

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 6

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 Services, at (406) 444-2055.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

ADMINISTRATION, Department of, Title 2

2-2-379 (Public Employees' Retirement Board) Notice of Proposed Amendment - Investment Policy Statement for the Defined Contribution Retirement Plan - Investment Policy Statement for the 457 Deferred Compensation Plan. No Public Hearing Contemplated. 320-322

COMMERCE, Department of, Title 8

8-119-56 Notice of Proposed Amendment - Tourism Advisory Council. No Public Hearing Contemplated. 323-325

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

12-324 (Fish, Wildlife, and Parks Commission) Notice of Public Hearing on Proposed Amendment - No Wake Zone at White Sandy Recreation Area on Hauser Lake. 326-327

ENVIRONMENTAL QUALITY, Department of, Title 17

17-257 (Board of Environmental Review) (Water Quality) Notice of Extension of Comment Period on Proposed Amendment - Outstanding Resource Water Designation for the Gallatin River. 328-329

JUSTICE, Department of, Title 23

23-4-185 Notice of Public Hearing on Proposed Amendment -  
Definitions - Field Certification-Breath Analysis Instruments - Lab  
Certification - Qualification-Breath Analysis Location - Personnel  
Qualifications - Recertification-Breath Test Personnel - Blood Sample  
Collections - Preliminary Alcohol Screening Tests. 330-336

LABOR AND INDUSTRY, Department of, Title 24

24-29-214 Notice of Public Hearing on Proposed Adoption - Insurer  
Reporting Requirements. 337-339

LIVESTOCK, Department of, Title 32

32-7-186 (Board of Horse Racing) Notice of Proposed Adoption -  
Match Bronc Rides Under the Parimutuel System. No Public Hearing  
Contemplated. 340-345

RULE SECTION

COMMERCE, Department of, Title 8

AMD Award of Grants and Loans Under the Big Sky Economic  
Development Program. 346

LABOR AND INDUSTRY, Department of, Title 24

Corrected Notice of Amendment and Adoption - (Board of  
Outfitters) Unprofessional Conduct and Misconduct. 347

AMD (Board of Psychologists) Definitions - Fee Schedule - Use  
of Title - Required Supervised Experience. 348-349

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

AMD (Board of Oil and Gas Conservation) Plugging and  
Restoration Bond - Financial Responsibility. 350

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

NEW Tattooing and Body Piercing.  
REP 351-364

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	365-366
How to Use ARM and MAR.	367
Accumulative Table.	368-376
Boards and Councils Appointees.	377-386
Vacancies on Boards and Councils.	387-399

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

In the matter of the proposed amendment	)	NOTICE OF PROPOSED
of ARM 2.43.1002 pertaining to the	)	AMENDMENT
investment policy statement for the	)	
Defined Contribution Retirement Plan and	)	NO PUBLIC HEARING
ARM 2.43.1802 pertaining to the	)	CONTEMPLATED
investment policy statement for the 457	)	
Deferred Compensation Plan	)	

TO: All Concerned Persons

1. On May 25, 2007, the Montana Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board 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 Public Employees' Retirement Board no later than 5:00 p.m. on April 13, 2007, to advise us of the nature of the accommodation that you need. Please contact Angela Salvitti, Montana Public Employee Retirement Administration, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; telephone (406) 444-2578; TDD (406) 444-1421; FAX (406) 444-5428; e-mail asalvitti@mt.gov.

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

2.43.1002 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 401(a) Defined Contribution Plan Investment Policy Statement approved by the board on ~~January 27, 2005~~ February 8, 2007.

(2) and (3) remain the same.

AUTH: 19-3-2104, MCA  
IMP: 19-3-2104, 19-3-2122, MCA

2.43.1802 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 457 Plan (Deferred Compensation) Investment Policy Statement approved by the board on ~~January 27, 2005~~ February 8, 2007.

(2) and (3) remain the same.

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

STATEMENT OF REASONABLE NECESSITY: The Montana Public Employees' Retirement Board (PER Board), as the administrator of the Defined Contribution Retirement Plan (DCRP) of the Public Employees' Retirement System and the Deferred Compensation Plan (457 Plan), adopted the original investment policy statements for both plans by reference in 2002. The PER Board last amended both investment policy statements on February 8, 2007. Most of the amendments are format changes. There are also several substantive amendments. Identical changes were made to both investment policy statements.

Under "Quantitative Measures" the board changed "Funds must . . ." to "Funds are expected to . . ." in order to have greater flexibility when reviewing funds that fail to meet one or two measures for a short period of time. This change addresses participants' concerns regarding the discontinuation of a fund that has an overall positive history.

Under "Evaluation of Investment Alternatives", the board added "Review Status" that permits watching investment options for any type of shift in performance and "Probation Status" to clarify what is meant by probation and how long probation status may remain in effect. An additional change in this section clarifies that investments on "review" or "probation" status may remain in that status for more than one review period.

Finally, the board, on the advice of its investment consultant, determined to use "rolling five years measuring periods" rather than a flat three-year period when selecting funds and reviewing fund performance.

Section 2-4-307(3), MCA, requires that the amended investment policy statements be adopted by reference.

4. Concerned persons may present their data, views, or arguments concerning the proposed amendment in writing to Roxanne Minnehan, Executive Director, Public Employees' Retirement Board, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; FAX (406) 444-5428; e-mail [rminnehan@mt.gov](mailto:rminnehan@mt.gov) and must be received no later than 5:00 p.m., April 23, 2007.

5. If persons who are directly affected by the proposed amendment 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 the Public Employees' Retirement Board, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; FAX (406) 444-5428; e-mail [rminnehan@mt.gov](mailto:rminnehan@mt.gov) and must be received no later than 5:00 p.m., April 23, 2007.

6. If the board receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly

affected by the proposed adoption; 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 828 persons based on approximately 1279 DCRP members and approximately 7000 457 Plan participants.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the 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 public retirement rulemaking actions. Such written request may be mailed or delivered to Angela Salvitti, Montana Public Employee Retirement Administration, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; faxed to the office at (406) 444-5428; or e-mailed to [asalvitti@mt.gov](mailto:asalvitti@mt.gov), or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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

/s/ Carole Carey  
Carole Carey, President  
Public Employees' Retirement Board

/s/ Melanie Symons  
Melanie Symons, General Counsel and  
Rule Reviewer

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

Certified to the Secretary of State on March 12, 2007.

BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED
amendment of ARM 8.119.101	)	AMENDMENT
pertaining to the Tourism Advisory	)	
Council	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On April 25, 2007, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternate accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., April 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Barbara Sanem, Department of Commerce, Montana Promotion Division, 301 S. Park Avenue, P.O. Box 200533, Helena, Montana 59620-0533; telephone (406) 841-2769; fax (406) 841-2871; or e-mail [bsanem@mt.gov](mailto:bsanem@mt.gov).

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

8.119.101 TOURISM ADVISORY COUNCIL (1) remains the same.

(2) The Tourism Advisory Council incorporates by reference the guide entitled "Regulations and Procedures for Regional/CVB Tourism Organizations, February ~~2005~~ 2007," setting forth the regulations and procedures pertaining to the distribution of lodging facility use tax revenue. The guide is available for public inspection during normal business hours at the Montana Promotion Division, Department of Commerce, 301 S. Park Avenue, Helena, Montana 59620. Copies of the guide are available on request.

(3) Distribution of funds to regional nonprofit tourism corporations and to nonprofit convention and visitors' bureaus is contingent upon compliance with the "Regulations and Procedures for Regional/CVB Tourism Organizations, February-~~2005~~ 2007."

AUTH: 2-15-1816, MCA

IMP: 2-15-1816, MCA

REASON: It is reasonably necessary to amend this rule to provide clarification because the "2007 Regulations and Procedures for the Regional/CVB Tourism Organizations" have been revised and reorganized.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Barbara Sanem, Department of Commerce, Montana Promotion Division, 301 S. Park Avenue, P.O. Box 200533, Helena, Montana 59620-0533; fax (406) 841-2871; or e-mail [bsanem@mt.gov](mailto:bsanem@mt.gov). Comments must be received no later than April 20, 2007.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Barbara Sanem at the above address no later than 5:00 p.m., April 20, 2007.

6. If the department receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those has been determined to be 20 persons based on 11 Convention and Visitor Bureaus, six Tourism Regions, and at least 184 potential applicants for grants of accommodation tax funds.

7. 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 and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Commerce, 301 S. Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501, or by fax (406) 841-2701, or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this Notice of Proposed Amendment is available through the department's web site at <http://commerce.mt.gov>. The department strives to make the electronic copy of the 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 works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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



DEPARTMENT OF COMMERCE

/s/ G. MARTIN TUTTLE  
G. MARTIN TUTTLE  
Rule Reviewer

/s/ ANTHONY J. PREITE  
ANTHONY J. PREITE  
Director

Certified to the Secretary of State March 12, 2007.

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 12.11.3205 pertaining to a no ) PROPOSED AMENDMENT  
wake zone at White Sandy Recreation )  
Area on Hauser Lake )

To: All Concerned Persons

1. On April 18, 2007, at 6:00 p.m. the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Lewis and Clark Public Library, 120 South Last Chance Gulch, Helena, Montana to consider the amendment of the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the commission no later than 5:00 p.m. on March 29, 2007, to advise us of the nature of the accommodation that you need. Please contact Craig Marr, Fish, Wildlife and Parks, Helena Area Resource Office, 1420 East 6th Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 495-3270; fax (406) 495-3273; e-mail cmarr@mt.gov.

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

12.11.3205 HAUSER RESERVOIR (1) Hauser Reservoir is located in Lewis and Clark County.

(2) Hauser Reservoir is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), in the following areas:

- (a) Lakeside marina within 300 feet of the docks or as buoyed;
- (b) Hauser Lake State Park at Black Sandy Beach within 300 feet of the docks or as buoyed;
- (c) Spokane Creek Bay within 500 feet from the mouth of the bay or as buoyed;
- (d) Devil's Elbow Campground, from the campground shore to 100 feet into the Missouri River channel or as buoyed;
- (e) Clark's Bay from shoreline to 300 feet from shore or as buoyed; ~~and~~
- (f) York Bridge fishing access site within 300 feet of the boat ramp and dock area or as buoyed; and
- (g) White Sandy Recreation Area within 300 feet of docks and swim area or as buoyed.

(3) The upper end of Hauser Reservoir from Canyon Ferry Dam to below Brown's Gulch is either closed as posted or marked by barrel booms to the use of all watercraft, during the time period beginning October 15 and ending December 15 of each year.

AUTH: 23-1-106, 87-1-303, MCA  
IMP: 23-1-106, 87-1-303, MCA

4. The primary purpose of this rule amendment is to protect public safety. The Bureau of Land Management (BLM) has developed the White Sandy Recreation Area on Hauser Reservoir which will be open for public use this summer. The site will provide day use and overnight camping opportunities for the public. With the development of the new site and a large capacity for motorboat launching, there will be increased use in the area. The BLM petitioned the commission to establish a no wake zone 300 feet from the docks, boat ramp, and swim area at White Sandy Recreation Area to maintain public safety around the high use areas of the site. Other advantages of the no wake zone are to protect the unstable, sandy shoreline from further erosion and to protect visitors' personal property by reducing wave action around the boat ramp and docks which could damage boats moored at the dock or beached on the shoreline. The proposed no wake zone will be consistent with previously established no wake zones at Black Sandy State Park, York Bridge fishing access site, Devil's Elbow Campground, and Clark's Bay Recreation Site.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Craig Marr, Fish, Wildlife and Parks, Helena Area Resource Office, 1420 East 6th Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 495-3270; fax (406) 495-3273; e-mail cmarr@mt.gov and must be received no later than April 19, 2007.

6. Rebecca Dockter, or another hearing officer appointed by the department, has been designated to preside over and conduct the hearing.

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

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

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

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

Certified to the Secretary of State March 12, 2007

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF EXTENSION OF
17.30.617 and 17.30.638 pertaining to )	COMMENT PERIOD ON
outstanding resource water designation )	PROPOSED AMENDMENT
for the Gallatin River )	
)	(WATER QUALITY)

TO: All Concerned Persons

1. On October 5, 2006, the Board of Environmental Review published MAR Notice No. 17-254 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 2294, 2006 Montana Administrative Register, issue number 19.

2. The board received a number of comments opposing adoption of the proposed rule amendments on grounds that the amended rules would render a number of properties in the Big Sky area undevelopable. The draft environmental impact statement on the proposed rule amendments indicates that the rule amendments would not preclude full development in the Big Sky area if certain mechanisms, such as central sewers and advanced treatment, are implemented. However, the record does not indicate whether regulatory or other means to require or facilitate implementation of these mechanisms are feasible. The board has been notified that that the original petitioners for this rulemaking and developers have been discussing means of accomplishing this goal. The board is therefore extending the comment period to July 2, 2007, to allow the public to provide comment on the issue of whether, if the proposed rule amendments are adopted, mechanisms to allow full development of properties in the Big Sky area can be developed and implemented.

3. Written data, views, or arguments may be submitted to the board secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ber@mt.gov, no later than July 2, 2007. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

4. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking action or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., April 16, 2007, to advise us of the nature of the accommodation that you need. Please contact the board secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or e-mail ber@mt.gov.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

/s/ Joseph W. Russell

JOSEPH W. RUSSELL, M.P.H.

Chairman

Certified to the Secretary of State, March 12, 2007.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING  
rules 23.4.201, definitions, 23.4.213, ) ON PROPOSED AMENDMENT  
field certification-breath analysis )  
instruments, 23.4.214, lab certification, )  
23.4.215, qualification-breath analysis )  
location, 23.4.216, personnel )  
qualifications, 23.4.217, recertification- )  
breath test personnel, 23.4.220, blood )  
sample collections, and 23.4.225, )  
preliminary alcohol screening tests )

TO: All Concerned Persons

1. On April 16, 2007, at 10:00 a.m., the Department of Justice will hold a public hearing in the classroom of the Forensic Science Division of the Department of Justice, 2679 Palmer, Missoula, Montana, to consider the amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Justice no later than 5:00 p.m. on April 2, 2007, 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; telephone (406) 444-2026; fax (406) 444-3549; or e-mail jellingson@mt.gov.

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

23.4.201 DEFINITIONS Unless the context requires otherwise, the following definitions apply to this subchapter:

(1) through (4) remain the same.

(5) "Annual" means ~~yearly or once a year, but does not in itself signify what time in a year.~~ See Black's Law Dictionary 2 (6th ed. 1990) once every 365 days.

(6) remains the same.

(7) "Authorized designee" means a breath test specialist/operator selected by the breath test specialist/senior operator to perform the senior operator's duties, ~~in the event of the senior operator's absence.~~

(8) and (8)(a) remain the same.

(b) any approved device which is designed to detect and verify the presence of alcohol or provide an estimated value of alcohol concentration, i.e., a PAST device.

(9) through (19) remain the same.

(20) "Breath test specialist" means a person qualified under these rules to use a breath analysis instrument or a preliminary alcohol screening ~~test~~ device.

Depending on the person's degree of training as set forth in ARM 23.4.216, he/she may be certified as:

(a) through (30) remain the same.

(31) "Test," in reference to a breath analysis, means a full and complete analysis of properly delivered breath sample(s) or samples. Such analysis is to be considered complete when the breath analysis instrument has executed its prescribed program, a final result known as the reported alcohol concentration is obtained, and a printed record is produced by the breath test instrument. All breath analysis must be performed in accordance with the procedures set forth by the Forensic Science Division. In reference to other biological sample analysis, a test ~~shall be defined as a full and complete analysis of the received sample or samples.~~ A test of the sample may consist of more than one analysis of the submitted sample or samples in accordance with the procedures set forth by the Forensic Science Division.

(32) remains the same.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.201(5): In the case of State v. Frickey, 2006 MT 122, 332 Mont. 255, 136 P.3d 558 (2006), the Montana Supreme Court defined "annual" to mean "once every 365 days." The definition provided by the Supreme Court requires this rule change.

23.4.201(7): There has been confusion over what constitutes an "absence" under the present rules. This change is needed to permit the breath test specialist/senior operator to direct the "authorized designee" to perform the operator's duties whenever it may become necessary or desirable in the management of the senior operator's duties.

23.4.201(8)(b): This amendment is required to clarify that a PAST device is not a breath test instrument under the definitions within these rules.

23.4.201(20): This change is necessary to correct an inaccuracy in the rules. The specialist is qualified to use a "device" not a "test."

23.4.201(31): New instrumentation and procedures require the use of multiple samples before a final result, known as the "reported alcohol concentration," is stated by the breath analysis instrument. This change is necessary to reflect the changes in procedures and instrumentation. The change in the last sentence of the rule is a language clarification.

23.4.213 FIELD CERTIFICATION OF BREATH ANALYSIS INSTRUMENTS AND ASSOCIATED EQUIPMENT

(1) Breath analysis instruments shall be field certified for accuracy at least once every ~~seven~~ 31 days by a breath test specialist/senior operator, ~~or in the event of a senior operator's absence,~~ his/her authorized designee, using an ethyl alcohol water standard or an ethyl alcohol gas standard which has been approved by the division and using the field certification report form for the breath analysis instrument being certified.

(a) remains the same.

(b) A field certification is valid when the results of the approved standard are

at plus or minus 10% of target value. The results of the field certification shall be reported to the third decimal (.000) and recorded on the field certification report form. If a test record card or tape is used, it shall be affixed to the field certification report which is to be kept at the testing location, and a copy of the field certification report will be prepared for the division. All field certification reports will be sent to the division on a monthly basis.

(c) The approved ethyl alcohol water standard will not be used for longer than three months after its first date of use. ~~This use and time limitation does not apply to the ethyl alcohol gas standard.~~ The ethyl alcohol gas standard will not be used beyond the expiration date listed on the standard.

(d) remains the same.

(e) A field certification shall be performed whenever a new breath analysis instrument is placed in service or when a breath analysis instrument is returned to service. In addition, whenever a breath analysis instrument is placed in a mobile service capacity, a field certification shall be done prior to the day's use and again at the end of the day's use. The field certification results must be on file at the testing location before the breath analysis instrument can be used for subject testing.

(f) through (i) remain the same.

(j) A breath analysis instrument's field certification shall be considered valid for ~~seven~~ 31 days forward from the date of a proper field certification.

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

(c) Results of a field certification analysis outside the range specified in (2)(b) shall be confirmed/adjusted by the breath test specialist/senior operator, or his/her authorized designee. If the test results are still out of the specified range, the PAST will be removed from service.

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

(iii) the results obtained; and if an adjustment was made;

(iv) through (f) remain the same.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.213(1): New instrumentation performs an accuracy verification with every test using both external and internal controls. This new safeguard for accuracy eliminates the need for field certification every seven days. This rule change is necessary to take advantage of the accuracy of the new breath analysis instruments. The language relating to a "senior operator's absence" has been eliminated to conform with the proposed changes to ARM 23.4.201(7) for the reasons stated above.

23.4.213(1)(b): The new instruments use a tape instead of a card when no external printer is available or online. This rule change is necessary to reflect this capability. The remaining changes are for purposes of clarification.

23.4.213(1)(c): This change is required to specify the appropriate expiration date for application to an ethyl alcohol gas standard.

23.4.213(1)(e): New instruments have the capability of being used at mobile locations. This rule change is needed to assure that the instruments are accurate when used in a mobile service capacity.



23.4.213(1)(j): This rule change is required for consistency with the change proposed in ARM 23.4.213(1) and for the same reason.

23.4.213(2)(c) and (2)(e)(iii): If adjustments are made to a PAST device in the field certification process, that adjustment must be recorded in the records for each device. These rule changes are necessary to record what adjustments have been made to the PAST devices in order to maintain their accuracy and in order to substantiate the accuracy of test results in evidentiary proceedings.

23.4.214 LABORATORY CERTIFICATION (1) remains the same.

~~(a) a field certification performed to establish the current status of the breath analysis instrument;~~

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

~~(c) (b)~~ a series of controlled ethyl alcohol water/gas standards shall be analyzed with an accuracy requirement of +/- 5% or .005, whichever is greater on all target values;

(d) remains the same, but is renumbered (c).

~~(e) (d)~~ a review of the breath analysis instrument's sensitivity for the detection of any interfering substances.

(2) and (3) remain the same.

(4) All breath analysis instruments received from the division either after the laboratory certification, preventive maintenance, or after repair, must have a field certification performed by the breath test specialist/senior operator or his/her authorized designee, as set forth in ARM 23.4.213 prior to analysis of any subjects subject's breath.

(5) remains the same.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.214(1)(a): This subsection may be deleted because field certification has no relationship to laboratory certification and should not be included in a rule that addresses the requirements for laboratory certification.

23.4.214(1)(c): This change is required to permit the use of gas standards in addition to water standards.

23.4.214(1)(e): This is a stylistic/grammatical change that is not substantive.

23.4.214(4): This is a stylistic/grammatical change that is not substantive.

23.4.215 QUALIFICATION OF BREATH ANALYSIS LOCATION

(1) through (6) remain the same.

(7) Mobile testing locations may be designated upon the request of a law enforcement agency if the division feels that such location is warranted. All mobile testing shall be done in a manner approved by the division. No formal application is required.

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

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.215(7): This change is required to allow law enforcement to take advantage of mobile capabilities of new testing devices that the state is acquiring.

23.4.216 QUALIFICATIONS OF PERSONNEL (1) remains the same.

(2) A permit shall be issued to a person successfully completing the training. ~~Such permit will have the specialist's expiration date displayed.~~

(3) and (4) remain the same.

(5) A permit shall be issued to a person successfully completing the training. ~~Such permit will have the specialist's expiration date displayed.~~

(6) and (7) remain the same.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.216(2) and (5): The department is adopting a card permit system where certification information is coded by a 2D Bar Code on the plastic card. The new breath test instrumentation will limit use of the system to only those who have a valid permit card that is properly encoded. The expiration date cannot be "displayed" on such a card.

23.4.217 RECERTIFICATION OF BREATH TEST PERSONNEL

(1) through (3) remain the same.

(4) Permits shall be issued to all individuals successfully completing the breath test specialist recertification training. ~~Such permit shall have the specialist's certification date displayed.~~ The permit expires the last day of the month, in the following year in which the specialist was certified.

(5) All breath test specialist/operators shall be recertified on ~~an annual~~ a regular basis by attending a recertification course approved by the division.

(6) In addition to the ~~annual~~ regular recertification, all breath test specialist/senior operators may be recertified by a representative of the division once every two years on a schedule to be determined by the division.

(7) remains the same.

(8) The breath test specialist/senior operator is still required to submit an annual examination based on the material he/she is presenting to the breath test specialist/operators, in addition to the biannual recertification which may be conducted by the division.

(9) A permit will be issued to all individuals successfully completing the senior operator's recertification training. ~~Such notification shall have the specialist's certification date displayed.~~ Certification expires the last day of the month, in the following year in which the specialist was certified.

(10) through (13) remain the same.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.217(4) and (9): The department is adopting a card permit system where certification information is coded by a 2D Bar Code on the plastic card. The

new breath test instrumentation will limit use of the system to only those who have a valid permit card that is properly encoded. The expiration date cannot be "displayed" on such a card.

23.4.217(5) and (6): These changes substituting "regular" for "annual" are to prevent a rule violation given the definition of "annual" provided by the Supreme Court in the Frickey case. The certification or recertification will expire as provided by (4) and (9). This time period may be up to one month longer than 365 days.

23.4.217(8): This language change brings this portion of the rule into conformity with (6).

23.4.220 COLLECTION OF BLOOD SAMPLES FOR DRUG AND/OR ALCOHOL ANALYSIS (1) Blood samples will be collected from living individuals only by persons authorized by current law, upon written request of a peace officer or officer of the court. Blood samples that are drawn or analyzed by medical staff for medical diagnostic or treatment purposes, and not at the request of a peace officer or an officer of the court, are exempt from these rules.

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

(d) ~~paper~~ evidence seal to be signed and dated.

(4) through (7) remain the same.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.220(1): This change is necessary to clarify that blood samples drawn by medical staff personnel for treatment or diagnostic purposes are not subject to the rules provided in this section.

23.4.220(3): Paper seals have been replaced by "evidence" seals. This rule change is required to reflect this practice.

23.4.225 PRELIMINARY ALCOHOL SCREENING TESTS (PASTs)

(1) through (4) remain the same.

(5) All PAST results will be recorded in a manner approved by the division.

As presently used, the results shall be reported only as positive or negative.

(6) PAST results of 0.020 G/210L or greater shall be considered positive for the presence of alcohol, and PAST results of less than 0.020 G/210L shall be considered negative for the presence of alcohol.

AUTH: 61-8-405, MCA

IMP: 61-8-405, MCA

REASON: 23.4.225(5) and (6): PAST devices have limitations in their accuracy and precision as presently used, and should be used only to record the presence or absence of alcohol and should not be used as evidence of a particular level of breath alcohol. A breath alcohol result of less than 0.020 grams per 210 liters of breath should be considered a negative result given the limitations of the devices as presently used. The rule changes contained in these sections are necessary to reflect the limitations of PAST devices as presently used.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; fax (406) 444-3549; or e-mail [jellingson@mt.gov](mailto:jellingson@mt.gov). Any comments must be received no later than April 19, 2007.

5. Jon Ellingson, Department of Justice, has been designated to preside over and conduct the hearing.

6. An electronic copy of this Notice of Proposed Amendment is available through the Department of Justice's web site at <http://doj.mt.gov/resources/administrativerules.asp>. The department strives to make the electronic copy of the 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 of Justice works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

7. 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, and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in paragraph 4 above, or may be made by completing a request form at any rules hearing held by the department.

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

By: <u>/s/ Mike McGrath</u>	<u>/s/ Jon Ellingson</u>
Mike McGrath	Jon Ellingson
Attorney General	Rule Reviewer
Department of Justice	

Certified to the Secretary of State March 12, 2007.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed adoption of ) NOTICE OF PUBLIC HEARING  
NEW RULE I, relating to insurer reporting ) ON PROPOSED ADOPTION  
requirements )

TO: All Concerned Persons

1. On April 20, 2007, at 10:00 a.m., or as soon thereafter as is feasible, the Department of Labor and Industry (department) will hold a public hearing to be held in the first floor conference room (room 104), Walt Sullivan Building, 1327 Lockey Avenue, Helena, Montana to consider the proposed adoption of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on April 13, 2007, to advise us of the nature of the accommodation that you need. Please contact the Workers' Compensation Regulations Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Keith Messmer, P.O. Box 8011, Helena, MT 59624-8011; telephone (406) 444-6541; fax (406) 444-3465; TDD (406) 444-5549; or e-mail kmessmer@mt.gov.

3. The rule proposed for adoption is as follows:

NEW RULE I INSURER REPORTING REQUIREMENTS - COVERAGE AND CANCELLATION NOTIFICATION (1) Electronic notice of insurance coverage or cancellation must contain the taxpayer identification number of the employer.

AUTH: 39-9-103, 39-71-203, 39-71-225, MCA  
IMP: 39-9-201, 39-71-203, 39-71-225, 39-71-401, 39-71-504, 39-71-507, 39-71-2204, 39-71-2205, 39-71-2337, 39-71-2339, MCA

REASON: There is reasonable necessity to adopt NEW RULE I to require insurance policy coverage and cancellation reporting includes the taxpayer identification number of the employer, in anticipation of the department implementing the International Association of Industrial Accident Boards and Commissions ("IAIABC") Proof of Coverage release 2.1 (projected for August 1, 2007). The department uses the IAIABC's national standard reporting format for workers' compensation insurance coverage, which identifies employing entities by the entity's taxpayer identification number, in order to help track employer compliance with Montana's workers' compensation insurance coverage requirements. At least one insurer, the Montana State Fund (MSF), has advised the department that without an administrative rule requiring the collection of the taxpayer identification number from its insured

employer, the insurer might not otherwise be able to obtain the information from the employer.

The department uses the coverage information to carry out some of its regulatory functions with regards to the Workers' Compensation Act. In addition to using the coverage information to correctly identify the insurer "on the risk" for a claim filed by an injured employee, the department uses the database information to enforce, via the Uninsured Employers' Fund, the coverage requirements imposed upon employers by the Workers' Compensation Act. The department will also use the information as part of the workers' compensation insurance verification process in the construction contractor registration program provided for in Title 39, chapter 9, MCA. The coverage information also helps the department provide management information related to the Montana workers' compensation system in fulfillment of the department's obligations pursuant to 39-71-225, MCA.

The proposed rule provides that each insured employer disclose its taxpayer identification number. For most employers, that will be a federal employer identification number (FEIN). If an individual policyholder does not have a FEIN, the individual's social security number is that employer's taxpayer identification number. The database software that supports IAIABC Proof of Coverage release 2.1 is designed to reject coverage information submitted without an employer's identification number (EIN), and returns an error message that the EIN is a required field. That circumstance will require the insurer to correct that error, which means getting a valid EIN and then resubmitting the policy information. Most, if not all insurers currently writing workers' compensation policies in Montana, provide coverage reporting using the National Council of Compensation Insurers ("NCCI") as the reporting agent for the insurer. Such reports are submitted electronically, using the IAIABC reporting format. The department believes that there is no feasible, reliable, and cost-effective alternative way of accurately identifying an insured employer other than by use of the employer's taxpayer identification number.

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 59624-8011; by facsimile to (406) 444-3465; or by e-mail to [kmessmer@mt.gov](mailto:kmessmer@mt.gov), and must be received no later than 5:00 p.m., April 27, 2007.

5. An electronic copy of this Notice of Public Hearing is available through the department's web 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 web site

accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in 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 Locky Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to [mcadwallader@mt.gov](mailto: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  
Mark Cadwallader  
Alternate Rule Reviewer

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

Certified to the Secretary of State March 12, 2007

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

In the matter of the proposed adoption of ) NOTICE OF PROPOSED  
NEW RULES I-VII pertaining to match ) ADOPTION  
bronc rides under the parimutuel system )  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On April 22, 2007, the Board of Horse Racing proposes to adopt the above-stated rules.

2. The Board of Horse Racing will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Horse Racing no later than 5:00 p.m. on April 13, 2007 to advise us of the nature of the accommodation that you need. Please contact Marlys Stark, P.O. Box 200512, Helena, MT 59620-0512; phone (406) 444-4287; TTD number: 1-800-253-4091; fax: (406) 444-4305; e-mail: mstark@mt.gov.

3. The rules as proposed for adoption provide as follows:

NEW RULE I MATCH BRONC AND WILD HORSE RIDE DEFINITIONS In this subchapter, the following definitions apply:

(1) "Draw" means the procedure for matching riders and horses as overseen by the judges and stewards.

(2) "Entry" means the combination of individual riders and horses as assigned a betting entry number.

(3) "Judge" means a person licensed by the board to evaluate match bronc rides and enter scores on the performances of riders and horses.

(4) "Long-go" means a section of qualifying match rides to determine the high scoring riders who will advance to the championship short-go match.

(5) "Mark-out" means the bronc rider must have both feet over the point of the bronc's shoulder, toes pointed out, from the time the chute gate opens until the bronc's front feet hit the ground.

(6) "Match bronc ride" has the same definition found at 23-4-101, MCA.

(7) "Qualified ride" means a ride which lasts eight seconds as determined by the official timer.

(8) "Re-ride" means the judges' granting of a ride on a substitute horse due to an incident on the original ride which was beyond the rider's control. The term is synonymous with "scratch" for parimutuel betting purposes.

(9) "Rodeo secretary" means the person licensed by the board who is responsible for collecting entry fees, recording draws, collecting and compiling judges' scores, determining placing, and paying prize money to contestants.



- (10) "Score" means the aggregate number of points awarded by the judges during a qualified ride. Such points will be averaged to arrive at a final score.
- (11) "Scratch" means the disqualification of an entry such that no parimutuel pay-out is made.
- (12) "Short-go" means the final championship round composed of riders who qualified by attaining the highest scores in the qualifying or long-go round matches.
- (13) "Timer" means the person licensed by the board who determines the official qualifying rides of eight second duration.
- (14) "Wild horse ride" has the same definition found at 23-4-101, MCA.

AUTH: 23-4-104, 23-4-202, MCA  
IMP: 23-4-101, 23-4-105, 23-4-202, MCA

- NEW RULE II DRAWING STOCK FOR ENTRIES (1) The stock contractor(s) must provide the rodeo secretary a list of names of all horses which will be utilized for the match bronc event at least 72 hours prior to the event.
- (2) The stock contractor(s) must designate the horses to be utilized for the short-go. Such list shall not include any re-ride animals. These horses may not be utilized for the long-go rounds.
- (3) Four hours prior to the event the judges, witnessed by the stewards, shall match horses and riders through use of a random draw. Wagering numbers will be consistent with numbers assigned to horses printed in the program and specified as long-go horses per section. Stock draws must be conducted so that an entrant may witness the draw, provided that a judge may require any individual who does not maintain a businesslike behavior to leave the draw area.
- (4) A contestant must compete on the stock drawn for the contestant. If an animal is deemed unfit to compete, the entry is a scratch for parimutuel purposes.
- (5) The short-go championship round shall be drawn, in its entirety, just prior to the start of the championship short-go round. Each qualified finalist shall draw the name of a mount from the reserved horse short-go list, in the arena, as supervised by the judges and steward, and the resulting match announced to the audience.

AUTH: 23-4-104, 23-4-202, MCA  
IMP: 23-4-101, 23-4-105, 23-4-202, MCA

- NEW RULE III PROGRAMS FOR MATCH BRONC RIDES (1) Horses designated for the sections of the long-go are assigned a number. A program will be compiled by the track licensee including such items as:
- (a) horse's name and number;
  - (b) a synopsis of rules under which the event is to be contested; and
  - (c) a list of horses reserved for the short-go championship round in numerical order, as assigned for betting entry purposes.
- (2) This program shall be available at least 24 hours prior to the event being contested.

AUTH: 23-4-104, 23-4-202, MCA  
IMP: 23-4-101, 23-4-105, 23-4-202, MCA

NEW RULE IV MATCH BRONC RIDE OFFICIALS (1) The track licensee shall employ the following officials licensed by the Board of Horse Racing, and submit their names and qualifications to the board at least 30 days prior to the event:

- (a) four judges;
- (b) one chute boss;
- (c) one timer; and
- (d) one rodeo secretary.

(2) Officials shall be qualified to act in such capacity as evidenced by prior experience and training.

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

IMP: 23-4-101, 23-4-105, 23-4-202, MCA

NEW RULE V EQUIPMENT (1) All riding must be done with saddles that meet Professional Rodeo Cowboy Association (PRCA) specifications.

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

IMP: 23-4-101, 23-4-105, 23-4-202, MCA

NEW RULE VI CONDUCT OF MATCH BRONC RIDES (1) The announcer will announce the names of both horse and rider several times prior to the ride.

(2) Once the horse leaves the chute all rodeo rules pertaining to saddle horse bronc riding will be in force, including mark-out and qualified ride.

(3) A qualified ride shall consist of eight seconds and be determined by the official timer.

(4) The four judges shall independently, without consulting with one another, score the contest should the full eight seconds or qualified ride be made.

(5) Decisions of the judges will be final. Any judge, however, who does not perform the judge's duties in compliance with these rules, or who otherwise abuses the judge's position, will be subject to disciplinary action by the board.

(6) Disqualifications may be made by the judges for the rider failing to mark the horse out or for touching the animal with the free hand at any point during the eight second ride. The reason for such disqualification shall be reported to the announcer who will in turn inform the audience.

(7) All rides shall be timed for eight seconds, that time to start when the animal's inside front shoulder passes the plane of the chute gate. All riders must complete the eight second qualification limit to be eligible for a score.

(8) Scoring will be done as follows:

(a) The four judges shall individually score each horse and rider.

(b) The four scores will then be reported to the rodeo secretary, who will, in consultation with the stewards, average the scores for a final total score.

(c) Judges will record, in writing, each score for each qualified ride and submit the score to the rodeo secretary immediately after each successful ride. The official score will be determined from the submissions from the judges and compilation by the rodeo secretary, and will be made official by the stewards before being announced to the audience.

(9) For each race or section, qualified scores are to be recorded by the rodeo secretary, and verified and made official by the stewards. No changes may be made to the scores after they are made official. At the completion of each section or race, the steward shall notify the parimutuel official as to the official order of finish. The top four scores shall be posted as first, second, third, and fourth places for wagering calculation and pay-out purposes.

(10) All scores of qualified rides shall be announced without delay. Any announcement of scores shall be deemed official. The announcer must announce accurately the information received from the judges, compiled by the rodeo secretary, and approved by the stewards.

(11) After the completion of both sections of the long-go, the rodeo secretary, in consultation with the stewards, shall without delay compile a list of the top ten scores. These ten individuals shall be deemed qualified to enter the championship round or short-go. If one of the ten qualifiers is unable to compete due to injury or withdrawal, the next highest scoring qualifier shall advance to the championship round. Should fewer than ten riders qualify for the short-go championship, the number of betting entries for the short-go round shall be adjusted accordingly.

(12) Under the supervision of the judges and stewards while in the arena, the top-scoring long-go riders shall draw for mounts to be ridden in the championship round or short-go from the short-go reserved horses list. The announcer shall announce to the public all mounts drawn and by whom with reference to the horse entry numbers on the list of short-go mounts and their numbers already listed in the program. The tote reader board shall also show the numbers and match names. Numbers and matches shall also be conspicuously posted at all parimutuel locations.

(13) If the judges determine a rider is eligible for a re-ride, the entry will be considered a scratch for parimutuel wagering pay-out calculations. All parimutuel wagers on the scratched entry shall be refunded.

(14) All parimutuel wagers must be made prior to the first horse leaving the chute in each section of the long-go and prior to the first horse leaving the chute in the championship short-go round.

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

IMP: 23-4-101, 23-4-105, 23-4-202, MCA

NEW RULE VII HUMANE TREATMENT OF RODEO ANIMALS (1) No stimulants or hypnotics may be given to any animal used for contest purposes.

(2) Any animal that becomes excessively excited and lays down in the chute repeatedly, or tries repeatedly to jump out of the chute, or in any way appears to be in danger of injuring itself, may be released immediately, with approval of the judges and steward, and will then be considered scratched.

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

IMP: 23-4-101, 23-4-105, 23-4-202, MCA

REASON: The proposed new rules will implement HB 333 passed by the 2007 Legislature to provide for and regulate parimutuel wagering on match bronc

rides and wild horse rides. The proposed new rules are necessary to establish procedures and requirements for officials, participants, and the wagering public to ensure the match bronc rides and wild horse rides are conducted fairly and evenly.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Board of Horse Racing, Attn. Marlys Stark, P.O. Box 200512, Helena, MT 59620-0512, by faxing to (406) 444-4305, or by e-mailing to [mstark@mt.gov](mailto:mstark@mt.gov) to be received no later than 5:00 p.m., April 19, 2007.

5. If persons who are directly affected by the proposed rules wish to express their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The request for hearing and comments must be received no later than 5:00 p.m., April 19, 2007.

6. If the board receives a request for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 130, based on the 1,300 licensees in Montana.

7. An electronic copy of this proposal notice is available through the department's web site at <http://mt.gov/liv/default.asp>.

8. The Board of Horse Racing maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the 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 the Board of Horse Racing. Such written requests may be mailed to Marlys Stark, Board of Horse Racing, Department of Livestock, P.O. Box 200512, Helena, MT 59620-0512, faxed to (406) 444-4305, or e-mailed to [mstark@mt.gov](mailto:mstark@mt.gov).

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

BOARD OF HORSE RACING  
DEPARTMENT OF LIVESTOCK

/s/ George H. Harris  
George H. Harris  
Acting Executive Officer  
Department of Livestock

/s/ Carol Grell Morris  
Carol Grell Morris  
Rule Reviewer

Certified to the Secretary of State March 12, 2007.

BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 8.99.901, 8.99.904, 8.99.908, )  
and 8.99.912 pertaining to the award )  
of grants and loans under the Big Sky )  
Economic Development Program )

TO: All Concerned Persons

1. On January 11, 2007, the Department of Commerce published MAR Notice No. 8-99-55 regarding the proposed amendment of the above-stated rules at page 1 of the 2007 Montana Administrative Register, Issue Number 1.

2. On February 20, 2007, the Department of Commerce held a public hearing on the proposed amendment of the above-stated rules. No comments or testimony were received.

3. The department has amended the rules as proposed.

/s/ G. MARTIN TUTTLE  
G. MARTIN TUTTLE  
Rule Reviewer

/s/ ANTHONY J. PREITE  
ANTHONY J. PREITE  
Director  
Department of Commerce

Certified to the Secretary of State March 12, 2007.

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

In the matter of the amendment of ARM ) CORRECTED NOTICE OF  
24.171.401 fees, 24.171.512 inactive ) AMENDMENT AND ADOPTION  
license, 24.171.702 transfer of river-use days, )  
24.171.2301 unprofessional conduct and )  
misconduct, and the adoption of NEW RULES )  
I - III pertaining to guide logs )

TO: All Concerned Persons

1. On November 9, 2006, the Board of Outfitters (board) published MAR Notice No. 24-171-25 regarding the proposed amendment and adoption of the above-stated rules, at page 2769 of the 2006 Montana Administrative Register, issue no. 21. On March 8, 2007, the board published the notice of amendment and adoption of MAR Notice No. 24-171-25 at page 298 of the 2007 Montana Administrative Register, issue no. 5.

2. A typographical error was discovered in ARM 24.171.2301. In the final notice, it states (1) through (1)(q) remain as proposed then notes changes to (r), (s), and (t). The notice should have stated that (1) through (3)(q) remain as proposed thereby indicating that the changes are to (3)(r) through (t), since (1) does not include subsections (r) through (t). The remainder of the rule remains as shown in the final notice. The rule, as amended, reads as follows, deleted matter interlined, new matter underlined:

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through ~~(1)~~(3)(q) remain as proposed.

(r) not fail to respond to board inquiries and requests; or

(s) not remit a "nonsufficient fund check" or a check on a closed account for board fees or fines; ~~or .~~

~~(t) maintain a current, true, complete, legible, and accurate log book of all individuals guided on the Beaverhead and Big Hole rivers, and submit the log books to the board office postmarked by December 1 of each license year.~~

BOARD OF OUTFITTERS  
KELLY FLYNN, CHAIRPERSON

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

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

Certified to the Secretary of State March 12, 2007

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

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
24.189.301 definitions, 24.189.401 fee )  
schedule, 24.189.411 use of title, and )  
24.189.607 required supervised experience )

TO: All Concerned Persons

1. On October 26, 2006, the Board of Psychologists (board) published MAR Notice No. 24-189-30 regarding the amendment of the above-stated rules, at page 2461 of the 2006 Montana Administrative Register, issue no. 20.

2. On November 17, 2006, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the November 27, 2006, deadline.

3. The board has thoroughly considered the comments and testimony received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: Several commenters stated that applicants working full-time in teaching or the military will have difficulty completing the supervised experience in three years. The commenters suggested extending the time for completion of supervised experience or adding a provision to allow the board to grant extensions in individual cases.

RESPONSE 1: The board agrees that the three-year time limit may prove difficult for some applicants. The board is amending ARM 24.189.301(3) and 24.189.607(4) to allow applicants to complete the supervised experience in five calendar years.

COMMENT 2: One commenter suggested the board add the clinical supervision of graduate students to the examples of satisfactory professional experience in ARM 24.189.607(1).

RESPONSE 2: The board acknowledges the comment but is not amending the examples of professional experience at this time.

4. The board has amended ARM 24.189.401 and 24.189.411 exactly as proposed.

5. The board has amended ARM 24.189.301 and 24.189.607 with the following changes, stricken matter interlined, new matter underlined:

24.189.301 DEFINITIONS (1) through (3)(a) remain as proposed.



- (b) used for a maximum of ~~three~~ five years; and
- (c) remains as proposed.

24.189.607 REQUIRED SUPERVISED EXPERIENCE (1) through (4)(a)  
remain as proposed.

- (b) be obtained over a period of no more than ~~three~~ five calendar years;
- (c) through (13) remain as proposed.

BOARD OF PSYCHOLOGISTS  
JAY PALMATIER, Ph.D., CHAIRPERSON

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

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

Certified to the Secretary of State March 12, 2007

BEFORE THE BOARD OF OIL AND GAS CONSERVATION  
THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of ARM        )        NOTICE OF AMENDMENT  
36.22.1308, plugging and restoration        )  
bond, and ARM 36.22.1408, financial        )  
responsibility                                    )

To:    All Concerned Persons

1. On January 25, 2007, the Board of Oil and Gas Conservation of the Department of Natural Resources and Conservation published MAR Notice No. 36-22-117 regarding the proposed amendment of the above-stated rules at page 82 of the 2007 Montana Administrative Register, Issue No. 2.

2. The department has amended ARM 36.22.1308 and ARM 36.22.1408 as proposed.

3. The following comment was received and appears with the board's response:

COMMENT: Commenter stated that the amount of plugging and restoration bond required to be provided by the owner or operator of a well should be increased.

RESPONSE: An increase in the amount of the plugging and restoration bond required of the owner or operator for wells under the jurisdiction of the board is outside the scope of the proposed amendments to ARM 36.22.1308 and ARM 36.22.1408.

4. An electronic copy of this Notice of Adoption is available through the department's site on the World Wide Web at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of this Notice of Adoption 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.

/s/ Mary Sexton  
MARY SEXTON  
Director  
Natural Resources and Conservation

/s/ Terri Perrigo  
TERRI PERRIGO  
Executive Secretary  
Board of Oil and Gas Conservation

/s/ Tommy H. Butler  
TOMMY H. BUTLER  
Rule Reviewer

Certified to the Secretary of State March 12, 2007.

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

In the matter of the adoption of New	)	NOTICE OF ADOPTION
Rules I through XXX and the repeal of	)	AND REPEAL
ARM 37.112.101, 37.112.105,	)	
37.112.106, 37.112.107, 37.112.112,	)	
37.112.113, 37.112.114, 37.112.120,	)	
37.112.122, 37.112.124, 37.112.126,	)	
37.112.128, 37.112.130, 37.112.135,	)	
37.112.136, 37.112.140, 37.112.143,	)	
and 37.112.146 pertaining to tattooing	)	
and body piercing	)	

TO: All Interested Persons

1. On October 5, 2006, the Department of Public Health and Human Services published MAR Notice No. 37-392 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules, at page 2339 of the 2006 Montana Administrative Register, issue number 19.

2. The department has adopted New Rules I (37.112.102), III (37.112.108), IV (37.112.109), V (37.112.115), VI (37.112.116), VII (37.112.117), VIII (37.112.121), IX (37.112.125), X (37.112.129), XIV (37.112.137), XV (37.112.141), XVI (37.112.142), XVIII (37.112.147), XIX (37.112.150), XX (37.112.151), XXII (37.112.153), XXIV (37.112.157), XXV (37.112.158), XXVI (37.112.159), XXVII (37.112.162), XXVIII (37.112.163), XXIX (37.112.165), and XXX (37.112.167) as proposed.

3. The department has repealed ARM 37.112.101, 37.112.105, 37.112.106, 37.112.107, 37.112.112, 37.112.113, 37.112.114, 37.112.120, 37.112.122, 37.112.124, 37.112.126, 37.112.128, 37.112.130, 37.112.135, 37.112.136, 37.112.140, 37.112.143, and 37.112.146 as proposed.

4. The department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

RULE II (37.112.103) DEFINITIONS (1) through (21) remain as proposed.

(22) "Sharps" means ~~the definition found in 75-10-1003, MCA~~ any discarded instrument or article that may be contaminated with blood or other bodily fluid and may cause punctures or cuts, including but not limited to needles, scalpel blades, razors, and broken glass.

(23) through (29) remain as proposed.

AUTH: 50-48-103, MCA

IMP: 50-48-102, 50-48-103, MCA

RULE XI (37.112.131) STERILIZATION OF EQUIPMENT AND JEWELRY

(1) remains as proposed.

(2) All jewelry must be sterilized or disinfected by at least one of the following methods:

(a) individually wrapped and autoclaved;

(b) come from the supplier individually wrapped and sterile; or

(c) ~~be sterilized with a liquid chemical sterilant that has been approved for use by the U.S. Food and Drug Administration~~ be disinfected by complete immersion in 70% alcohol.

(3) through (5) remain as proposed.

AUTH: 50-48-103, MCA

IMP: 50-48-103, MCA

RULE XII (37.112.132) CLEANING AND ULTRASONIC USE (1) through (4)

remain as proposed.

~~(5) If the artist uses the ultrasonic unit at the work station to rinse instruments, a single-use cup or single-use liner must be placed in the tank prior to use and changed between clients, unless the tank is autoclaved between clients. The used liner must be disposed of in accordance with [Rule XIV] regarding the disposal of contaminated waste.~~

~~(6)~~ (5) Ultrasonic unit use, cCleaning, dusting, or vacuuming is prohibited during times when clients are being tattooed or pierced.

AUTH: 50-48-103, MCA

IMP: 50-48-103, MCA

RULE XIII (37.112.133) SKIN PREPARATION, ASEPTIC TECHNIQUE, AND AFTEGCARE AFTERCARE (1) through (3) remain as proposed.

(4) Artists shall wear a clean outer garment. A hair restraint must be worn if necessary to prevent the artist's hair from contact with the client. All necklaces, bracelets, or other personal items of the artist either must be removed or covered by the outer garment or sterile gloves to prevent the item coming in contact with the client.

(5) through (12) remain as proposed.

AUTH: 50-48-103, MCA

IMP: 50-48-103, MCA

RULE XVII (37.112.144) CONSENT FORM (1) The client must sign a consent form before each tattooing or body piercing procedure. If the client is under the age of 18, then the client's parent or legal guardian must sign the consent form, in person, before the procedure.

(2) remains as proposed.

AUTH: 50-48-103, MCA  
IMP: 50-48-103, MCA

RULE XXI (37.112.152) LICENSE FEE AND EXPIRATION (1) Except as provided in (2), ~~the~~ license fee is \$135.

(2) The license fee for establishments that only pierce ear lobes is \$75.

~~(2)~~ (3) The license will expire annually on December 31 following the date of its issuance.

AUTH: 50-48-103, MCA  
IMP: 50-48-103, 50-48-201, MCA

RULE XXIII (37.112.156) REVIEW OF PLANS (1) through (2)(b) remain as proposed.

(c) copies of the client consent form, and client record form, ~~and all applicable aftercare instructions;~~ and

(d) through (4) remain as proposed.

(5) Changes in the client consent form, and client record form, ~~and all applicable aftercare instructions~~ must be submitted to the department or its designee before implementation.

AUTH: 50-48-103, MCA  
IMP: 50-48-103, MCA

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

COMMENT # 1: A number of commentors expressed concern that the state and local public health agencies should pursue nonlicensed tattoo and/or body piercing establishments to close them down and/or fine them. Included with these concerns, as well, are specific assertions that public health agencies should prohibit the sale and use of in-home piercing kits, and in-home piercing and tattooing.

RESPONSE: The department agrees that state and local public health agencies should take action to enforce compliance with applicable regulations pertaining to tattooing and body piercing establishments, including the requirement that an establishment be licensed. Public health agencies are required, under 50-48-206, MCA, to conduct investigations and inspections of establishments, and county attorneys are required, under 50-48-107, MCA, to prosecute violations of Title 50, chapter 48, MCA, and these rules.

However, Title 50, chapter 48, MCA, applies only to the activities of a body piercing or tattooing "establishment", which is further defined to be either a body piercing or tattooing operation. It is difficult to refine statutory and regulatory authority to the point of clearly specifying where the conduct of citizens would go from being purely personal in nature, which conduct would not be regulated under Title 50, chapter 48, MCA, or these rules, to being a body piercing or tattooing operation. Such decisions

will have to be made by public health agencies and county attorneys, as appropriate, and on a case-by-case basis. As well neither Title 50, chapter 48, MCA, nor these rules prohibit the sale of in-home piercing kits.

COMMENT # 2: A number of commentors assert the department should prohibit suspension piercing, branding, and other radical body modification practices.

RESPONSE: To the extent that such practices are performed by either a tattooing or body piercing establishment, they are subject to the provisions of Title 50, chapter 48, MCA, and these rules. To the extent that such practices are not performed by either a tattooing or body piercing establishment, they are not contemplated by the provisions of Title 50, chapter 48, MCA, and are beyond the scope of these rules.

COMMENT # 3: A number of commentors assert these rules should prohibit the use of nondisposable piercing guns. The commentors express the belief that nondisposable piercing guns are not able to be autoclaved, so are a source of cross-contamination and infection.

RESPONSE: These rules clearly require that the portion of any instruments used for body piercing or tattooing that can come into contact with blood or bodily fluids must be able to be sterilized by autoclave or must come from the supplier as individually wrapped and sterilized, single-use, disposable items. Information available to the department indicates that all types of piercing guns meeting these requirements are equally safe. Therefore, the department disagrees that nondisposable piercing guns, which use sterile, disposable, single-use inserts for each client, are a greater concern for cross-contamination and infection when used in conformity with these rules.

COMMENT # 4: A number of commentors assert that these regulations should set forth more specific requirements related to the quality of tattoo inks, including that the department should prohibit the use of glow-in-the-dark inks.

RESPONSE: Rule XXVIII (37.112.163) requires that tattooists use only colors, dyes, and pigments obtained from reputable suppliers and that pigments or dyes may not be used if they are disapproved of or under recall by the United States Food and Drug Administration or the department. The department has the authority under the Montana Food, Drug, and Cosmetic Act to prohibit the use of any tattoo ink that is unsafe.

It is important to point out that no state or federal agency certifies the quality or safety of tattoo inks, and that many health care professionals question the "safety" of tattoo inks under any circumstances. Therefore, public health agencies are left to evaluate the quality and safety of tattoo inks strictly on the basis of whether or not there is evidence that a specific ink or type of ink poses a significant health or safety risk to those persons injected with it. At this time, the scientific information available to the department does not substantiate that glow-in-the-dark inks pose such a risk.

COMMENT # 5: A commentor suggests that the department should establish a standard protocol for aftercare as a component of these rules.

RESPONSE: Aftercare protocols vary based on the particular tattooing/body piercing procedure provided so each establishment needs to develop appropriate aftercare protocols for the tattooing or body piercing procedures it performs. It is not feasible for the department to establish a standard protocol for aftercare that will suffice for every tattooing or body piercing procedure. In fact, because the department is not in a position to evaluate the adequacy of aftercare instructions, the department is amending Rule XXIII (37.112.156) to remove the requirement that aftercare instructions be submitted to the department for review and approval.

COMMENT # 6: A number of commentors assert that the department should expand these rules to include professional competency standards, including standards related to artistic competency, for tattooists and body piercers. Another commentor suggests that the training requirement should be expanded to require 18 months of training and observation followed by six months of hands on experience prior to working in Montana.

RESPONSE: The provisions of Title 50, chapter 48, MCA, authorize the department to set standards to ensure sanitation and safety in body piercing and tattooing establishments. Consequently, issues of the professional competency of individual tattooists and body piercers, including with respect to artistic competency, are beyond the authorized scope of these rules. Professional competency is typically a matter for professional licensure authorities, and generally falls under the authority of a professional licensure entity within the Department of Labor and Industry. Interest in pursuing professional competency requirements should be pursued with the Department of Labor and Industry.

COMMENT # 7: A number of commentors request that the exemption for ear lobe piercing set forth in Rule XXX (37.112.167) be expanded to include all ear piercing, including piercing of the "trailing edge" of the ear, or ear cartilage. These commentors assert that there is no greater infection risk inherent in piercing of the ear cartilage than in piercing of the ear lobe that would justify application of all of the body-piercing rules to an ear piercer who pierces ear cartilage. They further argue that the rules as currently drafted will result in children having to obtain ear cartilage piercings in body piercing establishments where the atmosphere may not be optimal for young children.

RESPONSE: The department disagrees with the commentors assertions that piercing of ear cartilage carries no greater risk of infection than ear lobe piercing. All medical information available to the department indicates that there is a substantially higher risk of infection in ear cartilage piercing as opposed to ear lobe piercing due to the reduced blood flow in cartilaginous tissues, resulting in a reduced capacity for the body to fight any infectious agent introduced to that area of the body. The department maintains that establishments that provide ear piercing to include piercing of the ear cartilage need to comply with all of the regulations applicable to

body piercing establishments for the protection of their clients' health and safety. The department further responds that nothing in these rules prevents ear piercers who pierce ear cartilage from operating establishments that provide an atmosphere appropriate for clients of young age.

COMMENT # 8: One commentor suggests that the department should insert the actual language of 29 CFR 1910.1030 - the federal Occupational Safety and Health Administration's regulations related to control of exposure of blood-borne pathogens - in these rules. The commentor argues that the federal regulations may not be available to everyone, so these rules should include them in their entirety.

RESPONSE: The department responds that inclusion of the federal regulations in their entirety would be unreasonable due to the volume of the federal regulations. Inclusion of the federal regulations in their entirety would add approximately 32 pages of text to these rules, and would result in a less concise, readable, understandable set of rules. As stated in Rule X (37.112.129), the full text of the federal regulations will be available from the department, so will be available within a very reasonable time to any tattooist or body piercer.

COMMENT # 9: One commentor suggests that consent forms to provide tattoos or body piercings to minors, as required by Rule XVII (37.112.144) should have to be signed by the parent or legal guardian in person.

RESPONSE: The department agrees that the requirement for written consent to provide a tattoo or body piercing to a minor has very little practical value if the consent is not required to be given in person. The department cannot, and does not, expect tattoo and body piercing establishments to verify a written consent where the parent or legal guardian is not personally present to sign a consent form. Further, state law (45-5-623, MCA) currently makes it an "illegal transaction with a minor" to tattoo or body pierce a minor without in person consent of a parent or guardian. Therefore, the department has modified Rule XVII (37.112.144) to require "in person" signing of a parental consent form.

COMMENT # 10: A number of commentors request that the specifics of a training program and the fee to be charged for training, as required in Rule XVIII (37.112.147), be set forth in that rule. Another commentor suggests that the required training should include testing.

RESPONSE: It is not possible for the department to identify the specifics of a training program or the fees to be charged for training. The department will not directly provide the required training, but plans at this time to provide links to training programs offered by qualified, independent entities. The substance of and fees for the training programs, including any testing component, will be those established by the training entities. To the extent that the recommendation for testing may be related to general artist competency, the department refers the commentor to its response to Comment #6.



COMMENT # 11: A number of commentors request that the licensure fee for establishments that perform only ear lobe piercing should be reduced.

RESPONSE: The department agrees that the licensure fee for such establishments should be reduced from the current fee of \$135.00 applicable to other tattooists and body piercers. A reduced fee for establishments that do only ear lobe piercing is reasonable since such establishments will require less time from the department and/or local public health agencies for purposes of plan reviews and inspections. Therefore, the department has modified Rule XXI (37.112.152) to require a licensure fee of \$75.00 for establishments that perform only ear lobe piercing.

The department now estimates that 100 licenses per year will be issued. Of the total number of licenses issued, the department expects to issue about 25 licenses to establishments that only pierce ear lobes, at a cost of \$75 per license, for a total of \$1875. The other 75 licenses will be issued at \$135 per license, for a total of \$10,125. The department also anticipates 120 people will participate in training with the department at \$60 per participant, for a total of \$7200. The total first year revenue will be \$19,200. The expenses for the first year of operation of the licensing program, including database development, rule development, initial training, publication of rules, mailing of rules, and travel, are anticipated to be \$19,200. The net impact to the state's general fund is expected to be \$0.

COMMENT # 12: A number of commentors assert that ear piercing should be exempted from these rules in entirety. They argue that the regulations will put ear piercers out of business and force children to go to body piercing establishments to have their ears pierced, which establishments may subject children to ideas and conditions that are not appropriate for young minds.

RESPONSE: The department disagrees that ear piercers should be totally exempt from application of these rules. First, the definition of "body piercing" in 50-48-102(1), MCA clearly includes ear piercers. Therefore, the department is required to include ear piercers in regulations promulgated under the authority of Title 50, chapter 48, MCA. Second, it is reasonable and appropriate for the department to license and regulate ear piercers to ensure such services are provided in a safe and healthful manner. While the department concedes there are lower risks of infection associated with ear lobe piercing as opposed to other types of body piercing, it believes the exemptions provided in Rule XXX (37.112.167) relieve ear lobe only piercers of the burden of complying with portions of these rules that do not confer significant additional safety or health risk prevention to their clients. As well, the department has reduced the licensure fees applicable to establishments that pierce only ear lobes. The department does not agree that these rules, in total, impose such a burden on such establishments that they will be forced out of business. In fact, the department believes these rules, as applicable to ear piercing establishments, impose a minimal burden that is more than offset by the additional protection provided to their customers.

COMMENT # 13: A commentor suggests that Rule X (37.112.129), which requires

compliance with the blood-borne pathogen exposure control measures set forth in 29 CFR 1910.1030, should be modified to use the terms "standard precaution" and "body substance precaution". The commentor indicates that the federal Occupational Safety and Health Administration has modified its terminology because it is not possible to know, in every circumstance, whether or not a bodily fluid contains blood.

RESPONSE: The department appreciates the commentor's detailed concern and suggestion on this point. However, the department's review indicates that "universal precaution" is still the term defined in federal regulations, and that term is defined and used in the federal regulations broadly enough to include not only blood, but all other bodily fluids that may be infectious for HIV, HBV, and other blood-borne pathogens. The department believes using the additional terms suggested by the commentor would result in unnecessary confusion, and would not result in more comprehensive application of infection control precautions.

COMMENT # 14: A commentor suggests that Rule VI(10) (37.112.116) be amended to specify that handwashing sinks be supplied with liquid soap in single pump dispensers rather than bar soap, as bar soap can harbor bacteria.

RESPONSE: Although bacteria can be found in any type of soap, the department is aware of no scientific evidence that bar soap supports the growth of pathogens. It is the physical action of rubbing hands together with soap and thoroughly rinsing them with clean water that removes dirt and pathogenic microorganisms. In the absence of scientific information establishing that liquid soaps provide additional infection control, the department has no basis for requiring use of a specific type of soap.

COMMENT # 15: A commentor suggests that Rule VII(12) (37.112.117) be amended to also prohibit the application of cosmetics or the inserting or removing of contact lenses in the work area.

RESPONSE: The department responds that if universal precautions are followed, as required by these rules, including adequate handwashing, there is adequate protection for the tattooist or piercer and the client. The department asserts that requiring an artist or client to leave the room to use a public restroom if a contact lens needs to be removed due to a chemical splash or foreign material in the eye is an unnecessary requirement, and potentially less protective of the health and safety of the affected person, when observance of universal precaution requirements following the incident, including handwashing, are sufficient.

COMMENT # 16: A commentor recommends amending Rule XI(2) (37.112.131) to allow disinfection of jewelry with a liquid disinfectant, and to remove the option that jewelry might be sterilized by the use of a liquid chemical sterilant. The commentor points out that a cold sterilant solution is toxic chemical solutions that requires an activating agent and may only be used in conjunction with a very sophisticated air ventilation system. The commentor further points out that most operators are probably using a liquid disinfectant soak for a certain period of time, which measure

is sufficient to sterilize the surface of an article of jewelry.

RESPONSE: The department agrees that the intent of the rule is to allow the use of jewelry that, if not received from the supplier individually packaged and sterile, is either sterilized by autoclaving, or is disinfected by immersion in a liquid disinfecting agent. Therefore, the department has modified Rule XI(2) (37.112.131) to delete the option for chemical sterilization, and to include an option for disinfection by complete immersion in a 70% alcohol solution for at least ten minutes.

COMMENT # 17: A commentor recommends amending Rule XII (37.112.132) to delete the option for using an ultrasonic unit at the work station to rinse instruments. The commentor points out that the use of an ultrasonic unit with its lid open is contrary to manufacturers' instructions for the use of ultrasonic units. More importantly, the commentor also points out that ultrasonic units running with their lids open release microscopic droplets of contaminated water into the air, which poses a health risk to both the artist and the client.

RESPONSE: The department has reviewed this issue and concludes that the commentor is correct. Most importantly, the use of an ultrasonic unit for rinsing instruments while working will result in the release of droplets of contaminated water into the air of the work room. The potential for infection by such use of ultrasonic units far outweighs any convenience to the artist from this method of cleaning instruments. Therefore, the department has amended Rule XII (37.112.132) to prohibit the use of ultrasonic units in the work space at times when clients are being tattooed or pierced.

COMMENT # 18: A commentor recommends that Rule XIII (37.112.133) be amended to require disposal of razors in sharps containers, as razors can carry infectious disease and pose a risk of puncturing or cutting artists or workers if disposed of in wastebaskets.

RESPONSE: The department agrees with the commentor's assertions. While the department initially believed that razors were included in the definition of "sharps" as used in these rules, upon review, the department has determined that the cross-reference to the definition of "sharps" in 75-10-1003, MCA, by the use of the term "health care article" in that definition, is too narrow to include razors, and too narrow to encompass most of the items intended to be defined as "sharps" in these rules. Therefore, the department has revised the definition of sharps in these rules to clearly identify those items that must be disposed of as "sharps" in the context of these rules.

COMMENT # 19: A commentor recommends amending these rules to prohibit the continued use of reusable, acetate stencils. The commentor asserts that such stencils can be a source for transmission of blood-borne pathogens.

RESPONSE: While the department does not disagree that reusable stencils can be a source for transmission of pathogens, that risk is the result of the reusable nature

of the stencils. When properly disinfected, as required by these rules, reusable acetate stencils are safe. Since the risk of use of reusable acetate stencils is easily avoided, the department does not find it necessary to prohibit their continued use.

COMMENT # 20: A number of commentors request that these rules be expanded to prohibit establishments that do ear lobe only piercing from doing other types of piercings.

RESPONSE: The department responds that application of these rules is based on the types of services provided by tattoo and body piercing establishments. If an establishment provides piercing services beyond ear lobe only piercing, including by providing ear cartilage piercing services, the establishment must comply with all of the regulations applicable to body piercing establishments. The department further responds that enforcement efforts under these rules will be commensurate with that requirement. Therefore, the department believes the rules are adequate to prevent ear piercing establishments that provide ear cartilage piercings from operating under the lesser compliance obligations applicable to establishments that perform only ear lobe piercing.

COMMENT # 21: A number of commentors suggest that these rules should specify a minimum age for individuals receiving tattoos or body piercings. They point out that it is currently permissible to tattoo or body pierce a child of any age with parental consent, and that reputable tattooists and body piercers are opposed to providing their services to very young children.

RESPONSE: The department responds that establishing a minimum age for tattooing and body piercing is beyond the scope of the department's authority, and beyond the scope of the authorizing statutes as set forth in Title 50, chapter 48, MCA. The department's charge for rulemaking is to promulgate rules related to the licensure of tattoo and body piercing establishments, and to ensure sanitation and safety in establishments to protect the public health and safety. Since there is no scientific information available to the department that tattooing or body piercing presents a greater health or safety risk to children if appropriate sanitary and safety standards are observed, as required by these rules, it is beyond the department's authority to establish a minimum age limit.

COMMENT # 22: A commentor recommends that Rule XIII (37.112.133) be expanded to require prevention of cross-contamination by an artist's watch, jewelry, or other items that might inadvertently come in contact with the client.

RESPONSE: The department agrees that expansion of this rule would be helpful to identify this additional, commonly present, potential source of cross-contamination. Therefore, the department has modified Rule XIII(4) (37.112.133) to require that all jewelry or other personal accessories worn by an artist must be covered either by the artist's clothing or sterile gloves to prevent contact of the accessory with the client's skin.

COMMENT # 23: A commentor objects to the use of the terms, "sterile", "sterilize", "single-use", etc., in these rules. The commentor asserts that such language is appropriate to operating rooms, but that no items used by tattooists or body piercers are truly sterile and it is unreasonable to expect that sterilization can be achieved in a public business atmosphere.

RESPONSE: The department responds that the rules, as modified and set forth in this notice, accurately use these terms. It is, in fact, possible to sterilize certain appliances and instruments by autoclaving or to purchase sterile, prepackaged materials from suppliers. The department acknowledges that sterilization of jewelry by submersion in liquid sterilants was not the intended standard, as discussed in Comment #16, and that language has been amended to accurately express an acceptable method of disinfecting jewelry. In all other circumstances, the department believes these rules accurately indicate requirements for sterilization and disinfection and represent a necessary and achievable level of sanitary operation for tattoo and body piercing establishments.

COMMENT # 24: A commentor requests that the rules be modified to allow establishments to use up their current supplies of latex gloves. The commentor asserts that establishments typically purchase gloves by the case, and to require an immediate switch to nonlatex gloves would result in financial waste to those establishments who have to throw away their remaining latex gloves.

RESPONSE: The department understands and appreciates the concern expressed by this commentor. However, the department believes the potential health risks to artists and certain clients of tattoo and body piercing establishments by the continued use of latex gloves outweighs the potential cost to tattoo and body piercing establishments incurred in discarding any remaining latex gloves they may have.

COMMENT # 25: A commentor asserts that these rules should be expanded to prevent the sale of tattooing and piercing machines to the general public.

RESPONSE: The department responds that it is beyond the scope of the rulemaking authority conferred on the department by the provisions of Title 50, chapter 48, MCA, to regulate who may or may not purchase such machines or equipment.

COMMENT # 26: A number of commentors request that these rules be modified to suggest or require that a client should see their tattooist or body piercer prior to seeing a doctor when there is redness or swelling at a tattoo or piercing site. The commentors assert that a client will frequently see a doctor immediately when redness or swelling occurs, and that such clients are frequently told by doctors that they have an infection and/or that piercing jewelry needs to be removed. The commentors suggest that, in many such cases there is no infection, but rather just the normal initial swelling and/or redness associated with a tattoo or body piercing procedure. The commentors are concerned that a doctor's indication that there is

infection reflects badly on the tattooist or body piercer's reputation and business, and assert that the tattooist or body piercer can evaluate whether the redness/swelling is a normal reaction, whether the redness/swelling can be resolved by changing to different jewelry, or if the redness/swelling is due to infection that requires medical attention.

RESPONSE: The department responds that it cannot and will not promulgate rules that constitute medical advice, or that may be construed to discourage any person from seeking medical care.

COMMENT # 27: A commentor states that the commentor uses vinyl gloves and not nitro gloves as required under these rules.

RESPONSE: The department points out that nitro gloves are not required under these rules. Rule IX(3) (37.112.125) states that gloves that come into contact with skin must be single-use nonlatex examination gloves designed for medical or clinical use. A tattooist or body piercer could use vinyl gloves if they are nonlatex gloves that otherwise comply with the requirements of this rule.

COMMENT # 28: A commentor expresses concern with the work area requirements and states that the commentor uses a standard contained rolling cart for all of the commentor's piercings.

RESPONSE: It is difficult to discern from the comment provided exactly what the commentor's concerns are related to the work area requirements. The department responds that nothing in these rules would prohibit the use of rolling carts for holding piercing supplies. Assuming the commentor is asserting the rolling cart constitutes a sufficient "work area", and the commentor should not have to comply with all of the work area requirements, the department responds that work area requirements as set forth are minimal, reasonable requirements to ensure that necessary sanitary conditions exist in the locations where body piercings are performed. The department further responds that body piercers who provide only ear lobe piercing are exempt from the requirements of sections (2), (5), and (8) of the work room requirements as set forth in Rule VII (37.112.117). The department is unable to provide any further response to this nonspecific comment.

COMMENT # 29: A commentor expresses concern about the provisions requiring outside ventilation. The commentor asserts that mechanical ventilation needs to be an acceptable option for establishments since the location of some establishments might mean that air brought in from the outside is contaminated by other nearby businesses.

RESPONSE: The department responds that none of the provisions related to ventilation indicate that air must be brought in directly from the exterior of the business location. Rule VI(3) (37.112.116) requires that toilet rooms in establishments be vented to the outside. This requirement does not mean that ventilation must be accomplished by a two-way exchange of air. Rather, this

provision requires only that toilet rooms must be vented to allow the evacuation of air in the toilet room to the exterior of the building. Rule VII(6) (37.112.117) requires that a work room have adequate ventilation, and further requires that if heating ducts, vents, or air conditioners discharge into the work room, the intakes for those mechanisms must be filtered. Again, this provision is clearly concerned with the sufficiency of airflow in the work room and with preventing the introduction of contaminating substances into the work room. Nothing in this provision prevents the use of mechanical ventilation systems.

COMMENT # 30: A commentor objects to the amount of the licensing fee. In general, the commentor asserts that the approximately 350 beauty salons that do ear piercing were not counted when the department set the license fee, so the total fees collected should now be reduced to prevent the department from making a profit on the license fees. Specifically, the commentor asserts that the department should consider reducing the license fee for establishments that provide both tattooing and body piercing services.

RESPONSE: The department responds that beauty salons who provide ear piercing services were considered when determining the appropriate license fee. As well, as discussed in Comment #11, the license fee for establishments that provide only ear lobe piercing services has been reduced to \$75.00. Further, the department finds no justification for the assertion that multi-type establishments - those providing both tattooing and body piercing services - should pay a lower license fee. If the commentor's assumption is that multi-type establishments will pay two license fees, the department responds that the assumption is incorrect. These rules clearly set forth that a license is issued, and a license fee is therefore charged, to an "establishment". An establishment, pursuant to 50-48-102(3), MCA, means either a body piercing operation, a tattooing operation, or a combination of both operations in a multi-type establishment. Therefore, a multi-type establishment will pay only one license fee.

COMMENT # 31: A commentor observes that most piercings become infected by the customer touching it, and asserts that these rules need to emphasize and require that piercers provide appropriate instructions to their clients.

RESPONSE: The department responds that these rules do adequately address the issue of aftercare instructions. Rule XIII(1) (37.112.133) states that appropriate aftercare instructions must be provided to a client both verbally and in writing before every procedure.

COMMENT # 32: A commentor states that no salons were informed of the proposed regulations or that they would be impacted by them. The commentor asserts that the department needs to inform salons of rules that apply to them.

RESPONSE: The department responds that it made every reasonable effort to communicate with all affected parties regarding the proposed rules. The department contacted the Board of Barbers and Cosmetologists to obtain mailing lists.

However, the board was not able to provide mailing lists to the department, and indicated that it would send its own notice of the proposed rules. The board sent the notice indicating that licensure for ear piercing would be required in the future, that rules were being promulgated, and provided contact information for salon operators to contact the department with any questions. The department complied with all applicable laws related to notification of rulemaking and public hearings, including by publication in newspapers of general circulation across the state. Going forward, full communication will be easier since salons providing ear piercing services will be licensed by and known to the department.

COMMENT # 33: A commentor suggests that the department and local public health inspectors should perform unannounced inspections of tattoo and body piercing establishments to better identify noncomplying establishments.

RESPONSE: The department agrees that unannounced inspections are necessary in order to identify noncomplying establishments. The department responds that compliance inspections related to public health statutes and regulations are typically performed by public health inspectors on an unannounced basis. Therefore, inspections performed pursuant to Title 50, chapter 48, MCA, and these rules will typically be performed without prior notice to establishment operators.

/s/ Denise Pizzini  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State March 12, 2007.



## **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.<br>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 September 30, 2006. This table includes those rules adopted during the period September 1 through December 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 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 September 30, 2006, 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 2006 and 2007 Montana Administrative Register.

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

### GENERAL PROVISIONS, Title 1

1.2.419        Scheduled Dates for the 2007 Montana Administrative Register,  
p. 2820, 3112

### ADMINISTRATION, Department of, Title 2

I                Retention of Credit Union Records, p. 1759, 3068  
I-VIII         Montana Land Information Act, p. 950, 1864  
2.21.3702      and other rules - Recruitment and Selection Policy, p. 1482, 2901, 33  
2.21.6505      and other rules - Discipline Handling, p. 1923, 2565  
2.21.6606      and other rules - Employee Record Keeping Policy, p. 165  
2.59.111       Retention of Bank Records, p. 1762, 3066, 183  
2.59.1409      Duration of Loans - Interest - Extensions, p. 1099, 1866  
2.59.1501      and other rules - Definitions - Application Procedure Required to  
Engage in Deposit Lending - Reports - Schedule of Charges -  
Employees' Character and Fitness - Electronic Deductions - Income  
Verification, p. 375, 614, 1373, 184  
2.59.1705      and other rule - Licensing Examination and Continuing Education  
Provider Requirements - Records to be Maintained, p. 1498, 2104,  
186

(State Compensation Insurance Fund)

2.55.320 and other rule - Classifications of Employments - Individual Loss Sensitive Dividend Plans, p. 2440, 3065

(Office of the State Public Defender)

I-VI Office of the State Public Defender, p. 2068, 2572

AGRICULTURE, Department of, Title 4

I-IV Montana Pulse Crop Research and Market Development Program, p. 1977, 2403  
4.11.1201 and other rule - Specific Agricultural Ground Water Management Plan, p. 1765, 2109  
4.12.3009 and other rule - Seed Laboratory Fees, p. 1929, 2129  
4.12.3013 Seed Civil Penalties Matrix, p. 2996, 187  
4.17.102 Organic Certification Program, p. 71, 295

STATE AUDITOR, Title 6

6.6.5203 Small Business Health Insurance Purchasing Pool - Premium Assistance and Premium Incentive Payments - Tax Credits, p. 1502, 1954

COMMERCE, Department of, Title 8

I Administration of the 2007-2008 Federal Community Development Block Grant (CDBG) Program, p. 2999  
8.99.901 and other rules - Award of Grants and Loans under the Big Sky Economic Development Program, p. 1

EDUCATION, Title 10

(Superintendent of Public Instruction)

10.7.106 and other rules - General Fund: Quality Educator Payments - At Risk Student Payments - Indian Education for All Payments - American Indian Achievement Gap Payments - School Finance, p. 2728, 3070  
10.16.3007 and other rules - Access to Instructional Materials - Procedural Safeguards - Special Education Data Collection and Reporting - Resolution Process - Expedited Due Process Hearing Resolution Process - Response to Scientific, Research Based Intervention in Learning Disability Identification - Severe Discrepancy in Learning Disability Identification - Documentation Requirements in Learning Disability Identification - Extended School Year Services - Special Education, p. 220

(Board of Public Education)

- I Assignment of Persons Providing Instruction to Braille Students, p. 2869, 188
- 10.54.5010 and other rules - Science Content Standards - Performance Descriptors, p. 2175, 2910
- 10.55.602 and other rules - Accreditation Standards, p. 169
- 10.55.716 Substitute Teachers, p. 173
- 10.58.102 and other rules - Educator Preparation Programs, p. 2198, 190
- 10.65.101 Pupil Instruction-related Days, p. 1769, 2404

(Montana State Library)

- 10.102.4001 Reimbursement to Libraries for Interlibrary Loans, p. 1197, 2405

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

(Fish, Wildlife, and Parks Commission)

- 12.6.2205 and other rules - Exotic Species, p. 1771, 1935, 2823
- 12.8.211 and other rules - Commercial Use of Lands under the Control of the Department, p. 1779, 88
- 12.9.802 and other rules - Game Damage Hunts - Management Seasons - Game Damage Response and Assistance, p. 1105, 1201, 1867

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17.50.213 Motor Vehicle Recycling and Disposal - Reimbursement Payments for Abandoned Vehicle Removal, p. 2444, 2961
- 17.53.105 Hazardous Waste - Incorporation by Reference of Current Federal Regulations into the Hazardous Waste Program, p. 2288, 3074
- 17.74.343 and other rules - Asbestos Control - Asbestos Control Program, p. 125, 1574, 1876
- 17.74.350 and other rules - Asbestos Control - Incorporation by Reference of Current Federal Regulations into the Asbestos Control Program - Definitions - Asbestos Project Control Measures, and Clearing Asbestos Projects, p. 2291, 2962
- 17.74.502 and other rules - Methamphetamine Cleanup Program - Incorporation by Reference of Current Federal Regulations into the Methamphetamine Cleanup Rules and Clearance Sampling, p. 2285, 2963
- 17.85.101 and other rules - Alternative Energy Revolving Loan Program, p. 1678, 3075, 34

(Board of Environmental Review)

- 17.8.101 and other rules - Incorporation by Reference of Current Federal Regulations and Other Materials into Air Quality Rules, p. 823, 1956
- 17.8.501 and other rules - Air Quality - Definitions - Air Quality Operation Fees - Open Burning Fees, p. 1504, 2410

- 17.8.740 and other rules - Air Quality - Definitions - Incorporation by Reference - Mercury Emission Standards - Mercury Emission Credit Allocations, p. 1112, 2575
- 17.30.617 and other rule - Water Quality - Outstanding Resource Water Designation for the Gallatin River, p. 2294
- 17.30.630 Water Quality - Temporary Water Quality Standards, p. 1981, 3072
- 17.30.1303 and other rule - Water Quality - Incorporations by Reference - Concentrated Animal Feeding Operations, p. 3002, 201

(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, 1874

TRANSPORTATION, Department of, Title 18

- 18.6.202 and other rules - Transportation Commission - Outdoor Advertising, p. 276, 1878

CORRECTIONS, Department of, Title 20

- I-XIX Regional Correctional Facilities, p. 2872, 36

JUSTICE, Department of, Title 23

- 23.12.103 and other rules - Responsibility for Costs - Criminal History Records Program, p. 2477, 2959
- 23.16.1802 and other rules - Frequency of Reporting by Approved Accounting Systems - Definitions - Letters of Withdrawal - Record Keeping Requirements, p. 2297, 2916
- 23.16.1802 and other rules - Identification Decal for Video Gambling Machines - Define System Availability - Definitions - Online Permitting for Video Gambling Machines - Issuance of Updated Gambling Operator Licenses After Permitting - Renewal of Gambling Operator Licenses - Quarterly Reporting Requirements - Accounting System Vendor License Fee - Requirement for Parties to Multi-game Agreements to Connect to an Approved System, p. 1936, 2131
- 23.16.1901 Video Gambling Machine Specifications, p. 2890, 42
- 23.17.101 and other rules - MLEA Attendance - MLEA Performance Criteria - Rules, Regulations, Policies, and Procedures - Waiver of Rules, p. 1690, 2302, 2917

LABOR AND INDUSTRY, Department of, Title 24

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

- I Board of Personnel Appeals - Summary Judgment Practice and Procedure, p. 2311, 3077
- I-V Country of Origin Placarding for Beef, Pork, Poultry, and Lamb, p. 2469
- 24.11.452A and other rules - Unemployment Insurance, p. 1699, 2411
- 24.17.127 Prevailing Wage Rates for Public Work Projects - Building Construction Services, p. 1217, 2832
- 24.21.411 and other rules - Apprenticeship and Training Program, p. 2073, 2658
- 24.29.1401 and other rules - Allowable Medical Service Billing Rates for Workers' Compensation Claims, p. 2759, 260
- 24.29.2831 Penalties Assessed Against Uninsured Employers, p. 1703, 2040
- 24.30.1302 and other rule - Occupational Health and Safety in Mines, p. 1706, 2041
- 24.301.131 and other rules - Building Codes, p. 2319, 112, 300
- 24.351.215 License Fee Schedule for Weighing and Measuring Devices, p. 1356, 2661

(Board of Alternative Health Care)

- I & II Fee Abatement - License Renewal for Activated Military Reservists, p. 706, 1881
- 24.111.401 and other rules - General Provisions - Certification for Specialty Practice of Naturopathic Childbirth Attendance - Licensing and Scope of Practice for Direct-entry Midwifery - Continuing Education - Unprofessional Conduct - Additional Recommended Screening Procedures - Nonroutine Applications, p. 3006, 263

(Board of Barbers and Cosmetologists)

- 24.121.407 and other rule - Premises and General Requirements - Restrooms, p. 4

(Crane and Hoisting Operating Engineers Program)

- I Incorporation by Reference of ANSI B30.5, p. 1509, 2042

(Board of Dentistry)

- 24.138.301 and other rules - General Provisions - Licensing - Renewals and Continuing Education - Unprofessional Conduct - Screening Panel - Anesthesia - Professional Assistance Program - Reactivation of a Lapsed License - Reactivation of an Expired License - Definition of Nonroutine Application - Fee Abatement - Reinstatement of License for Nonpayment of Renewal Fee - Denturist License Reinstatement - Complaint Procedure, p. 1795, 43



(Board of Hearing Aid Dispensers)

24.150.401 and other rules - Fees - Examination Pass/Fail Point - Traineeship Requirements and Standards - Transactional Document Requirements - Form and Content - Exceptions - Fee Abatement, p. 175

(Board of Medical Examiners)

I-IX Professional Assistance Program, p. 1015, 1957

24.101.413 and other rule - With the Department of Labor and Industry - Renewal Dates and Requirements - Renewals, p. 11

24.156.901 and other rules - Fees - Applications - Approval of Schools - Reciprocity Licenses - Renewals Pertaining to Osteopathic Physicians, p. 8

24.156.1601 and other rules - Physician Assistant Licensure, p. 483, 1958

24.156.2701 and other rule - Definitions - Scope of Practice - Emergency Medical Technicians, p. 180

(Board of Nursing)

8.32.301 and other rules - Transfer of the Board of Nursing to the Department of Labor and Industry, p. 956, 2035

(Board of Optometry)

24.168.301 and other rules - Definitions - General Provisions - Diagnostic Permissible Drugs - Therapeutic Pharmaceutical Agents - Continuing Education - Screening Panel - Fee Abatement - Examinations - Approved Courses and Examinations - New Licensees - Applicants for Licensure - Therapeutic Pharmaceutical Agents-Complaint Procedure, p. 2450, 296

(Board of Outfitters)

24.171.401 and other rules - Fees - Inactive License - Transfer of River-use Days - Unprofessional Conduct and Misconduct - Guide Logs, p. 2769, 298

(Board of Pharmacy)

24.174.401 and other rule - Fees - Dangerous Drug Fee Schedule, p. 1814, 2134

(Board of Plumbers)

24.180.401 and other rules - General Provisions - Licensing and Scope of Practice - Reciprocity Licensure - Temporary Exemptions - Reciprocity, p. 2892

(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

24.182.401 and other rules - Fee Schedule - Licensure Requirements - Type of Firearm - Requirements for Firearms Instructor Licensure - Armed Requalification Required Annually - Company Licensure and Branch Offices - Rules for Branch Office, p. 1710, 2918

(Board of Psychologists)

24.189.301 and other rules - Definitions - Fee Schedule - Use of Title - Required Supervised Experience, p. 2461

(Board of Radiologic Technologists)

24.204.208 and other rules - Applications - Limited Permit Applications - Types - Permits - Practice Limitations - Permit Examinations - Renewal - Proof of Good Standing, p. 1819, 2659

24.204.401 and other rules - Fee Schedule - Limited Permit Holder Fees - Continuing Education - Unprofessional Conduct, p. 2314, 202

(Board of Real Estate Appraisers)

24.207.401 and other rules - Fees - Adoption of USPAP by Reference - Appraisal Review - Mentor Requirements, p. 3022, 203

24.207.506 and other rules - Qualifying Education Requirements for Residential Certification - Qualifying Experience - Trainee Requirements - Continuing Education - Scope of Practice, p. 75

(Board of Realty Regulation)

24.210.602 Examination, p. 1824, 46

(Board of Respiratory Care Practitioners)

24.213.402 and other rule - Application for Licensure - Examination, p. 1716, 2660

(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, 2413

LIVESTOCK, Department of, Title 32

32.2.403 Diagnostic Laboratory Fees, p. 1359, 1882

32.3.104 and other rules - Disease Control, p. 2775, 204

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

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, 1883

(Board of Oil and Gas Conservation)

36.22.1242 Privilege and License Tax Rates on Oil and Gas, p. 1827, 2110

36.22.1308 and other rule - Plugging and Restoration Bond - Financial Responsibility, p. 82

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- I Determining Unenforceable Case Status in Child Support Cases, p. 2898, 118
- I-XIV State Trauma Care System, p. 723, 1896
- I-XXVIII Home and Community-based Services for Adults with Severe Disabling Mental Illness, p. 1996, 2665
- 37.5.103 and other rules - Fair Hearing Procedures and Temporary Assistance for Needy Families (TANF), p. 2784, 47
- 37.5.125 and other rules - Older Blind Program, p. 1987, 48
- 37.12.401 Laboratory Testing Fees, p. 1227, 2043
- 37.30.102 Vocational Rehabilitation IPE Care Requirements, p. 18
- 37.30.405 Vocational Rehabilitation Program Payment for Services, p. 1223, 1892
- 37.62.101 and other rules - Child Support Guidelines, p. 2476, 117
- 37.78.102 and other rule - Temporary Assistance for Needy Families (TANF) Incorporation of Policy Manuals, p. 3026, 301
- 37.78.102 and other rules - Temporary Assistance for Needy Families (TANF), p. 1720, 2415
- 37.80.101 and other rules - Child Care Assistance Program, p. 1555, 2964
- 37.82.101 and other rules - Medicaid Assistance, p. 21, 302
- 37.82.101 and other rule - Medicaid Eligibility, p. 1830, 2418
- 37.82.101 Medicaid Assistance, p. 1550, 2417
- 37.85.406 and other rules - Medicaid Reimbursement of Hospitals, Provider Based Entities, and Birthing Centers, p. 2793, 3078, 206
- 37.86.1001 and other rules - Medicaid Dental Services - Durable Medical Equipment - Eyeglass Services - Ambulance Services - Transportation, p. 1126, 1894
- 37.86.2803 and other rules - Medicaid Reimbursement for Inpatient and Outpatient Hospital Services, p. 2024, 2849
- 37.95.102 and other rules - Licensure of Day Care Facilities, p. 2572, 201, 1424, 2136
- 37.104.101 and other rules - Emergency Medical Services, p. 1368, 2420
- 37.108.507 Components of Quality Assessment Activities, p. 14, 303
- 37.112.101 and other rules - Tattooing and Body Piercing, p. 2339
- 37.114.101 and other rules - Control of Communicable Diseases, p. 1512, 2112

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38.5.2202 and other rules - Pipeline Safety - National Electrical Safety Code, p. 2372, 2966
- 38.5.3301 and other rules - Telecommunications Service Standards, p. 1844, 2967

REVENUE, Department of, Title 42

- I Tax Benefit Rule - Individual Income Taxes, p. 257
- I & II Hospital Utilization Fee for Inpatient Bed Days, p. 2562, 3109
- I-VI Movie and Television Industries and Related Media - Tax Credit,  
p. 1564, 1960
- 42.2.621 and other rule - Final Agency Decisions, p. 254
- 42.3.101 and other rules - Waiver of Penalties and Interest, p. 3051
- 42.11.104 and other rules - Liquor Vendors, Purchasing, and Distribution,  
p. 3031
- 42.13.101 and other rules - Regulations of Liquor Licensees, p. 3044
- 42.18.107 and other rules - General Provisions and Certification Requirements  
for Appraising Property, p. 2520, 3101
- 42.19.401 and other rules - Low Income Property - Disabled Veterans Tax  
Exemptions - Energy Related Tax Incentives - New Industrial  
Property, p. 2555, 3102
- 42.20.101 and other rules - Valuation of Real Property - Classification of  
Nonproductive Patented Mining Claims, Agricultural Land, and Forest  
Land, p. 2533, 3103, 56, 119
- 42.20.106 and other rule - Manufactured and Mobile Homes, p. 1238, 1961
- 42.21.113 and other rules - Personal, Industrial, and Centrally Assessed Property  
Taxes, p. 2375, 2979
- 42.21.116 and other rules - Personal Property, p. 2529, 3108, 122
- 42.21.158 Property Reporting Requirements, p. 1235, 1962
- 42.31.102 and other rules - Tobacco Products and Cigarettes, p. 1943, 124

SECRETARY OF STATE, Title 44

- 1.2.419 Scheduled Dates for the 2007 Montana Administrative Register,  
p. 2820, 3112
  - 44.2.203 Priority Handling of Documents, p. 1569, 2138
  - 44.3.101 and other rules - Elections, p. 2077, 2671
- (Commissioner of Political Practices)
- 44.12.204 Payment Threshold--Inflation Adjustment for Lobbyists, p. 2400, 2982

## BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in February 2007 appear. Vacancies scheduled to appear from April 1, 2007, through June 30, 2007, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of March 1, 2007.

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

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Crime Control (Justice)</b>			
Ms. Brenda Desmond Missoula Qualifications (if required): representative of the judiciary	Governor	Crismore	2/5/2007 1/1/2011
Director Mike Ferriter Helena Qualifications (if required): state law enforcement representative	Governor	not listed	2/5/2007 1/1/2011
Mayor Pam Kennedy Kalispell Qualifications (if required): representative of both local government and the Youth Justice Council	Governor	Rice	2/5/2007 1/1/2009
Mr. Richard L. Kirn Poplar Qualifications (if required): tribal government representative	Governor	not listed	2/5/2007 1/1/2011
Ms. Sherry Matteucci Billings Qualifications (if required): public representative	Governor	Mackay	2/5/2007 1/1/2011
Mr. Steve McArthur Butte Qualifications (if required): community corrections representative	Governor	Augare	2/5/2007 1/1/2009
Ms. Lois A. Menzies Helena Qualifications (if required): representative of the judiciary	Governor	not listed	2/5/2007 1/1/2011

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Crime Control (Justice) cont.</b>			
Mr. Nick Murnion Jordan Qualifications (if required): local law enforcement representative	Governor	not listed	2/5/2007 1/1/2009
Mr. Jim Oppedahl Helena Qualifications (if required): public representative	Governor	not listed	2/5/2007 1/1/2011
Mr. Godfrey Saunders Bozeman Qualifications (if required): educator	Governor	not listed	2/5/2007 1/1/2011
Ms. Tracie Small Crow Agency Qualifications (if required): tribal court representative	Governor	Capdeville	2/5/2007 1/1/2011
<b>Board of Personnel Appeals (Labor and Industry)</b>			
Mr. Patrick J. Dudley Butte Qualifications (if required): management representative with collective bargaining experience (substitute)	Governor	reappointed	2/23/2007 1/1/2011
Mr. Steve Johnson Missoula Qualifications (if required): management representative with collective bargaining experience	Governor	reappointed	2/23/2007 1/1/2011

## BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Personnel Appeals</b> (Labor and Industry) cont.			
Ms. Robyn Rowe Deer Lodge	Governor	Dwyer	2/23/2007 1/1/2011
Qualifications (if required): full-time employee of a labor union or an association recognized by the board			
<b>Board of Plumbers</b> (Labor and Industry)			
Mr. Steve Carey Frenchtown	Governor	Olsen	2/14/2007 5/4/2007
Qualifications (if required): journeyman plumber			
<b>Board of Public Education</b> (Education)			
Ms. Sharon Carroll Ekalaka	Governor	Fladmo	2/12/2007 2/1/2012
Qualifications (if required): resident of District 2 and she identifies herself as an Independent			
Ms. Patty Myers Great Falls	Governor	reappointed	2/12/2007 2/1/2014
Qualifications (if required): resident of District 1 and she identifies herself as a Democrat			
<b>Board of Regents</b> (Education)			
Mr. Todd Buchanan Billings	Governor	Semmens	2/12/2007 2/1/2014
Qualifications (if required): resident of District 2 and he identifies himself as an Independent			
<b>Facility Finance Authority</b> (Administration)			
Mr. David Dietrich Billings	Governor	Dudis	2/22/2007 1/1/2011
Qualifications (if required): attorney			



**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Facility Finance Authority (Administration) cont.</b>			
Ms. Kim Greco Helena Qualifications (if required): public member	Governor	Bartos	2/22/2007 1/1/2011
Rep. Joe Quilici Butte Qualifications (if required): public member	Governor	reappointed	2/22/2007 1/1/2011
<b>Fetal Alcohol Spectrum Disorder Advisory Council (Public Health and Human Services)</b>			
Ms. Mary Behrendt Whitefish Qualifications (if required): educator	Governor	not listed	2/22/2007 2/22/2009
Ms. Allison Failing Poplar Qualifications (if required): tribal community representative	Governor	not listed	2/22/2007 2/22/2009
Ms. Kay Flinn Helena Qualifications (if required): family and addiction specialist	Governor	not listed	2/22/2007 2/22/2009
Dr. John Johnson Helena Qualifications (if required): medical geneticist	Governor	not listed	2/22/2007 2/22/2009

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Fetal Alcohol Spectrum Disorder Advisory Council</b> (Public Health and Human Services) cont.			
Dr. Ted Laine Missoula Qualifications (if required): neonatologist	Governor	not listed	2/22/2007 2/22/2009
Ms. Irene Lake St. Ignatius Qualifications (if required): prevention program representative	Governor	not listed	2/22/2007 2/22/2009
Ms. Cheryl Jill Plumage Harlem Qualifications (if required): tribal community representative	Governor	not listed	2/22/2007 2/22/2009
Mr. Thomas Price Eureka Qualifications (if required): parent	Governor	not listed	2/22/2007 2/22/2009
Ms. Bonnie Stout Kalispell Qualifications (if required): prevention program representative	Governor	not listed	2/22/2007 2/22/2009
Ms. Linda Tarinelli Bozeman Qualifications (if required): educator	Governor	not listed	2/22/2007 2/22/2009
Ms. Margaret Ann Yellow Kidney Browning Qualifications (if required): tribal community representative	Governor	not listed	2/22/2007 2/22/2009

## BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Flathead Basin Commission</b> (Natural Resources and Conservation)			
Mr. Clinton Whitney	Governor	Williams	2/13/2007
Polson			6/30/2007
Qualifications (if required): public representative			
<b>MSU Billings Local Executive Board</b> (Board of Regents)			
Mr. Paul Beck	Governor	Hood	2/21/2007
Red Lodge			4/15/2009
Qualifications (if required): public representative			
<b>MSU Great Falls College of Technology Local Executive Board</b> (Board of Regents)			
Mr. Jordan Love	Governor	Gehring	2/21/2007
Great Falls			4/15/2009
Qualifications (if required): public representative			
<b>MSU Northern Local Executive Board</b> (Board of Regents)			
Mr. Robert Boettcher	Governor	Greenwood	2/21/2007
Big Sandy			4/15/2009
Qualifications (if required): public representative			
<b>State Employee Charitable Giving Campaign Advisory Council</b> (Administration)			
Ms. Marcia Armstrong	Director	not listed	2/14/2007
Helena			2/14/2009
Qualifications (if required): employee representative			
Mr. Rick Bush	Director	not listed	2/14/2007
Helena			2/14/2009
Qualifications (if required): employee representative			

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Employee Charitable Giving Campaign Advisory Council (Administration) cont.</b>			
Mr. Matthew Dale Helena Qualifications (if required): employee representative	Director	not listed	2/14/2007 2/14/2009
Ms. Maggie Engler Helena Qualifications (if required): federation/independent representative	Director	not listed	2/14/2007 2/14/2009
Ms. Candy Kirby Helena Qualifications (if required): employee representative	Director	not listed	2/14/2007 2/14/2009
Mr. Jack Lynch Helena Qualifications (if required): employee representative	Director	not listed	2/14/2007 2/14/2009
Ms. Marie Matthews Helena Qualifications (if required): employee representative	Director	not listed	2/14/2007 2/14/2009
Mr. Rob Mayer Helena Qualifications (if required): employee representative	Director	not listed	2/14/2007 2/14/2009
Ms. Joy McGrath Helena Qualifications (if required): federation/independent representative	Director	not listed	2/14/2007 2/14/2009

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Employee Charitable Giving Campaign Advisory Council (Administration) cont.</b>			
Mr. Marty Roos Helena	Director	not listed	2/14/2007 2/14/2009
Qualifications (if required): employee representative			
Ms. Karen Shipley Butte	Director	not listed	2/14/2007 2/14/2009
Qualifications (if required): federation/independent representative			
Ms. Mary Wright Helena	Director	not listed	2/14/2007 2/14/2009
Qualifications (if required): employee representative			
<b>State Tribal Economic Development Commission (Governor)</b>			
Mr. Russell Boham Great Falls	Governor	Shield	2/22/2007 6/30/2009
Qualifications (if required): representative of the Little Shell Band of Chippewa			
Mr. Ronald Doney Great Falls	Governor	Erickson	2/22/2007 6/30/2009
Qualifications (if required): representative of the Little Shell Band of Chippewa (alternate)			
<b>UM Western Local Executive Board (Board of Regents)</b>			
General James Womack Dillon	Governor	Lohman	2/21/2007 4/15/2009
Qualifications (if required): public representative			

**BOARD AND COUNCIL APPOINTEES FROM FEBRUARY 2007**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>University of Montana Local Executive Board</b> (Board of Regents)			
Rep. Bob Ream	Governor	Landa	2/21/2007
Helena			4/15/2009
Qualifications (if required): public representative			

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Athletics</b> (Labor and Industry)                      Ms. Jamie Jones, Great Falls                      Qualifications (if required): public representative</p>	Governor	4/25/2007
<p><b>Board of Clinical Laboratory Science Practitioners</b> (Labor and Industry)                      Ms. Charlene Staffanson, Deer Lodge                      Qualifications (if required): public member</p>	Governor	4/16/2007
<p>Ms. Karen McNutt, Sidney                      Qualifications (if required): clinical laboratory science practitioner</p>	Governor	4/16/2007
<p><b>Board of Nursing Home Administrators</b> (Labor and Industry)                      Ms. Carla Neiman, Plains                      Qualifications (if required): representative of an institution concerned with the care of aged patients</p>	Governor	5/28/2007
<p><b>Board of Optometry</b> (Labor and Industry)                      Dr. Larry Obie, Havre                      Qualifications (if required): registered optometrist</p>	Governor	4/3/2007
<p>Ms. Delores Hill, Mosby                      Qualifications (if required): public member</p>	Governor	4/3/2007
<p><b>Board of Plumbers</b> (Labor and Industry)                      Ms. Loree Olsen, Helena                      Qualifications (if required): journeyman plumber</p>	Governor	5/4/2007
<p>Mr. Marcus J. Golz, Helena                      Qualifications (if required): representative of the Department of Environmental Quality</p>	Governor	5/4/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Plumbers</b> (Labor and Industry) cont.                      Ms. Debi Friede, Havre                      Qualifications (if required): public representative</p>	Governor	5/4/2007
<p>Mr. Steve Carey, Frenchtown                      Qualifications (if required): journeyman plumber</p>	Governor	5/4/2007
<p><b>Board of Realty Regulation</b> (Labor and Industry)                      Ms. Teddye Beebe, Libby                      Qualifications (if required): public member</p>	Governor	5/9/2007
<p>Mr. Michael A. Basile, Bozeman                      Qualifications (if required): real estate broker</p>	Governor	5/9/2007
<p><b>Board of Regents</b> (Higher Education)                      Ms. Heather O'Loughlin, Missoula                      Qualifications (if required): full-time student at a unit of higher education under jurisdiction of the Board of Regents</p>	Governor	6/30/2007
<p><b>Directors of the State Compensation Insurance Fund</b> (Administration)                      Ms. Mardi Madsen, Billings                      Qualifications (if required): representative of private enterprise</p>	Governor	4/28/2007
<p>Mr. Derek Scoble, Clancy                      Qualifications (if required): representative of private enterprise and a policyholder</p>	Governor	4/28/2007
<p><b>District Court Council</b> (Supreme Court)                      Judge Thomas M. McKittrick, Great Falls                      Qualifications (if required): none specified</p>	elected	6/30/2007



**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>District Court Council</b> (Supreme Court) cont.            Mr. Glen Welch (no city listed)            Qualifications (if required): none specified</p>	nominated	6/30/2007
<p><b>Electronic Government Advisory Council</b> (Administration)            Ms. Vickie Zeier, Missoula            Qualifications (if required): local government official</p>	Governor	6/18/2007
<p>Ms. Cheryl Patton, Great Falls            Qualifications (if required): public representative</p>	Governor	6/18/2007
<p>Ms. Jeanne Murphy, Wolf Creek            Qualifications (if required): agency representative</p>	Governor	6/18/2007
<p>Mr. Rick McIntyre, Billings            Qualifications (if required): agency representative</p>	Governor	6/18/2007
<p>Mr. Shannon Hanson, Whitefish            Qualifications (if required): public representative</p>	Governor	6/18/2007
<p><b>Flathead Basin Commission</b> (Governor)            Mr. Paul Smiley, Kalispell            Qualifications (if required): public member</p>	Governor	6/30/2007
<p>Mr. Gary Wicks, Polson            Qualifications (if required): public member</p>	Governor	6/30/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Flathead Basin Commission</b> (Governor) cont. Ms. Kate Hunt, Kalispell Qualifications (if required): public representative	Governor	6/30/2007
Mr. Clinton Whitney, Polson Qualifications (if required): public representative	Governor	6/30/2007
<b>Grant Review Committee</b> (Governor's Office) Ms. Ingrid Childress, Helena Qualifications (if required): representative of the Department of Labor and Industry	Governor	6/30/2007
<b>Judicial Standards Commission</b> (Justice) Judge Ed McLean, Missoula Qualifications (if required): none specified	elected	6/30/2007
<b>Land Information Advisory Council</b> (Administration) Director Dan R. Bucks, Helena Qualifications (if required): department representative	Governor	6/30/2007
Rep. Jon C. Sesso, Butte Qualifications (if required): local government representative	Governor	6/30/2007
Mr. Lance Clampitt, Manhattan Qualifications (if required): U.S. Interior Department representative	Governor	6/30/2007
Mr. Art Pembroke, Helena Qualifications (if required): local government representative	Governor	6/30/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Land Information Advisory Council</b> (Administration) cont. Mr. Steve Shannon, Butte Qualifications (if required): private sector representative	Governor	6/30/2007
Director Jeff Hagener, Helena Qualifications (if required): department representative	Governor	6/30/2007
Director Mary Sexton, Helena Qualifications (if required): department representative	Governor	6/30/2007
Director Richard Opper, Helena Qualifications (if required): department representative	Governor	6/30/2007
Mr. Michael T. Birtles, Billings Qualifications (if required): U.S. Interior Department representative	Governor	6/30/2007
Ms. Catherine Maynard, Helena Qualifications (if required): U.S. Interior Department representative	Governor	6/30/2007
Mr. Don Patterson, Missoula Qualifications (if required): U.S. Agriculture Department representative	Governor	6/30/2007
Ms. Lisa Kimmet, Terry Qualifications (if required): local government representative	Governor	6/30/2007
Mr. Lorin Peterson, Pablo Qualifications (if required): tribal government representative	Governor	6/30/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Land Information Advisory Council</b> (Administration) cont.		
Mr. Rick Lawrence, Bozeman Qualifications (if required): university representative	Governor	6/30/2007
Mr. Ed Madej, Helena Qualifications (if required): private sector representative	Governor	6/30/2007
Mr. Ken Wall, Missoula Qualifications (if required): GIS professional	Governor	6/30/2007
Mr. Michael Sweet, Missoula Qualifications (if required): GIS professional	Governor	6/30/2007
Mr. Dave Davis, Helena Qualifications (if required): GIS professional	Governor	6/30/2007
<b>Montana Heritage Preservation and Development Commission</b> (Commerce)		
Mr. John Lawton, Great Falls Qualifications (if required): person with community planning experience	Governor	5/23/2007
Ms. Rosana Skelton, Helena Qualifications (if required): businessperson	Governor	5/23/2007
Ms. Anne Cossitt, Park City Qualifications (if required): having experience in community planning	Governor	5/23/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Noxious Weed Seed Free Forage Advisory Council</b> (Agriculture)		
Mr. Terry Turner, Havre Qualifications (if required): representative of the Montana Weed Control Association	Director	6/30/2007
Ms. Josie Dahlberg, Brockton Qualifications (if required): representative of Agriculture Crop Production	Director	6/30/2007
Mr. Jerry Marks, Missoula Qualifications (if required): representative of Biological Research and Control	Director	6/30/2007
Mr. Jack Eddie, Dillon Qualifications (if required): representative of western counties	Director	6/30/2007
Mr. Dave Philipps, Lewistown Qualifications (if required): representative of Herbicide Dealers and Applicators	Director	6/30/2007
Ms. Pachy Burns, Big Timber Qualifications (if required): representative of Consumer Groups	Director	6/30/2007
Mr. Gary Olsen, Harlowton Qualifications (if required): representative of eastern counties	Director	6/30/2007
<b>Montana Quarter Commission</b> (Governor)		
Mr. Brian Schweitzer, Whitefish Qualifications (if required): none specified	Governor	6/27/2007
Mr. Gary B. Marks, Whitefish Qualifications (if required): numismatist	Governor	6/27/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Quarter Commission</b> (Governor) cont. Mr. Keith E. Gumm, Terry Qualifications (if required): numismatist	Governor	6/27/2007
Ms. Nancy Warneke-Gaynor, Whitefish Qualifications (if required): public representative	Governor	6/27/2007
Mr. Arnie Olsen, Helena Qualifications (if required): historical expert	Governor	6/27/2007
Ms. Sarah Elliott, Helena Qualifications (if required): commission staff	Governor	6/27/2007
<b>Montana Special Education Advisory Panel</b> (Office of Public Instruction)		
Mr. Terry Teichrow, Helena Qualifications (if required): Representative of Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act	Director	6/30/2007
Ms. Diana Colgrove, Eureka Qualifications (if required): Part C/IDEA Representative	Director	6/30/2007
Ms. Janet Jansen, Lavina Qualifications (if required): Regular Classroom Teacher	Director	6/30/2007
Mr. Dick Slonaker, Chinook Qualifications (if required): Special Education Program Administrator	Director	6/30/2007
Mr. Bob Peake, Helena Qualifications (if required): State Agency	Director	6/30/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Special Education Advisory Panel</b> (Office of Public Instruction) cont. Ms. Amy McCord, Ashland Qualifications (if required): Private School Representative	Director	6/30/2007
Mr. Terry Galle, Deer Lodge Qualifications (if required): Vocational Community	Director	6/30/2007
Mr. George Jack Burns, Lame Deer Qualifications (if required): Parent of a Child with Disabilities	Director	6/30/2007
Ms. Sharon Hobbs, Billings Qualifications (if required): Higher Education that Prepares Special Education	Director	6/30/2007
Mr. Carroll Jim DeCoteau, Frazer Qualifications (if required): Teacher of Children with Disabilities	Director	6/30/2007
Mr. Dave Mahon, Worden Qualifications (if required): State/Local Administrator	Director	6/30/2007
Mr. Ron Fuller, Boulder Qualifications (if required): Representative from Juvenile and Adult Corrections	Director	6/30/2007
Ms. Barb Rolf, Great Falls Qualifications (if required): Representative of Other State Agencies	Director	6/30/2007
Ms. Coral Beck, Missoula Qualifications (if required): State Child Welfare Agency Responsible for Foster Care	Director	6/30/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Petroleum Tank Release Compensation Board</b> (Environmental Quality) Mr. Greg Cross, Billings Qualifications (if required): representative of independent petroleum marketers	Governor	6/30/2007
Mr. Shaun Peterson, Helena Qualifications (if required): representative of the insurance industry	Governor	6/30/2007
<b>Postsecondary Scholarship Advisory Council</b> (Higher Education) Ms. Dolores Colburg, Billings Qualifications (if required): having experience in secondary education	Governor	6/20/2007
<b>Private Lands/Public Wildlife Council</b> (Fish, Wildlife, and Parks) Ms. Connie Eissinger, Brockway Qualifications (if required): landowner	Governor	6/30/2007
Mr. Mat Millenbach, Billings Qualifications (if required): hunter/angler	Governor	6/30/2007
Mr. Craig Roberts, Lewistown Qualifications (if required): hunter/angler	Governor	6/30/2007
Mr. Jamie Byrne, Ekalaka Qualifications (if required): outfitter	Governor	6/30/2007
Mr. Jack Rich, Seeley Lake Qualifications (if required): outfitter	Governor	6/30/2007



**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Private Lands/Public Wildlife Council</b> (Fish, Wildlife, and Parks) cont.		
Ms. Donna McDonald, Alder Qualifications (if required): outfitter	Governor	6/30/2007
Rep. Bill Warden, Bozeman Qualifications (if required): legislator	Governor	6/30/2007
Sen. Lane L. Larson, Billings Qualifications (if required): legislator	Governor	6/30/2007
Mr. Shane Colton, Billings Qualifications (if required): Fish, Wildlife, and Parks commissioner	Governor	6/30/2007
Mr. Gordon Haugen, Bozeman Qualifications (if required): hunter/angler	Governor	6/30/2007
Mr. Max McDonald, Vaughn Qualifications (if required): landowner	Governor	6/30/2007
Mr. Doug Schott, Stevensville Qualifications (if required): outfitter	Governor	6/30/2007
Mr. Arlo Skari, Chester Qualifications (if required): landowner	Governor	6/30/2007
Mr. Land Tawney, Missoula Qualifications (if required): hunter/angler	Governor	6/30/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Private Lands/Public Wildlife Council</b> (Fish, Wildlife, and Parks) cont. Mr. William Falls Down Sr., Hardin Qualifications (if required): landowner	Governor	6/30/2007
<b>Public Employees Retirement Board</b> (Administration) Ms. Carole Carey, Ekalaka Qualifications (if required): public employee	Governor	4/1/2007
<b>Reserved Water Rights Compact Commission</b> (Natural Resources and Conservation) Mr. Gene Etchart, Glasgow Qualifications (if required): public member	Governor	6/1/2007
Sen. Lorents Grosfield, Big Timber Qualifications (if required): public member	Governor	6/1/2007
Mr. Chris D. Tweeten, Helena Qualifications (if required): none specified	Attorney General	5/31/2007
Ms. Tara DePuy, Livingston Qualifications (if required): public member	Governor	6/1/2007
Mr. Steve Hughes, Polson Qualifications (if required): public member	Governor	6/1/2007
<b>State Compensation Mutual Insurance Fund Board</b> (Governor) Mr. Joe Dwyer, Billings Qualifications (if required): representative of a Montana State Fund policy holder	Governor	4/28/2007

**VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 2007 THROUGH JUNE 30, 2007**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State-Tribal Economic Development Commission</b> (Governor) Ms. Emorie Davis Bird, East Glacier Park Qualifications (if required): representative of the Blackfeet Tribe	Governor	6/30/2007
Mr. Roger "Sassy" Running Crane, Browning Qualifications (if required): representative of the Blackfeet Tribe	Governor	6/30/2007