of the LWV. The Secretary of State's office plans to propose testing procedures in upcoming rules, and will take these comments into account when we do so.

COMMENT 3: The Montana Advocacy Program (MAP) proposed the addition of rules on challenges and amendment of procedures at the polling place, to reflect changes in law.

RESPONSE 3: The Secretary of State's office supports the changes proposed by MAP. In order to allow the opportunity for comment on MAP's proposed new rule and proposed new amendments, they will be included in upcoming rule notices.

4. The amendments will be applied retroactively to the procedures for the June 6, 2006, primary.

/s/ Mark A. Simonich for
Brad Johnson
Secretary of State

/s/ Janice Frankino Doggett
Janice Frankino Doggett
Rule Reviewer
Secretary of State

Dated this 26th day of June 2006.

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 or Register) 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	2.	Go to cross reference table at end of each Number and title which lists MCA section numbers and Department 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, 2005. This table includes those rules adopted during the period January 1 through March 31, 2006 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 or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2005, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2005 and 2006 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.

12.9.211 Abandonment of Teton-Spring Creek Bird Preserve, p. 1646, 2330
12.9.802 and other rules - Game Damage Hunts - Management Seasons - Game Damage Response and Assistance, p. 1105, 1201
12.11.501 List of Water Bodies (Index Rule), p. 2285, 675

ENVIRONMENTAL QUALITY, Department of, Title 17

I-XVIII Methamphetamine Cleanup Program - Decontamination of Inhabitable Property Contaminated by Clandestine Manufacture of Methamphetamine, p. 142, 1042
17.50.201 and other rule - Motor Vehicle Recycling and Disposal- Motor Vehicle Wrecking Facility License, p. 2506, 758
17.56.101 and other rules - Underground Storage Tanks, p. 115, 913
17.74.343 and other rules - Asbestos Control - Asbestos Control Program, p. 125, 1574

(Board of Environmental Review)
I Solid Waste - State Solid Waste Management and Resource Recovery Plan, p. 2016, 909
17.8.101 and other rules - Incorporation by Reference of Current Federal Regulations and Other Materials into Air Quality Rules, p. 823
17.8.501 and other rules - Air Quality - Definitions - Air Quality Operation Fees - Open Burning Fees, p. 1504
17.8.504 and other rules - Air Quality - Establishing a Registration System for Certain Facilities That Presently Require an Air Quality Permit, p. 2513, 893
17.8.504 and other rules - Air Quality Permit Application, Operation and Open Burning Fees, p. 997, 2058
17.8.740 and other rules - Air Quality - Definitions - Incorporation by Reference - Mercury Emission Standards - Mercury Emission Credit Allocations, p. 1112
17.8.743 Air Quality - Montana Air Quality Permits - When Required - Oil and Gas Well Facilities, p. 1479, 2660
17.8.759 Air Quality - Review of Permit Applications, p. 1476, 2663
17.24.116 Application Requirements for Operating Permit, p. 1649, 2544, 154
17.30.670 and other rules - Water Quality - Nondegradation Requirements for Electrical Conductivity (EC) and Sodium Adsorption Ratio (SAR) - Definitions for Technology-based Effluent Limitations - Minimum Technology-based Controls - Treatment Requirements for the Coal Bed Methane Industry, p. 1844, 2288, 1247
17.30.1303 and other rules - Water Quality - Concentrated Animal Feeding Operations (CAFOs) - Adoption of Department Circular DEQ 9 (Montana Technical Standards for CAFOs), p. 2962, 864, 1995, 532

(Board of Environmental Review and the Department of Environmental Quality)
17.24.132 and other rules - Air Quality - Asbestos - Hazardous Waste - Junk Vehicles - Major Facility Siting - Metal Mine Reclamation - Opencut

Mining - Public Water Supply - Septic Pumpers - Solid Waste - Strip And Underground Mine Reclamation - Subdivisions - Underground Storage Tanks - Water Quality - Revising Enforcement Procedures Under the Montana Strip and Underground Mine Reclamation Act, Metal Mine Reclamation Laws, and Opencut Mining Act - Providing Uniform Factors for Determining Penalties, p. 2523, 1139, 1379

17.30.502 and other rules - Water Quality - Subdivisions - CECRA - Underground Storage Tanks - Department Circular WQB-7 - Outstanding Resource Waters, p. 1957, 528

17.36.345 and other rules - Public Water and Sewage System Requirements and Subdivisions - Adoption by Reference, Plans for Public Water Supply or Wastewater System - Fees - Treatment Requirements - Disinfection, p. 2002, 540

(Petroleum Tank Release Compensation Board)

17.58.326 and other rule - Applicable Rules Governing the Operation and Management of Petroleum Storage Tanks and Review of Claims, p. 1202

TRANSPORTATION, Department of, Title 18

I-XIII Aeronautical Grant and Loan Program - Pavement Preservation Grant Program, p. 2151, 81

18.6.202 and other rules - Transportation Commission - Outdoor Advertising, p. 276

18.8.101 and other rules - Motor Carrier Services Regulations for Over Dimensional and Overweight Vehicles and Loads, p. 2142, 206

18.8.1501 and other rules - Incorporation of Amendments to Federal Regulations Pertaining to Motor Vehicle Standards - General Revisions to Clarify Scope of Rules, p. 617, 1160

18.9.704 Definitions for Motor Fuels, p. 14, 676

23.5.101 and other rules - Transfer from the Department of Justice - Motor Carrier Safety Assistance Program, p. 2059

CORRECTIONS, Department of, Title 20

I-VIII Establishment of a Residential Methamphetamine Treatment Center, p. 1337, 1917, 2060

20.9.101 and other rules - Youth Placement Committees - Juvenile Detention Intervention Program (JDIP), p. 831

20.9.601 and other rules - Licensure of Youth Detention Facilities, p. 1722, 2665, 677

JUSTICE, Department of, Title 23

I-V Credit Counseling Services, p. 2373, 207

I-V	Administration of the Address Confidentiality Program, p. 1731, 2332, 2453
I-V	Credit Counseling Services, p. 1485, 2452
I-VI	Operation of the Identity Theft Passport Program, p. 1541, 2061
I-VI	Administration of the Forensic Rape Examination Payment Program, p. 1545, 2063
2.61.101	and other rules - Consumer Protection Office - Transfer from the Department of Administration, p. 322
23.16.101	and other rules - Accounting System Vendor License Fee - General Specifications of Approved Automated Accounting and Reporting Systems - Modification of Approved Automated Accounting and Reporting Systems - System May Not be Utilized for Player Tracking - Testing of Automated Accounting and Reporting Systems - Application to Utilize an Approved System - Continuation of Use of System When Vendor License Lapses - Definitions for Vendors and System Licensing of System Vendors - Information to be Provided to Department - Testing Fees, p. 1206
23.16.102	and other rules - Effective Date for Forms Relating to Gambling Operator Licenses, Sports Tab Game Seller Licenses, Distributor's Licenses, Route Operator's Licenses, Manufacturer's Licenses, and Manufacturer of Illegal Gambling Devices Licenses, p. 1860, 2333
23.16.103	and other rules - Effective Date for Forms Relating to Investigation of Applicants, Disclosure from Noninstitutional Lender, Dealer Licenses, and Gambling Operator Licenses, p. 2018, 2454
23.16.202	and other rules - Credit Play Prohibited - Video Gambling Machine Permits - Requirements for Letters of Withdrawal - Video Gambling Machine Testing Fees, p. 1735, 2248

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order following the department rules.

I-XVIII	Elevator Services Occupational Licensing Program, p. 2293, 553
I-XIV	and other rules - Department and All Boards - Fees - Licensing - Renewals, p. 383, 1584
24.11.101	and other rules - Unemployment Insurance Laws, p. 284, 916
24.17.127	Prevailing Wage Rates for Public Work Projects - Building Construction Services, p. 1217
24.17.127	Prevailing Wage Rates for Public Works Projects - Nonconstruction Services - Heavy and Highway Construction Services, p. 2290, 679
24.17.127	Prevailing Wage Rates for Public Works Projects - Building Construction Services - Heavy and Highway Construction Services, p. 1347, 2064
24.26.508	and other rule - Board of Personnel Appeals - Consolidation of Wage and Classification Appeals, p. 296, 918

24.29.1401 and other rules - Allowable Medical Service Billing Rates for Workers' Compensation Claims, p. 1005
24.29.1409 Travel Expense Reimbursement for Workers' Compensation Medical Services, p. 1350, 210
24.29.4301 and other rules - Workers' Compensation Reporting Database, p. 1570, 546
24.30.102 Occupational Safety Matters in Public Sector Employment, p. 1220
24.122.401 and other rule - Boiler and Boiler Operator Program - Boiler Operating Engineers Licenses, p. 300, 1277
24.144.411 and other rule - Renewal of License or Endorsement, p. 2312, 224
24.301.138 and other rules - Building Codes, p. 2021, 567
24.351.215 License Fee Schedule for Weighing and Measuring Devices, p. 1356

(Board of Alternative Health Care)
I & II Fee Abatement - License Renewal for Activated Military Reservists, p. 706

(Board of Architects)
24.114.301 and other rules - Definitions - General Provisions - Licensing - Renewals - Unprofessional Conduct - Screening Panel - Complaint Procedure, p. 620, 1381
24.114.403 and other rule - Business Entity Practice - Fee Abatement, p. 889, 2077

(Board of Athletics)
24.117.301 and other rules - Definitions - General Provisions - Contest Regulations - Boxing Regulations - Ring Regulations - Boxing Officials - Club Boxing - Promoter - Bout Approval - Referee - Fee Abatement - Suspension and Revocation - Mixed Martial Arts, p. 157, 1161

(Board of Barbers and Cosmetologists)
24.121.301 and other rules - Definitions - Fees - Variances - Applications for Licensure - Out-of-State Applicants - School Requirements - School Operating Standards - Student Withdrawal, Transfer, or Graduating - Teacher-Training Curriculum - Continuing Education-Instructors/Inactive Instructors - Unprofessional Conduct - Fee Abatement - Continuing Education-Licensees/Inactive Licensees - Field Trips, p. 629, 1383

(Board of Chiropractors)
24.126.301 and other rules - Definitions - Fee Schedule - Licensing and Scope of Practice - Licensing and Board Specific Rules - Impairment Evaluators - Renewals-Continuing Education Requirements - Unprofessional Conduct - Fee Abatement - Participation in Disaster and Emergency Care-Liability of Chiropractor, p. 845, 1609

(Crane and Hoisting Operating Engineers Program)
I Incorporation by Reference of ANSI B30.5, p. 1509

24.135.501 and other rules - Hoisting Operators License Requirements - Crane Hoisting Operators License Requirements - Mine Hoisting Operators License Requirements - Fee Schedule - Renewals - National Commission Certification - Failed Examinations - Applications - Citations and Fines, p. 1871, 219

(State Electrical Board)
24.141.401 and other rules - Board Meetings - Apprentice Registration - Fee Schedule - Temporary Practice Permits - Examinations, p. 1219, 2458
24.141.405 and other rules - Fee Schedule - Continuing Education - Licensee Responsibilities - Fee Abatement, p. 17, 1278, 1612

(Board of Funeral Service)
24.147.302 and other rules - Definitions - Substantive Rules - Licensing - Mortuary Requirements - Crematory Rules - Cemetery Regulation Rules - Branch Facilities - Prearranged Funeral Agreements - Continuing Education - Complaint Filing - Fee Abatement - Renewal of Cemetery Licenses - Cemetery Authority Rules, p. 642, 1169

(Board of Medical Examiners)
I & II Medical Assistants - Fee Abatement, p. 1882, 2676, 759
I-IX Professional Assistance Program, p. 1015
24.156.1601 and other rules - Physician Assistant Licensure, p. 483

(Board of Nursing)
8.32.301 and other rules - Nursing, p. 956
8.32.427 General Requirements for Medication Aide Training Programs and Instructors, p. 1652, 2251

(Board of Nursing Home Administrators)
24.162.420 Fee Schedule, p. 1490, 2252

(Board of Occupational Therapy Practice)
24.165.401 and other rule - Fees - Fee Abatement, p. 495, 1049
24.165.404 and other rules - Application for Licensure - Examinations - Continuing Education, p. 710, 1614

(Board of Outfitters)
8.39.501 and other rules - Outfitter Licensing and Operations - Transfer from the Department of Commerce, p. 1549, 324

(Board of Pharmacy)
24.174.301 and other rules - Definitions - General Provisions - Licensing - Internship Regulations - Pharmacy Technicians - Certified Pharmacies - Mail Service Pharmacies - Institutional Pharmacies - Wholesale Drug Distributors Licensing - Dangerous Drugs - Renewals and Continuing Education - Screening Panel - Inactive License - Telepharmacy

Operations - Remote Telepharmacy Dispensing Machine Sites - Central Filling by Hub Pharmacies - Ambulatory Surgical Facilities - Fee Abatement, p. 23, 1615

(Board of Physical Therapy Examiners)
24.177.401 Fees, p. 2376, 225

(Board of Plumbers)
24.180.607 and other rule - Temporary Practice Permits - Continuing Education Requirements, p. 893, 2460, 764

(Board of Private Alternative Adolescent Residential or Outdoor Programs)
I-VI Private Alternative Adolescent Residential or Outdoor Programs, p. 1886, 2677

(Board of Private Security Patrol Officers and Investigators)
8.50.423 and other rules - Private Security Patrol Officers and Investigators - Fee Schedule - Firearms Training Course Curriculum and Standards, p. 605, 1926

(Board of Professional Engineers and Professional Land Surveyors)
24.183.404 and other rules - Fee Schedule - License Seal - Classification of Experience for Engineering Applicants - Continuing Education - Safety, Health, and Welfare of the Public - Classification of Experience - Branch Offices - Fee Abatement, p. 303, 1630
24.183.2101 and other rule - Expiration of License - Renewal - Expired Certificate - Renewal Grace Period, p. 713, 1633

(Board of Psychologists)
24.189.2107 and other rule - Continuing Education Implementation - Fee Abatement, p. 1739, 2464

(Board of Public Accountants)
8.54.101 and other rules - Transfer from the Department of Commerce, p. 2668
8.54.410 and other rules - Fees - Amount of Required Experience - Continuing Education Matters - Special Practice Permits for Nonresident Certified Public Accountants, p. 1864, 2671, 83

(Board of Radiologic Technologists)
24.204.401 and other rules - Fee Schedule - Permit Fees - Abatement of Renewal Fees - Radiologic Technologists Applications - Replacement Licenses and Permits - Permits-Practice Limitations - Permit Examinations - Radiologist Assistants - Scope of Practice - Supervision - Adoption of a Code of Ethics, p. 1226, 2465, 84

(Board of Real Estate Appraisers)
24.207.401 and other rules - Fees - Licensing - Continuing Education - Renewals, p. 52, 765, 919
24.207.505 and other rules - Qualifying Education Requirements for Licensed Real Estate Appraisers - Qualifying Education Requirements for Residential Certification - Qualifying Education Requirements for General Certification - Trainee Requirements, p. 716, 1634

(Board of Realty Regulation)
8.58.101 and other rules - Transfer from the Department of Commerce, p. 2455
24.210.667 and other rule - Continuing Real Estate Education - New Licensee Mandatory Continuing Education for Salespersons, p. 2546, 1171

(Board of Sanitarians)
24.216.402 Fee Schedule, p. 61, 1051

(Board of Speech-Language Pathologists and Audiologists)
24.222.301 and other rules - Definitions - Fees - Licensing and Scope of Practice - Speech Pathology and Audiology Aides - Continuing Education - Unprofessional Conduct - Fee Abatement - Licensure of Speech-Language Pathologists and Audiologists, p. 1337

(Board of Veterinary Medicine)
24.225.301 and other rule - Definitions - Out-of-State Licensure Endorsement - Occasional Case Exemption - Fee Abatement, p. 64, 766

LIEUTENANT GOVERNOR, Office of the, Title 30

30.2.201 and other rules - Centennial Grants - Centennial Sanctioning, p. 1358, 226

LIVESTOCK, Department of, Title 32

32.2.401 and other rules - License Fees - Permit Fees - Miscellaneous Fees, p. 853, 1282
32.2.403 Diagnostic Laboratory Fees, p. 1359
32.6.701 and other rules - Animal Feeding, Slaughter, and Disposal, p. 657, 1021, 1283

(Board of Milk Control)
32.23.301 Fees Charged by the Department on the Volume on All Classes of Milk, p. 1743, 2254
32.24.501 and other rules - Quota, Utilization and Marketing of Montana Pooled Raw Milk, p. 2161, 2680
32.24.513 Computation of Price for Quota Milk and Excess Milk, p. 2551, 330

(Board of Horse Racing)
32.28.501 and other rule - Horse Racing, p. 194, 680
32.28.505 Purse Disbursement, p. 860, 1284

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

I Specifying Deadline for Water Rights Adjudication Fee Appeals under Adjudication Fee, p. 197, 767
36.11.304 and other rules - Equipment Operation in the SMZ - Retention of Trees and Clearcutting in the SMZ - Site-specific Alternative Practices - Definitions - Penalties for Violation of the Streamside Management Zone Law, p. 499
36.12.101 Municipal Use of Water, p. 2316, 199, 1387
36.19.106 Reclamation and Development Grants Program, p. 1746, 2468
36.21.415 Fee Schedule for Water Well Contractors, p. 720, 1177

(State Board of Land Commissioners and the Department of Natural Resources and Conservation)
36.25.210 Increase Royalty Rates for Oil and Gas Leases on State School Trust Lands from Current Rates to 16.67%, p. 1654, 2255

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

I-V Medicare Part D Low Income Subsidies, p. 2423, 575
I-IV Montana Clean Indoor Air Act, p. 1665, 2079
I-XIV State Trauma Care System, p. 723
I-XV Pharmacy Access Prescription Drug Benefit Program (Big Sky Rx), p. 2558, 336
37.12.401 Laboratory Testing Fees, p. 1227
37.30.102 and other rules - Vocational Rehabilitation Program, p. 1577, 2257
37.30.405 Vocational Rehabilitation Program Payment for Services, p. 1223
37.36.604 and other rule - Montana Telecommunications Access Program (MTAP), p. 510, 1052
37.37.101 and other rules - Implementation of a Children's Mental Health Direct Care Worker Wage Increase, p. 863, 1635
37.37.316 and other rules - Youth Foster Homes - Further Amendment of Rule V, p. 2379, 524, 1395
37.40.307 and other rules - Medicaid Reimbursement of Nursing Facilities, p. 1024, 1638
37.62.2101 and other rules - Modification of Child Support Orders, p. 2414, 574
37.70.305 and other rules - Low Income Energy Assistance Program (LIEAP), p. 1657, 2078
37.75.101 and other rules - Child and Adult Care Food Program (CACFP), p. 2168, 331
37.80.101 and other rules - Child Care Assistance Program, p. 1555
37.82.101 Medicaid Assistance, p. 1550
37.85.212 Resource Based Relative Value Scale (RBRVS), p. 872, 1422

42.25.1801 and other rules - Oil, Gas, and Coal Natural Resources, p. 1896, 2470

SECRETARY OF STATE, Title 44

1.2.102 and other rules - Administrative Rules of Montana - Montana Administrative Register - Rule Formatting - Incorporation by Reference - Fees, p. 2211, 2699
1.2.419 and other rule - Scheduled Dates for the 2006 Montana Administrative Register - Submission Dates for Replacement Pages, p. 1903, 2334
44.2.203 Priority Handling of Documents, p. 1569
44.3.2203 Absentee and Mail Ballot Voting, p. 1242
44.5.114 and other rule - Corporations - Profit and Nonprofit Fees - Limited Liability Company Fees, p. 2238, 2705

(Commissioner of Political Practices)
44.10.331 Limitations on Receipts from Political Committees to Legislative Candidates, p. 1583, 2094