

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 16

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after print 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.

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

In the matter of the amendment of )  
ARM 12.14.101, 12.14.105, 12.14.115, )  
12.14.120, 12.14.125, 12.14.135, ) NOTICE OF PUBLIC HEARING ON  
12.14.140, 12.14.150, 12.14.160 and ) PROPOSED AMENDMENT  
12.14.165 regarding commercial use )  
rules in Montana )

TO: All Concerned Persons

1. On September 16, 2009 at 6:00 p.m. the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Red Lion Colonial Inn, 2301 Colonial Drive, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than September 8, 2009, to advise us of the nature of the accommodation that you need. Please contact Stella Cureton, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail scureton@mt.gov.

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

12.14.101 DEFINITIONS (1) and (2) remain the same.

(3) "Commercial use" means any person or entity that utilizes land under the control, administration, and jurisdiction of the Montana Department of Fish, Wildlife and Parks for consideration. Commercial use includes any person, group, or organization, that makes or attempts to make a profit, vend a service or product, receive money, amortize equipment, or obtain goods or services as compensation from participants in activities occurring on land that is under the control, administration, and jurisdiction of the department. This includes nonprofit organizations and educational groups that receive money from participants in activities occurring on department land. This includes a person whose business operates on department land, regardless of that person's physical presence at the site, but does not include a person who rents, sells, or otherwise provides equipment or merchandise that is used on department land unless the renting, selling, delivering, or providing of equipment or merchandise takes place on department land. Examples of commercial use that are governed by these rules include but are not limited to: trail rides, guided walks or tours, float trips, guided angling or hunting, game retrieval, professional dog training, equipment rentals, retail sales, food concessions, filming, firewood cutting, construction-related activities, research when accompanied by paying clients, or any combination thereof.

(4) through (9) remain the same.

(10) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

~~(10)~~(11) "Mitigation" means an enforceable measure, within the authority of the agency or mutually agreed to by the permit holder that is designed to reduce or prevent undesirable effects or impacts of the proposed use.

(12) "Nonprofit organization" means an organization that does not distribute its surplus funds to owners or shareholders and exists solely to provide programs and services that are of public benefit. While they are able to earn a profit, more accurately called a surplus, such earnings must be retained by the organization for its future provision of programs and services. Earnings may not benefit individuals or stake-holders. Examples include charities and service organizations.

(13) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

(11) through (14) remain the same, but are renumbered (14) through (17).

~~(15)~~(18) "Water-based service provider outfitter or guide" means any person who for consideration provides any facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to float or otherwise recreate on the water in the absence of hunting or angling, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a person in accompanying that person water-related recreation services or supervises someone providing these services. This includes outfitters and guides that are licensed by the state of Montana, and water-based service providers that are not licensed by the state of Montana.

(16) remains the same, but is renumbered (19).

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA

IMP: 23-1-105, 23-1-106, 87-1-303, MCA

**REASONABLE NECESSITY:** The commission is proposing to add the word "delivering" to the definition of commercial use to further clarify that the rules apply to businesses that deliver watercraft or other types of equipment to department land. To be consistent with the Montana Board of Outfitters, the commission is proposing definitions for outfitter and guide. The commission is proposing amending water-based outfitter and guide to water-based service provider to distinguish between a licensed outfitter or guide and a nonlicensed water-based service provider. The commission is proposing adoption of a definition for nonprofit organization to clarify which organizations qualify.

12.14.105 APPLICABILITY OF COMMERCIAL USE RULES (1) and (2) remain the same.

(3) Noncompliance with the commercial use rules constitutes a violation of commission rules and regulations and as such may be punishable by citation and suspension or revocation of commercial use privileges at department sites.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA  
IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing additional language clarifying that the department may issue citations and suspend or revoke a commercial use permit for violating the commercial use rules.

12.14.115 GENERAL POLICY (1) and (2) remain the same.

(3) Commercial use on department land is a privilege, not a right. Authorization to conduct commercial use may be denied, amended, suspended, or revoked at any time for cause. Historical commercial use of a site does not convey a right to conduct commercial use in the future. If it becomes necessary to ration and allocate commercial use, the department is not required to allocate opportunities based on historical use of a site.

(4) through (9) remain the same.

(10) Commercial hunting outfitting is prohibited on all department land and on water bodies that are located entirely within the boundaries of department land. Commercial fishing outfitting is prohibited on all wildlife management areas. The department may authorize commercial use that is solely for the purpose of assisting the public in the retrieval of legally harvested game animals. The department may authorize a commercial hunting outfitter to:

(a) travel on a designated trail across department land solely for the purpose of gaining access to ~~federal~~ publicly owned land where the commercial hunting outfitter is authorized to conduct use; and

(b) use a fishing access site solely for the purpose of gaining access to water bodies where the commercial hunting outfitter is authorized to conduct use.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA  
IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing to add an intermediate disciplinary action of suspending commercial use as provided in ARM 12.14.120 and to change the department to authorize travel on a designated trail to gain access to publicly owned land in order to include publicly owned state land and not just federal land.

12.14.120 COMMERCIAL USE PERMITS (1) through (4)(h) remain the same.

(5) The availability, terms, and conditions of a commercial use permit may vary based on the regulations and management plan in place at the site where the use would occur. The department may issue a citation for failure to comply with the

terms of the permit. The department may refuse applications for a permit if the use would occur at a site where commercial use is rationed and there are no additional opportunities to conduct such use.

(6) through (12) remain the same.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA

IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing to amend ARM 12.14.120 to further clarify the department's authority to cite a commercial use permit holder for violating the terms of a permit. Permit terms enable the department to properly administer authorized commercial use.

12.14.125 FISHING ACCESS SITE PERMIT (1) An outfitter or water-based service provider must possess and have on their person a valid fishing access site permit when conducting commercial use ~~A fishing access site permit is required to conduct water-based outfitting at fishing access sites and other department land that provide access to a nonrestricted water body. , except an outfitter or water-based service provider with a valid restricted use permit for a restricted water body does not need a fishing access site permit to conduct commercial use at fishing access sites and other department land that provide access to that restricted water body.~~

(2) A guide or person conducting work for a water-based service provider must possess and have on their person a valid fishing access site permit ~~is required to conduct water-based guiding when conducting commercial use at fishing access sites and other department land that provides access to water bodies.~~

(3) A fishing access site permit authorizes an ~~water-based~~ outfitter or water-based service provider to conduct commercial use ~~water-based outfitting at any fishing access site or other department land in the state that provides access to a nonrestricted water body unless the department specifies that a restricted use permit is required for the site. An ~~water-based~~ outfitter or water-based service provider must obtain a restricted use permit to conduct water-based outfitting at a fishing access site or other department land that provides access to a restricted water body.~~

(4) A fishing access site permit authorizes a ~~water-based~~ guide, operating under the authority of an ~~water-based~~ outfitter, or a person conducting work for a water-based service provider, to conduct commercial use ~~water-based guiding at any fishing access site or other department land for which the outfitter or water-based service provider is authorized to conduct use.~~

(5) A fishing access site permit is valid for the time period specified on the permit ~~an annual permit that is valid for the license year in which the permit is issued.~~

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA

IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing to amend ARM 12.14.125 to provide consistency with the proposed definitions of outfitter, guide, and water-based service provider in ARM 12.14.101. The commission is proposing

the language excepting an outfitter or water-based service provider with a valid restricted use permit for a restricted water body from needing a fishing access site permit for clarification that an outfitter or water-based service provider does not need two permits for a restricted water body. Also, the commission is proposing to authorize the department to issue permits for specific consecutive days to provide for a fishing access site permit that is less expensive than the annual version of the permit.

12.14.135 FISHING ACCESS SITE PERMITTING DECISIONS (1) remains the same.

(2) The regional park manager, in consultation with the regional supervisor, may deny, suspend, or revoke a fishing access site permit for failure to comply with the terms of the permit, violating department commission rules and regulations, or other infractions identified by the department. If a nonrestricted water body is reclassified as a restricted water body, a fishing access site permit is no longer valid at the sites that provide access to the restricted water body. The fishing access site permit holder may apply for a restricted use permit to use these sites.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA  
IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing language to reflect the new department organizational structure and to add an intermediate disciplinary action of suspending commercial use as provided in ARM 12.14.120.

12.14.140 RESTRICTED USE PERMIT (1) A restricted use permit is required for the following:

(a) outfitter or water-based service provider conducting commercial use ~~outfitting~~ at a fishing access site or other department land that provides access to a restricted water body; and

(b) all other types of commercial use at a fishing access site, state park, wildlife management area, or department administrative site.

(2) through (5) remain the same.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA  
IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing to amend ARM 12.14.140 to provide consistency with the proposed definitions of outfitter and water-based service provider in ARM 12.14.101.

12.14.150 RESTRICTED USE PERMITTING DECISIONS (1) through (1)(j) remain the same.

(2) The availability, terms, and conditions of a restricted use permit may vary based on the regulations and management plan in place at the site where the use would occur. ~~Prior to issuing a permit to conduct~~ Permitting decisions for commercial use at a wildlife management area must comply with a statewide plan for authorizing

and administering commercial use at wildlife management areas. , the department must prepare a commercial use plan for that site. The statewide commercial use plan for wildlife management areas shall:

- (a) identify the types of commercial use that may be authorized at the site;
- (b) establish the general terms and, conditions, ~~and volume of commercial use~~ that may be authorized; and
- (c) establish the methods for allocating commercial use permits.
- (3) through (6) remain the same.
- (7) The regional park manager supervisor, ~~in concurrence with the appropriate division administrator~~, shall be responsible for restricted use permitting decisions at state parks and fishing access sites. The regional supervisor shall be responsible for restricted use permitting decisions at wildlife management areas.
- (8) and (9) remain the same.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA  
IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission proposes amendments that would direct the department to comply with a statewide commercial use plan when authorizing commercial use at a wildlife management area. A statewide plan, versus individual plans for each wildlife management area, would result in more consistent decision making across the state and require fewer resources.

12.14.160 COMMERCIAL USE FEES (1) remains the same.

(2) The department has discretionary authority to adjust a restricted use permit fee upward or downward to accommodate the nature of the activity, compensate for site impacts or department staffing needs, or for other unique circumstances pertaining to the permitted activity.

~~(2)~~(3) The department may adjust ~~waive~~ commercial use fees on a case-by-case basis for educational groups when the following conditions are met:

- (a) the group is from a bona fide institution that meets the definition of an educational group;-
- (b) the group provides a written explanation of the educational purpose of the visit; and
- (c) the use is not primarily for recreational purposes.

~~(3)~~(4) The department may ~~waive or~~ adjust commercial use fees on a case-by-case basis when the commercial use permit holder:

(a) donates proceeds from the use or event ~~are donated to the management or improvement of fish, wildlife, and parks, including to the maintenance, management, or the improvement or development of facilities; or , at the site where the use occurs.~~

(4)~~(b)~~ donates proceeds from the event or activity to a nonprofit organization or charitable cause ~~The department may waive or adjust commercial use fees when a service provider donates their services for a charitable cause and is not compensated for the service.~~

(5) The department may adjust commercial use fees on a case-by-case basis for special events involving children under the age of thirteen.



(6) The department may adjust commercial use fees on a case-by-case basis for commercial use when the sole purpose of the use is to promote department land and resources.

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

(8) The department may charge a processing fee for recovery of costs associated with issuing a new restricted use permit when a business is sold or transferred.

(6) and (7) remain the same but are renumbered (9) and (10).

(11) The department may retain, amend, or replace an existing fee system.

(12) The department may require a minimum annual fee for administering permits or when authorizing commercial use in cooperation with another agency.

(13) The department may require a permit holder to pay a fee in advance that is an estimate of the actual amount that will be due by the date specified in the terms of the permit.

(14) The department may suspend or revoke a permit if the fee is not paid in full by the date specified in the terms of the permit.

AUTH: 2-4-102, 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA

IMP: 2-4-102, 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing amendments to provide the department flexibility to adjust a restricted use permit after considering the unique characteristics of a particular activity or event, provide greater latitude to adjust commercial use permit fees as deemed appropriate, and the ability to recover some of the administrative costs associated with the sale of a commercial business and the subsequent issuance of a permit. The language of the proposed amendments is currently located in the commercial use permit fee biennial rule.

12.14.165 RATIONING AND ALLOCATION OF COMMERCIAL USE (1) remains the same.

(2) The regional park manager or regional supervisor, ~~in concurrence with the appropriate division administrator, director, and the commission,~~ may recommend that the commission ration and allocate commercial use at a state park, wildlife management area, fishing access site that provides access to lakes, or department administrative site. The department regional supervisor may consider the following when making rationing and allocation ~~decisions~~ recommendations to the commission:

- (a) laws, rules, policies, management plans, and land use plans for the site;
- (b) overall mission, goals, and objectives of the site;
- (c) input from the public;
- (d) public safety concerns;
- (e) biological conditions;
- (f) social conditions;
- (g) use conflicts;
- (h) past performance of commercial users;
- (i) public demand for commercial use; and
- (j) other factors as determined by the department.

(3) The ~~regional supervisor~~ department shall describe what actions have already been taken by the department to address a particular problem or concern, why rationing is necessary, and how rationing of use would address a particular problem or concern.

(4) remains the same.

AUTH: 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA  
IMP: 23-1-105, 23-1-106, 87-1-303, MCA

REASONABLE NECESSITY: The commission is proposing amendments to reflect the department's new organizational structure and clarify the commission's authority to ration and allocate use. The department's role is limited to making a recommendation.

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 Charlie Sperry, Fish, Wildlife and Parks, 1420 East 6th Avenue, P.O. Box 200701, Helena, MT 59624-0701; fax (406) 444-4952; e-mail commercialcomments@mt.gov, and must be received no later than September 28, 2009.

5. Charlie Sperry, or another hearing officer appointed by the department, has been designated to preside over and conduct the hearing.

6. 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.

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

/s/ Bob Ream  
Bob Ream, Acting Chairman  
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter  
Rebecca Jakes Dockter  
Rule Reviewer

Certified to the Secretary of State August 17, 2009

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING ON
17.53.105, 17.53.112, 17.53.1201,	)	PROPOSED AMENDMENT AND
17.53.1202, 17.53.1303, and the adoption	)	ADOPTION
of New Rules I and II pertaining to	)	
incorporation by reference and	)	(HAZARDOUS WASTE)
standardized permits	)	

TO: All Concerned Persons

1. On September 23, 2009, at 10:30 a.m., a public hearing will be held in Room 35, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson no later than 5:00 p.m., September 14, 2009, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson, Paralegal, at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

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

17.53.105 INCORPORATION BY REFERENCE (1) and (2) remain the same.

(3) References in this chapter that incorporate 40 CFR 60, 61, 63, 124, 260 through ~~266~~, 268, 270, 273, or 279 refer to the version of that publication revised as of July 1, ~~2006~~ 2008. References in this chapter to 40 CFR 124, 260 through ~~266~~, 268, 270, 273, or 279 that incorporate publications refer to the version of the publication as specified at 40 CFR 260.11. Provisions within 40 CFR 60, 61, and 63 that are referenced in 40 CFR 124, 260 through ~~266~~, 268, 270, 273, or 279 are also incorporated by reference.

(4) For the purposes of this chapter, the department adopts and incorporates by reference the final rules published in the Federal Register at ~~71 FR 40254 on July 14, 2006, "Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations,"~~ to be codified at 40 CFR parts ~~260, 261, 262, 264, 265, 266, 267, 268, 270, 271, 273, and 279~~ 73 FR 72912 on December 1, 2008, "Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities," to be codified at 40 CFR 261 and 262.

~~(5) For the purposes of this chapter, the department adopts and incorporates by reference the final rules published at 71 FR 42927 on July 28, 2006, "Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes," to be codified at 40 CFR parts 260, 261, and 271. The final rules published at 71 FR 42927, as incorporated by reference in this rule, become effective on January 29, 2007.~~

(6) through (9) remain the same, but are renumbered (5) through (8).

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

REASON: The department is proposing to amend ARM 17.53.105(3) by deleting the specific reference to incorporation by reference of 40 CFR 266 and substituting incorporation by reference of 40 CFR 260 through 268. As discussed below in the statement of reasonable necessity for adoption of New Rules I and II, the department is proposing to adopt and incorporate by reference 40 CFR 267. 40 CFR 266 and 40 CFR 267 will be included within the incorporation by reference of 40 CFR 260 through 268.

Periodically the department updates ARM 17.53.105 which incorporates by reference the Code of Federal Regulations (CFR). The incorporation by reference process is accomplished by amending the CFR publication date specified in ARM 17.53.105(3). The amendment to ARM 17.53.105(3) would allow the department to follow the most recent edition of federal regulations, and thus maintain comity with EPA, to preserve program authorization.

The department is proposing to amend ARM 17.53.105(4) and (5) by deleting the incorporations by reference of the federal regulations published in 71 FR 40254 and 71 FR 42927. These incorporations by reference no longer are necessary because the federal regulations promulgated in those rulemakings now have been codified in parts of the CFR that are adopted and incorporated by reference in ARM 17.53.105(4).

In a December 1, 2008, Federal Register notice (73 FR 72912), the Environmental Protection Agency (EPA) adopted an alternative set of generator requirements applicable to laboratories owned by eligible academic entities. The department is proposing to adopt and incorporate by reference the regulations in ARM 17.53.105(4) because they provide a flexible and protective set of regulations that address the specific nature of hazardous waste generation and accumulation in laboratories at colleges and universities, as well as other eligible academic entities formally affiliated with colleges and universities. Compliance with the regulations is optional. Colleges and universities would have the choice of managing their hazardous wastes pursuant to these regulations, or of remaining subject to the existing generator regulations.

17.53.112 FACILITY PERMIT FEES: APPLICATION, RENEWAL, MODIFICATION, AND MAINTENANCE FEES (1) through (1)(c)(ii) remain the same.

(2) The department shall assess to an applicant for a hazardous waste management permit, including a standardized permit, under this subchapter a filing and review fee based upon the following schedule:

(a) through (5)(d) remain the same.

AUTH: 75-10-404, 75-10-405, 17-10-406, MCA

IMP: 75-10-405, 75-10-406, MCA

REASON: The department is proposing a minor amendment to ARM 17.53.112 to facilitate the incorporation of 40 CFR Part 267, pertaining to standardized permits, into the program rules. (See the statement of reasonable necessity for New Rules I and II.)

17.53.1201 ADOPTION OF FEDERAL PROCEDURES FOR STATE ADMINISTERED PERMIT PROGRAM (40 CFR 270 and 124) (1) Except as provided otherwise in ARM 17.53.1202, the department hereby adopts and incorporates by reference 40 CFR 270 and 124, pertaining to federal procedures for a state administered permit program.

(2) Except as provided otherwise in ARM 17.53.1202, the department adopts and incorporates by reference 40 CFR 124.3(a), 124.5(a), (c), and (d), 124.6(a), (d), and (e), 124.7, 124.8, 124.10 through 124.12, 124.14 through 124.16, 124.17(a) and (c), 124.20, 124.31 through 124.33, and 124.200 through 124.214, pertaining to procedures for decisionmaking in issuing, modifying, revoking and reissuing, or terminating RCRA permits.

(a) For purposes of the adoption and incorporation by reference of portions of 40 CFR 124, the department adopts and incorporates by reference the following definitions in 40 CFR 124.2:

- (i) draft permit;
- (ii) facility or activity;
- (iii) owner or operator;
- (iv) permit; and
- (v) person.

AUTH: 75-10-404, 75-10-405, MCA

IMP: 75-10-405, 75-10-406, MCA

17.53.1202 EXCEPTIONS AND ADDITIONS TO ADOPTION OF FEDERAL PROCEDURES FOR STATE ADMINISTERED PERMIT PROGRAM (1) In 40 CFR 124.5 and 124.16, pertaining to modifying, revoking, reissuing, terminating, or staying permits, all references to "Environmental Appeals Board" are replaced with "Montana Board of Environmental Review."

(1) through (12) remain the same, but are renumbered (2) through (13).

~~(13)~~ (14) The following is substituted for 40 CFR 270.32(c), pertaining to "applicable requirements":

"(a) remains the same.

(b) The department may reopen the comment period using the procedures at 40 CFR 124.14, incorporated by reference at ARM 17.53.1201~~(1)~~(2), if new

requirements become effective, including any interim final regulations, during the permitting process that:

(i) and (ii)" remain the same.

(14) through (19) remain the same, but are renumbered (15) through (20).

(21) The following is substituted for 40 CFR 270.275(d), pertaining to supporting information that must be submitted to the department: "Information that allows the department to carry out its obligations under Title 75, chapter 10, part 4, MCA, and ARM Title 17, chapter 53."

AUTH: 75-10-404, 75-10-405, MCA

IMP: 75-10-405, 75-10-406, MCA

REASON: In ARM 17.53.1201 and 17.53.1202, the department is proposing to incorporate by reference just the sections of 40 CFR Part 124 which are necessary for program authorization, and for program implementation. This would exclude from incorporation those sections of 40 CFR Part 124 that pertain to other programs. The incorporation of the discrete sections would not change the meaning of the rules or affect program authorization, but would clarify which sections apply to the program.

In ARM 17.53.1202(1), the department is proposing to replace all references in 40 CFR 124.5 and 124.16 to the "Environmental Appeals Board" (EAB) with "Montana Board of Environmental Review," (BER) because, under Montana's program, the BER, rather than the EAB, has the authority to review the department's hazardous waste management facility permitting decisions.

In ARM 17.53.1202(21), the department is proposing to replace the language in 40 CFR 270.275(d), which requires an applicant for a standardized permit to submit information to EPA or the state program director that allows EPA or the state director to carry out obligations under federal laws, with language requiring submission of information that allows the department to carry out its obligations under Montana's statutes and rules. This minor amendment is necessary in order to facilitate the incorporation of 40 CFR Part 267 into the program rules.

17.53.1303 TREATMENT OF ELECTRIC LAMPS (1) A generator handler of universal waste, as defined in 40 CFR 273.9, may treat waste lamps on-site by crushing or intentional breaking, only if:

(a) through (f) remain the same.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

REASON: The department is proposing to change "generator" to "handler" in ARM 17.53.1303 because the vast majority of crushing of waste lamps is conducted by third parties who receive the waste lamps from generators. The term "handler" would include generators, and is the term used in the comparable federal regulations. The proposed amendment would make the department's rules more consistent with the comparable federal regulations.

4. The department is proposing to adopt New Rules I and II as ARM Title 17, Chapter 53, New Subchapter I. The proposed new rules provide as follows:

NEW RULE I ADOPTION OF STANDARDS FOR OWNERS AND OPERATIONS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT (40 CFR 267) (1) Except as provided otherwise in [NEW RULE II], the department adopts and incorporates by reference 40 CFR Part 267, pertaining to standardized permits for hazardous waste facilities.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

NEW RULE II EXCEPTIONS AND ADDITIONS TO ADOPTION OF STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT (1) In 40 CFR 267.12, pertaining to obtaining an EPA ID number, "You must apply to the state for an EPA identification number pursuant to ARM 17.53.111" is substituted for "You must apply to EPA for an EPA identification number following the EPA notification procedures."

(2) In 40 CFR 267.56(c)(2), pertaining to emergency notification, "He must immediately notify either the Montana Disaster and Emergency Services Division (406-841-3911), or" is substituted for "He must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or."

(3) In 40 CFR 267.75, pertaining to biennial reports, all references to "biennial report" are replaced with "annual report."

(4) In 40 CFR 267.75(a), pertaining to biennial reports, the sentence "The biennial report must be submitted on EPA form 8700-13B." is not adopted or incorporated by reference.

(5) 40 CFR 267.150, pertaining to financial assurance, is not adopted or incorporated by reference.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

REASON: Effective October 11, 2005, EPA adopted 40 CFR Part 267, "Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit." The department is proposing to adopt a new subchapter which would incorporate 40 CFR Part 267 into the hazardous waste program rules. The department is also proposing minor amendments to ARM 17.53.105 to facilitate the incorporation of 40 CFR Part 267 into the program rules.

The department is proposing to add standardized permit rules to the program rules because the standardized permit would streamline the permitting process by allowing facilities to obtain and modify permits more easily, while still achieving the same level of environmental protection as individual permits issued pursuant to ARM Title 17, chapter 53, subchapter 12.

The standardized permit would be available to RCRA treatment, storage, and disposal facilities otherwise subject to RCRA permitting that generate and then store or non-thermally treat hazardous waste on site in tanks, containers, or containment buildings. The standardized permit would also be available to facilities that receive hazardous waste generated off site by a generator under the same ownership as the receiving facility, and which then store or non-thermally treat the hazardous waste in tanks, containers, or containment buildings.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), no later than 5:00 p.m., September 24, 2009. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Carol Schmidt, attorney, has been designated to preside over and conduct the hearing.

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 must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), or may be made by completing a request form at any rules hearing held by the department.

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

/s/ David Rusoff  
DAVID RUSOFF  
Rule Reviewer

BY: /s/ Richard H. Opper  
RICHARD H. OPPER, Director

Certified to the Secretary of State, August 17, 2009.



BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING ON
17.56.101, 17.56.309, 17.56.402,	)	PROPOSED AMENDMENT
17.56.407, 17.56.408, and 17.56.1407	)	
pertaining to underground storage tank	)	(UNDERGROUND STORAGE
operation requirements, leak detection, and )	)	TANKS)
license renewal training	)	

TO: All Concerned Persons

1. On September 16, 2009, at 10:30 a.m., a public hearing will be held in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please contact Elois Johnson, Paralegal, no later than 5:00 p.m., September 8, 2009, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [ejohnson@mt.gov](mailto:ejohnson@mt.gov).

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

17.56.101 DEFINITIONS (1) through (52) remain the same.

(53) "Primary leak detection method" means the leak detection method, approved under this chapter, that is:

(a) specified by the owner or operator and recorded by the compliance inspector as the primary leak detection method in the most recent UST program compliance inspection; or

(b) specified by the owner or operator in writing or e-mail to the department as the primary leak detection method.

(53) through (76) remain the same, but are renumbered (54) through (77).

AUTH: 75-11-204, 75-11-319, 75-11-505, MCA

IMP: 75-11-203, 75-11-302, 75-11-319, 75-11-505, MCA

REASON: The proposed addition of the definition of "primary leak detection method" is necessary because the specification of interstitial monitoring as the primary method of leak detection would require sump functional testing, pursuant to ARM 17.56.408(3) through (6), to ensure liquid tightness and to detect sump failures.

If the owner or operator specifies an approved leak detection method other than interstitial monitoring, then the proposed sump functional testing in ARM

17.56.408 would not apply.

17.56.309 REQUIREMENTS FOR COMPLIANCE INSPECTIONS (1) through (6) remain the same.

(7) The owner or operator shall correct all violations noted in a compliance inspection report either within 90 days of receipt of the inspection report by the owner or operator, or at least 14 days prior to the expiration of the facility's operating permit, whichever occurs first. For violations that have moderate or minor gravity, as defined in ARM 17.4.303, the department may establish another time period in which the violations must be corrected.

(8) remains the same.

AUTH: 75-11-505, 75-11-509, MCA

IMP: 75-11-509, MCA

REASON: The proposed amendment would provide flexibility for the department to modify the time for correction of minor and moderate violations. This is necessary to allow correction of some minor or moderate violations in a different time frame than required for a major violation.

17.56.402 REQUIREMENTS FOR PETROLEUM UST SYSTEMS (1) through (1)(b)(iv) remain the same.

(2) All leak testing results required by this rule must be observed by the owner, operator, or facility employee and the owner or operator shall document and retain the results.

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

AUTH: 75-11-302, 75-11-505, MCA

IMP: 75-11-302, 75-11-505, MCA

REASON: The department believes that it is important that an owner, operator, or facility employee observe the monitoring of an automatic leak test to ensure that the monitoring equipment is operating correctly. There have been instances when monitoring of automatic leak test results has been interpreted to merely mean that the leak test alarm did not go off. The proposed documentation is necessary to verify the observation of a leak test.

17.56.407 METHODS OF RELEASE DETECTION FOR TANKS (1) Each method of release detection for tanks used to meet the requirements of ARM 17.56.402 must be conducted in accordance with the following:

(a) product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

(i) through (v) remain the same.

(vi) the measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month;

(b) manual tank gauging must meet the following requirements:

(i) through (iv) remain the same.

(Table remains the same.)

(v) tanks of 550 gallons or less nominal capacity may use this method as the sole method of release detection. Tanks of 551 to 2000 gallons may use the method in place of manual inventory control in (1)(a). Tanks of greater than 2000 gallons nominal capacity may not use this method to meet the requirements of this subchapter; and

(vi) tanks listed in ARM 17.56.402(1)(a)(iv) may use this method of release detection as the sole method of annual tank tightness testing; i

(c) tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table; i

(d) equipment for automatic tank gauging that tests for the loss of product ~~and~~ or conducts inventory control must meet the following requirements:

(i) the automatic product level monitor test can detect a 0.2 gallon per hour (gph) leak rate from any portion of the tank that routinely contains product; ~~and~~

(ii) after December 31, 2010, if the automatic tank gauging equipment has the capability, the leak detection console must be set to temporarily disable the pumping system after a failed 0.2 gph leak test. The owner or operator may not restart the pumping system until:

(A) an investigation of the UST system alarm condition is conducted in accordance with the leak detection equipment manufacturer's requirements and ARM Title 17, chapter 56, subchapter 5; and

(B) the owner or operator determines that a release to the environment has not occurred; and

~~(ii)~~ (iii) inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of (1)(a); i

(e) testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

(i) through (v) remain the same.

(vi) in the UST excavation zone, the site is assessed to ensure compliance with the requirements in (1)(e)(i) through (iv) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; ~~and~~

(vii) monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and

(viii) after December 31, 2010, if the vapor monitoring equipment has the capability, the leak detection console must be set to temporarily disable the pumping system after a failed leak test. The owner or operator may not restart the pumping system until:

(A) an investigation of the UST system alarm condition is conducted in accordance with the leak detection equipment manufacturer's requirements and ARM Title 17, chapter 56, subchapter 5; and

(B) the owner or operator determines that a release to the environment has not occurred;

(f) testing or monitoring for liquids on the ground water must meet the following requirements:

(i) through (vii) remain the same.

(viii) monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; ~~and~~

(ix) monitoring wells must be accessible for the sampling purposes of ARM 17.56.503-;

(x) after December 31, 2010, if the ground water monitoring equipment has the capability, the leak detection console must be set to temporarily disable the pumping system after a failed leak test. The owner or operator may not restart the pumping system until:

(A) an investigation of the UST system alarm condition is conducted in accordance with the leak detection equipment manufacturer's requirements and ARM Title 17, chapter 56, subchapter 5; and

(B) the owner or operator determines that a release to the environment has not occurred;

(g) interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed, and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(i) for double-walled UST systems-;

(A) the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; and

(B) after December 31, 2010, if the interstitial monitoring equipment has the capability, the leak detection console must be set to temporarily disable the pumping system after a failed leak test. The owner or operator may not restart the pumping system until:

(I) an investigation of the UST system alarm condition is conducted in accordance with the leak detection equipment manufacturer's requirements and ARM Title 17, chapter 56, subchapter 5; and

(II) the owner or operator determines that a release to the environment has not occurred;

(ii) for UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier;

(A) through (E) remain the same.

(F) monitoring wells are clearly marked and secured to avoid unauthorized access and tampering-; ~~and~~

(iii) for tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored-; ~~and~~

(h) any other type of release detection method, or combination of methods, can be used if it can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(2) An owner or operator of an UST who conducts interstitial monitoring as the primary leak detection method pursuant to this chapter shall document the

communication of all sensors with the console at least monthly, and maintain the records on site for the previous 12 months.

AUTH: 75-11-505, MCA

IMP: 75-11-505, MCA

REASON: The proposed new language in (1)(d), (e), (f), and (g) would require, for electronically controlled UST systems, temporary disabling of pumping equipment after a failed leak test. This would require the owner or operator to use the full capability of the leak detection equipment, and is necessary because it will significantly enhance environmental protection.

The proposed amendment in (2) is necessary to conform the rule to the newly added definition of "primary leak detection method" in ARM 17.56.101.

17.56.408 METHODS OF RELEASE DETECTION FOR PIPING (1) through (1)(d) remain the same.

(2) After December 31, 2010, if the leak detection monitoring equipment has the capability, an owner or operator of an UST system that conducts pipe leak detection pursuant to ARM 17.56.408(1)(a) or (d) shall set the leak detection console to temporarily disable the pumping system after a failed leak test. An operator may not restart the pumping system until:

(a) an investigation of the UST system alarm condition is conducted in accordance with the leak detection equipment manufacturer's requirements and ARM Title 17, chapter 56, subchapter 5; and

(b) the owner or operator determines that a release to the environment has not occurred.

(3) An owner or operator of an UST who conducts piping interstitial monitoring as the primary leak detection method pursuant to this chapter shall conduct one of the following tests to determine liquid tightness:

(a) hydrostatically test all containment sumps once every three years with liquid for one hour to a height six inches above the highest sump penetration. A passing test must show no liquid loss measured during the testing interval;

(b) vacuum or pressure test containment sumps in accordance with the testing equipment manufacturer's instructions and pass/fail requirements; or

(c) functionally test containment sumps as recommended by the manufacturer of the containment sump.

(4) An owner or operator who conducts a test pursuant to (3) shall report a failed test to the department.

(5) Testing conducted pursuant to (3) must be accomplished by a licensed installer or compliance inspector pursuant to this chapter. Initial sump functional tests at each facility must occur prior to the expiration of the facility's current operating permit, but are not required before December 31, 2010.

AUTH: 75-11-505, MCA

IMP: 75-11-505, MCA

REASON: ARM 17.56.204 requires secondary containment (sumps) and

interstitial monitoring as a leak detection method for any UST that is replaced or newly installed. ARM 17.56.204 was adopted in 2007 to satisfy the secondary containment, under-dispenser containment, and interstitial monitoring requirements of the Energy Policy Act of 2005. If an owner or operator uses interstitial monitoring as the primary leak detection method to satisfy the leak detection requirement, then the department believes the proposed sump functional testing requirement is necessary to ensure liquid tightness and to detect sump failures. If interstitial monitoring is not the primary leak detection method, the sump functional testing requirements do not apply.

17.56.1407 LICENSE RENEWAL (1) and (2) remain the same.

(3) Licensed installers whose licenses are restricted to closures and licensed closure inspectors must ~~provide documentation of completion of two complete at least one~~ department-approved training ~~courses~~ course for a total of ~~eight~~ four credit hours of continuing education within the three years prior to the date the current license expires. ~~Four credit hours of the continuing education must be a department-approved closure refresher training course.~~ One course must be a department-sponsored refresher training course.

(4) through (4)(c) remain the same.

(5) All licensees not subject to (3) or (4) must ~~provide documentation of completion of~~ complete at least two department-approved or sponsored continuing education courses for a total of 16 credit hours of continuing education within the three years prior to the date the current license expires. ~~Eight credit hours of the continuing education must be earned by completing a department-approved refresher training course for the type of license held.~~ One course must be a department-sponsored refresher training course.

(6) and (7) remain the same.

AUTH: 75-11-204, MCA

IMP: 75-11-204, 75-11-210, 75-11-211, 75-11-509, MCA

REASON: The department is proposing to remove the requirement for completion of a department-sponsored refresher training course of a specific length. These proposed revisions would provide the flexibility for licensees to take training in their areas of need or interest. The proposed revisions would broaden the choices of training for licensees because of the proposed reduction in the amount of required department-sponsored training.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), no later than September 24, 2009. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. James Madden, attorney, has been designated to preside over and

conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), or may be made by completing a request form at any rules hearing held by the department.

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

/s/ James M. Madden  
JAMES M. MADDEN  
Rule Reviewer

BY: /s/ Richard H. Opper  
Richard H. Opper, Director

Certified to the Secretary of State, August 17, 2009.

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.114.401 fee schedule, ) PROPOSED AMENDMENT  
24.114.1401 applications, )  
24.114.1402 education and )  
experience, and 24.114.1403 )  
examinations )

TO: All Concerned Persons

1. On September 17, 2009, at 1:30 p.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Architects and Landscape Architects (board) no later than 5:00 p.m., on September 11, 2009, to advise us of the nature of the accommodation that you need. Please contact Brooke Jasmin, Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2351; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdlar@mt.gov.

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

<u>24.114.401 FEE SCHEDULE</u> (1) and (2) remain the same.	
(a) Application for board approval to sit for exam	\$50
<del>(a) (b) Application fee for license by examination</del>	<del>325</del>
(b) remains the same but is renumbered (c).	
(3) through (5) remain the same.	

AUTH: 37-1-131, 37-1-134, 37-65-204, MCA  
IMP: 37-1-134, 37-1-141, 37-65-307, 37-66-309, MCA

REASON: It is reasonably necessary to amend this fee and set a fee for board approval to take the landscape architect licensure exam. Applicants desiring to take the landscape architect licensing exam must either meet the National Council of Landscape Architect Registration Boards (CLARB) prerequisites or obtain board approval. This new fee is commensurate with the costs of processing the requests and notifying the appropriate entities. This new fee is expected to affect 15 applicants and result in additional annual revenue of \$750.



24.114.1401 LANDSCAPE ARCHITECT APPLICATIONS (1) An application for ~~license, examination, or reinstatement~~ original licensure, license reinstatement, or licensure by endorsement must be made on a form provided by the ~~board~~ department. The application may be submitted on-line or by mail accompanied by the nonrefundable fee(s), and contain sufficient evidence that the applicant possesses the qualifications as set forth in Title 37, chapter 66, MCA, and these rules.

(2) Applicants must submit a complete application form, the application fee, and the following information:

(a) a complete CLARB record, or

(b) proof of education and professional experience, which must include:

(i) verification of completion of a post-secondary degree program submitted directly from the source;

(ii) verification of previous licensure submitted directly from the licensing entities in all states where the applicant has been licensed;

(iii) experience detail sheets verified by the licensed landscape architect(s), under whose supervision the applicant has worked; and

(iv) verification of successful completion of the landscape architect registration examination.

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

~~(4)~~ (5) The ~~board~~ department shall notify an applicant in writing of the results of the evaluation of the application within ten days of receipt of a complete application.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-301, 37-66-304, MCA

REASON: It is reasonably necessary to amend this rule to specify that it is the department, not the board that provides the administrative services for the licensure process. The board is also amending this rule to specifically delineate for landscape architect applicants the application documentation required to demonstrate minimal education and experience qualifications.

24.114.1402 EDUCATION AND EXPERIENCE REQUIRED FOR LANDSCAPE ARCHITECT LICENSURE (1) remains the same.

~~(a) An an applicant with an accredited landscape architect degree must have at least two years of practical experience in landscape architecture. ;~~

~~(b) An an applicant with a nonaccredited landscape architect degree must have three years of practical experience in landscape architecture. ;~~

~~(c) An an applicant with an ~~accredited~~ a bachelor's degree must have four years of practical experience in landscape architecture. ;~~

(d) an applicant with an associate's degree must have six years of practical experience in landscape architecture; or

~~(d)~~ (e) An an applicant with no post-secondary education must have eight years of practical experience in landscape architecture.

(2) remains the same.

(3) All applicants for licensure must successfully pass the LARE landscape architect registration exam.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-304, MCA

REASON: The board determined that it is reasonably necessary to amend this rule to address applicants with associate's degrees. The board concluded that a combination of an associate's degree and six years practical experience is adequate preparation for licensure. The board is also amending this rule to clarify that a bachelor's degree, whether accredited or not, plus four years of landscape architecture experience is acceptable for licensure. The board is deleting reference to the acronym LARE in this rule and 24.114.1403 in anticipation of a predicted change in the name of the landscape architecture licensing exam.

24.114.1403 LANDSCAPE ARCHITECT EXAMINATIONS (1) All candidates must sit for the landscape architect registration examination (~~LARE~~) to be held at such time and place as the board testing entity may designate. The location of the exam testing site and scheduled testing date will be established by the testing entity and may be found at [www.clarb.org](http://www.clarb.org). Applications for examination must be received in the board office 90 days prior to the next scheduled examination. ~~The applicant will be notified in writing approximately 30 days prior to the examination date of whether the applicant may sit for the examination.~~ The board has established no education or experiential prerequisites to examination, but applicants for licensure must meet the requirements of ARM 24.114.1402 prior to licensure.

(2) Candidates who do not meet the testing eligibility requirements set by the testing entity may submit a request for board approval to sit for the exam and pay the fee set by ARM 24.114.401. The request shall be submitted on a form provided by the department.

~~(2)~~ (3) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, at 42 U.S.C. 12101, et seq., ~~relative to a board administered examination, must be made on forms provided by the board and submitted with the application prior to any application deadline set by the board~~ must be submitted to the testing entity prior to testing.

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

~~(4) Applications of candidates who fail to sit for the examination within one year, after being notified of their eligibility, will be considered voluntarily withdrawn and must reapply for the examination and pay the appropriate fees.~~

~~(5) The board testing entity shall notify candidates in writing of the results of the examination. Scores may not be released over the telephone or facsimile. The board may release scores to the candidate or the candidate's legal representative only.~~

(6) Candidates who fail the examination and wish to review their examination must contact the testing agency entity directly.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-304, MCA

REASON: The board is amending this rule to set forth changes in the examination process for landscape architect licensure now that the board no longer proctors the landscape architect registration exam. The national Council of Landscape Architect Registration Boards (CLARB) will now proctor exams twice each year in Montana. It is reasonably necessary to amend this rule to inform applicants of process changes for testing through CLARB.

The board is adding (2) to address applicants not meeting CLARB testing prerequisites. The new provision clarifies that the board will review the exam request and upon approval, provide written notification to CLARB, which will allow the applicant to sit for the exam.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to [dlibsdlar@mt.gov](mailto:dlibsdlar@mt.gov), and must be received no later than 5:00 p.m., September 25, 2009.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at [www.landscapearchitect.mt.gov](http://www.landscapearchitect.mt.gov). The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its 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 technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to [dlibsdlar@mt.gov](mailto:dlibsdlar@mt.gov), or made by completing a request form at any rules hearing held by the agency.

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

8. An attorney for the Department of Labor and Industry has been designated to preside over and conduct this hearing.

BOARD OF ARCHITECTS AND  
LANDSCAPE ARCHITECTS  
BAYLISS WARD, PRESIDENT

/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 August 17, 2009

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

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 37.107.107 pertaining to fee ) AMENDMENT  
reduction for medical marijuana )  
patients ) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On September 28, 2009, the Department of Public Health and Human Services proposes to amend the above-stated rule.

2. The Department of Public Health and Human Services 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 Department of Public Health and Human Services no later than 5:00 p.m. on September 21, 2009, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-1970; or e-mail dphhslegal@mt.gov.

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

- 37.107.107 FEES (1) The application fee is ~~\$50~~ \$25.
- (2) The annual renewal fee is ~~\$50~~ \$10.
- (3) through (3)(c) remain the same.

AUTH: 50-46-210, MCA  
IMP: 50-46-103, 50-46-210, MCA

4. The Department of Public Health and Human Services (department) is proposing an amendment to ARM 37.107.107 pertaining to fee reductions for the Medical Marijuana Program. The rule describes the fees to be charged for initial application and annual renewal to the registry, the payment methods accepted, and refund information.

The proposed rule decreases the original application fee from \$50 to \$25 and the renewal fee from \$50 to \$10. The decrease is proposed because the revenue received by the program is no longer cost neutral due to the continued increase in qualified patients and to deflect the economic hardship which current fees are placing on patients and care givers. The department estimates that approximately

3,000 individuals currently on the registry will be impacted by the annual renewal decrease.

The department considered several options and combinations in fee reductions. Using the current trend of an average of approximately 200 new applications per month and the likelihood that approximately 3,000 patients would renew, determined that by reducing the application fee to \$25 and the renewal fee to \$10 the program would generate revenue sufficient to operate the program while offsetting program costs.

5. The department intends the rule amendments to be applied effective October 1, 2009. In the event the rules are amended retroactively no negative impact is anticipated.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Rhonda Lesofski, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on September 28, 2009. Comments may also be faxed to (406) 444-1970 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

7. 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 Rhonda Lesofski at the above address no later than 5:00 p.m., September 28, 2009.

8. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 300 persons based on 3,000.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version

of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State 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.

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

/s/ Lisa Swanson  
Rule Reviewer

/s/ Anna Whiting Sorrell  
Anna Whiting Sorrell, Director  
Public Health and Human Services

Certified to the Secretary of State August 17, 2009.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 1.2.104, 1.3.307, and 1.3.309 ) PROPOSED AMENDMENT  
pertaining to administrative rules )

TO: All Concerned Persons

1. On September 17, 2009, a public hearing will be held at 10:00 a.m. in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State 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 Office of the Secretary of State no later than 5:00 p.m. on September 10, 2009, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, P.O. Box 202801, Helena, Montana, 59620-2801; telephone (406) 444-5375; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

1.2.104 ADMINISTRATIVE RULES BUREAU SERVICES FEES (1) The Secretary of State is required by law (2-4-312 and 2-4-313 , MCA) to distribute copies of the Administrative Rules of Montana and Montana Administrative Register and revisions thereto, free of charge, to certain federal, state, and county agencies. These agencies may opt to provide access to an electronic version of the current ARM and Register in lieu of receiving the print copy.

(2) The Secretary is also authorized to make available copies of the Administrative Rules of Montana, updates, and the Register to the public at prices fixed to cover publication and mailing costs.

(3) The cost for the Register is as follows:

- (a) per calendar year (24 issues) \$325.00
- (b) per issue \$13.50

(4) The costs for the ARM are as follows:

- (a) initial purchase of ARM \$500.00
- (b) quarterly issues of updates to ARM, per calendar year \$300.00
- (c) partial year subscriptions will be prorated.

(5) Individual title charges are as follows:

- (a) initial purchase of single-part title \$60.00
- (b) initial purchase of multi-part titles: ~~\$60.00 for the first part, plus \$40.00 for each additional part~~
  - (i) first part \$60.00
  - (ii) each additional part \$40.00



- (c) quarterly updates to individual titles, per calendar year \$60.00
- (6) The following miscellaneous fees are charged by ~~the ARM Bureau~~

Administrative Rules Services:

- (a) lapsed subscription fee for ARM (maximum of two years prior, per year) \$100.00
- (b) copy or fax fee \$1.00 per page/\$5.00 minimum
- (c) replacement binder for ARM \$5.00
- (7) ~~The ARM Bureau~~ Administrative Rules Services does not charge other state agencies for copies or faxes.

(8) All purchase and subscription fees must be paid in advance and are not refundable.

(9) To purchase any rules publication, contact ~~the ARM Bureau~~ Administrative Rules Services, at P.O. Box 202801, Helena MT 59620-2801, by phone (406) 444-2055, or e-mail ~~mt-rules@lists.mt.gov~~ sosarm@mt.gov.

AUTH: ~~2-15-306, 2-4-311, 2-4-312, 2-4-313, 2-15-401, 2-15-405, MCA~~  
IMP: ~~2-4-305, 2-4-311, 2-4-312, 2-4-313, 2-15-405, MCA.~~

REASON: The 2007 Legislature amended 2-4-313(1), MCA, requiring ARM to be distributed electronically unless a hard copy is requested. Amending this rule is necessary to conform the rule to statute.

1.3.307 RULEMAKING, INTRODUCTION (1) through (4) remain the same.

(a) ~~Notice to~~ Contact with the primary sponsor. When an agency begins to work on the substantive content and the wording of a proposal notice for a rule that initially implements legislation, the agency shall ~~notify~~ contact the legislator who was the primary sponsor of the legislation. See 2-4-302(2)(d)(~~i~~), MCA.

(b) and (b)(i) remain the same.

(ii) ~~notice to~~ contact with sponsor as required;

(iii) through (c) remain the same.

(i) The agency shall allow at least 28 days from the publication of the original notice of proposed action for interested persons to submit comments in writing via regular mail, e-mail, or fax to the agency. The agency ~~may~~ shall extend the response time in the event an amended or supplemental notice is filed to amend a statement of reasonable necessity, pursuant to 2-4-305(8)(c), MCA.

(ii) through (7) remain the same.

AUTH: 2-4-202, 2-15-401, MCA  
IMP: 2-4-202, 2-4-302, 2-4-303, 2-4-305, MCA

REASON: The amendment is necessary due to the passage of SB 90 by the 2009 Legislature which clarified the requirements for contact with the primary sponsor of legislation in the administrative rulemaking process. SB 90 also requires agencies to allow additional time for comment when using an amended or supplemental notice to amend a statement of reasonable necessity. Amendments to this rule are necessary to conform the rule to statute.

1.3.309 RULEMAKING, PROPOSAL NOTICE (1) remains the same.

(a) An agency shall ~~notify~~ contact the primary sponsor of any legislation when the agency begins work on the initial rule proposal implementing one or more sections of that legislation. If a proposed rule implements more than one bill, the primary sponsor of each bill must be ~~notified~~ contacted. If the legislation affected more than one program, ~~notice~~ contact must be ~~given to~~ made with the primary sponsor each time that a rule is being proposed to initially implement the legislation for a program, even if another agency has previously initiated rulemaking under that legislation.

(i) When the bill sponsor ~~notice~~ contact requirements apply, the proposal notice must state the date of ~~primary sponsor notification~~, and the ~~method of notification used on which and the manner in which contact was made with the primary sponsor~~, per 2-4-302(1)(b), MCA.

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

(e) Current or fFormer legislators who wish to ~~receive notice of~~ be contacted regarding initial proposals must keep their name, address, e-mail address, and telephone number on file with the Secretary of State. Agencies proposing rules shall consult that listing.

(f) through (3)(a)(i) remain the same.

(ii) ~~Whenever possible the agency should include in the notice the full text of any rule proposed to be adopted, amended, or repealed. Where amendment of an existing rule is sought, the rule shall be set forth with proposed deletions interlined and proposed additions underlined.~~ Unchanged sections and subsections may be referred to by the earmark and summarized as "remains the same." Numbered tables may be referred to by the number and summarized as "remains the same."

(iii) The agency shall include in its notice an easily understood statement of reasonable necessity which contains the principal reasons and the rationale for each proposed rule. One statement may cover several proposed rules if appropriate, and if the language of the statement clearly indicates which rules it covers. An inadequate statement of reasonable necessity cannot be corrected in an adoption notice. The corrected statement of reasonable necessity must be included in a new notice or supplemental notice of proposed action. If an agency uses an amended proposal notice to amend a statement of reasonable necessity, the agency shall allow additional response time as required in 2-4-305(8)(c), MCA.

(A) through (b)(ii) remain the same.

(iii) a statement of the number of persons which constitutes 10% of those directly affected; and

(iv) the name and address of the person to whom a request for public hearing must be submitted, and the date by which a request must be submitted; ~~and~~

~~(v) at the end of each rule noticed, a citation to the authority for the rule and the code section or sections being implemented. When an amendment to a rule is proposed, the section(s) of the MCA that constitute authority for the amendment and the section(s) actually implemented by the amendment must be underlined.~~

(4) and (4)(a) remain the same.

AUTH: 2-4-202, 2-15-401, MCA

IMP: 2-4-202, 2-4-302, 2-4-305, 2-4-307, MCA

REASON: The amendments to section (1)(a) and (e) are necessary due to the passage of SB 90 by the 2009 Legislature which clarified requirements for contact with the primary sponsor of legislation in the administrative rulemaking process. Amendments to this rule are necessary to conform the rule to statute. Section (3)(a)(ii) is being amended to update formatting and content requirements for Register notices. Section (3)(a)(iii) is being amended to require agencies to allow additional time for comment when using an amended or supplemental notice to amend a statement of reasonable necessity. This amendment is necessary due to the passage of SB 123 by the 2009 Legislature. Section (3)(b)(v) is proposed to be deleted because it unnecessarily repeats language elsewhere in this rule.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Jorge Quintana, Office of the Secretary of State, P.O. Box 202801, Helena, Montana, 59620-2801, telephone (406) 444-5375, fax (406) 444-4249, or e-mail [jquintana@mt.gov](mailto:jquintana@mt.gov), and must be received no later than 5:00 p.m., September 24, 2009.

5. Jorge Quintana has been appointed to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding business services, elections, notaries, records management, administrative rules, or uniform commercial code. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Rusty Harper, P.O. Box 202801, Helena, Montana 59620-2801, telephone (406) 444-5596, fax (406) 444-4263, e-mail [rustyharper@mt.gov](mailto:rustyharper@mt.gov), or may be made by completing a request form at any rules hearing held by the Secretary of State's office.

7. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State 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 Secretary of State 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Senator Verdell Jackson (SB90), Senator Carolyn Squires (SB123),

and Representative Mike Phillips (HB475) were contacted on August 6 and August 11, 2009, by both telephone and e-mail.

/s/ Jorge Quintana

Jorge Quintana  
Rule Reviewer

/s/ Linda McCulloch

Linda McCulloch  
Secretary of State

Dated this 7th day of August, 2009.

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

In the matter of the amendment of	)	
ARM 12.6.1101, 12.6.1103, 12.6.1106,	)	
12.6.1109, 12.6.1112, 12.6.1116,	)	
12.6.1118, 12.6.1120, 12.6.1122,	)	NOTICE OF AMENDMENT,
12.6.1124, 12.6.1125, 12.6.1126,	)	ADOPTION, AND REPEAL
12.6.1127, 12.6.1128, 12.6.1130, the	)	
adoption of NEW RULES I - V, and the	)	
repeal of ARM 12.6.1119 and	)	
12.6.1121 regarding falconry regulation	)	
in Montana	)	

TO: All Concerned Persons

1. On May 28, 2009, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-352 pertaining to the public hearings on the proposed amendment, adoption, and repeal of the above-stated rules at pages 792 of the 2009 Montana Administrative Register, Issue Number 10.

2. The commission has amended ARM 12.6.1101, 12.6.1122, 12.6.1127, and 12.6.1128 and adopted New Rules I [ARM 12.6.1131], II [ARM 12.6.1134], III [ARM 12.6.1132], and V [ARM 12.6.1133] as proposed.

3. The commission has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

12.6.1103 FALCONRY PERMIT CLASSES The department issues three classes of permits.

(1) through (1)(c) remain as proposed.

(d) may possess only one raptor as described in 50 C.F.R. 21.29 (c)(3)(i)(E) and may not ~~obtain~~ take more than ~~one~~ two raptors ~~for replacement from the wild~~ during any ~~12-month period~~ calendar year;

(e) through (2)(b) remain as proposed.

(c) must submit documentation from a sponsor to the department stating that the permittee has practiced falconry at the apprentice falconer level or equivalent for at least two years, including maintaining, training, flying, and hunting raptors for at least four months in each year. That practice may include capture and release of falconry raptors.

~~(e)(d)~~ must possess and train or hunt with a raptor for portions of at least two seasons in the practice of falconry at the apprentice level ~~or its equivalent~~ and must be recommended by the sponsor;

~~(d)(e)~~ may possess up to three raptors and shall not ~~obtain~~ take more than two raptors ~~for replacement birds from the wild~~ during any ~~12-month period~~ calendar year;

(e) and (f) remain as proposed but are renumbered (f) and (g).

(3) through (3)(b) remain as proposed.

(c) shall not possess more than five wild raptors and ~~shall not obtain~~ may not take more than two raptors ~~taken from the wild for replacement birds~~ during any ~~12-month period~~ calendar year;

(d) through (f) remain as proposed.

(g) shall not take from the wild in any ~~12-month period~~ calendar year, as a part of the five-bird limitation, more than one raptor listed as threatened in 50 C.F.R. 17.11, and then only in accordance with those regulations; and

(h) through (3)(h)(ii) remain as proposed.

AUTH: 87-1-201, 87-5-204, MCA

IMP: 87-5-204, 87-5-205, 87-5-206, MCA

12.6.1106 HANDLING EQUIPMENT (1) A permittee must have jesses or the materials and equipment to make them, leash and swivel, bath container, and appropriate scales or balances, capable of weighing to the gram or half ounce, ~~for weighing raptors~~ in the permittee's possession.

AUTH: 87-1-201, 87-5-204, MCA

IMP: 87-5-204, MCA

12.6.1109 EXAMINATION

(1) and (2) remain as proposed.

(3) Any applicant failing to score 80 percent will only be allowed to retake the written examination at 30-day intervals. Applicants may not take the examination more than three times in one calendar year.

AUTH: 87-1-201, 87-5-204, MCA

IMP: 87-5-204, MCA

12.6.1112 TAKING, POSSESSING, AND TRANSPORTING RAPTORS FOR FALCONRY (1) and (2) remain as proposed.

(a) Take of peregrine falcons from the wild is limited to ~~the time periods~~ specified by commission rules. Take is limited to permittees ~~that~~ who have received a peregrine take permit from the department and the conditions associated with that permit.

(b) through (d) remain as proposed.

(e) A raptor taken from the wild must be reported by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department. Reporting must be done at the first opportunity to do so, but no later than ten days after the capture of the bird.

(f) If a permittee who intends to possess a bird is present at the capture site, he or she is considered the person who removes the bird from the wild and is responsible for filing a 3-186A form or by submitting the information electronically as authorized by the department reporting take of the bird from the wild even if another person captures the bird for the permittee.

(g) If a permittee is not at the immediate location where the bird is taken from the wild, the person who removes the bird from the wild must be a general or master falconer, and must report take of the bird. If that person then transfers the bird to the permittee, both must file 3-186A forms or submit the information electronically as authorized by the department reporting the transaction at the first opportunity to do so, but no later than ten days after the transfer. The bird will count as one of the two raptors the person who took it from the wild is allowed to capture in any year. The bird will not count as a bird the permittee took from the wild. The person who takes the bird from the wild must report the take even if he or she promptly transfers the bird to the permittee.

(h) If a permittee has a long-term or permanent physical impairment that prevents the permittee from attending the capture of a species for falconry, a general or master falconer may capture a bird for the permittee. The permittee is then responsible for filing a 3-186A form or by submitting the information electronically as authorized by the department reporting the take of the bird from the wild and the bird will count against the take of wild raptors that the permittee is allowed in any year.

(3) through (4) remain as proposed.

(a) The bird may be reported as take by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department at the first opportunity to do so, but no more than ten days after capture of the bird. The bird must be treated by a veterinarian or a permitted wildlife rehabilitator and the bird will count against the permittee's possession limit.

(b) remains as proposed.

(5) If a permittee acquires a raptor; transfers, rebands, or microchips a raptor; if a raptor is stolen; if a raptor is lost to the wild and not recovered within 30 days; or if a bird for falconry dies, the permittee must report the change within ten days by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department.

(6) and (7) remain as proposed.

(a) must be reported within ten days of the transaction by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department.

(b) will count as one of the raptors the permittee is allowed to take from the wild that calendar year.

AUTH: 87-1-201, 87-5-204, MCA

IMP: 87-5-204, 87-5-206, MCA

12.6.1116 FEATHERS (1) remains as proposed.

(2) Feathers from a falconry bird, other than those from a golden eagle, may be donated ~~from a falconry bird, except golden eagle feathers,~~ to any person or institution with a valid permit to have them or to any person exempt from the permit requirement under 50 C.F.R. 21.12.

(3) remains as proposed.

(4) If a permit expires or is revoked, all feathers of any species of falconry raptor, except a golden eagle, may be donated to any person or any institute exempt from the permit requirement under 50 C.F.R. 21.12 or authorized by permit to

acquire and possess the feathers. Any feathers not donated must be burned or destroyed. Feathers from a golden eagle must be sent to the National Eagle Repository.

AUTH: 87-1-201, 87-5-204, MCA  
IMP: 87-5-204, MCA

12.6.1118 ENFORCEMENT (1) Falconry birds, facilities, equipment, and records may be inspected only in the presence of the permittee during normal business hours on any day of the week by department officials.

AUTH: 87-1-201, 87-5-204, MCA  
IMP: 87-5-204, MCA

12.6.1120 FALCONRY PERMITS (1) through (1)(b) remain as proposed. (c) Applicants shall submit payment of a ~~\$450~~ 125 state permit fee with the application.

(d) Upon program certification by the service, a first-time apprentice falconer permit will be issued for a reduced fee of \$50. That first-time permit application fee must be submitted prior to taking the falconry examination.

(2) through (5) remain as proposed.

AUTH: 87-5-204, MCA  
IMP: 87-5-204, MCA

12.6.1124 MARKING (1) If a goshawk (Accipiter gentiles), Harris's hawk (Parabuteo unicinctus), peregrine falcon (Falco peregrinus), or gyrfalcon (Falco rusticolus) is taken from the wild, acquired from a rehabilitator, or from another falconer, the raptor must be banded with a permanent, nonreusable, numbered service leg band provided by the department. An International Organization for Standardization (ISO) compliant (134.2 kHz) microchip may be purchased and implanted in the bird ~~in lieu of~~ in addition to a band. Contact the department for information on obtaining and disposing of bands. Within ten days from the day on which the raptor is taken from the wild, it must be reported, including band number and/or microchip information, by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department. An appropriate band may be requested from the department in advance of any effort to capture a raptor.

(2) A raptor bred in captivity must be banded with a seamless metal band, in accordance with ~~(see 50 C.F.R. 21.30).~~ It also may ~~or~~ have an implanted ISO-compliant (134.2 kHz) microchip. If a seamless band is removed or lost, a request for a replacement service nonreusable band must be requested from the department and the required information must be reported immediately upon rebanding or microchipping the raptor by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department. A band that is removed or lost, must be replaced or an ISO-compliant (134.2 kHz) microchip must be implanted in the bird and the microchip information



reported by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized.

(3) If the band must be removed or is lost from a raptor, the loss of the band must be reported within five days, and then the permittee must do at least one of the following:

(a) request a service nonreusable band from the department and submit the required information immediately upon rebanding the raptor by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department; or

(b) purchase and implant an ISO-compliant (134.2 kHz) microchip in the bird and report the microchip information by submitting a 3-186A form to the department or by submitting the information electronically as authorized by the department.

(4) through (7) remain as proposed.

AUTH: 87-5-204, MCA  
IMP: 87-5-204, MCA

12.6.1125 TEMPORARY HOLDING OF RAPTORS (1) remains as proposed.

(2) A permittee's raptor may be cared for by another falconry permittee for up to 120 consecutive calendar days. The permittee caring for the raptor must have a signed and dated statement authorizing temporary possession, plus a copy of form 3-186A showing the permit under which the bird is held ~~they are the possessor of each of the raptors.~~ The statement must include information about the time period of care and the allowable activities to be done with the bird.

(3) through (6)(d) remain as proposed.

AUTH: 87-5-204, MCA  
IMP: 87-5-204, MCA

12.6.1126 TRANSFER OF WILD RAPTORS (1) Wild raptors held by a permittee may be permanently transferred to a resident authorized to possess raptors for falconry purposes provided:

(a) the permittees submit a federal form 3-186A or submit the information electronically as authorized by the department;

(b) through (2) remain as proposed.

(a) the permittees submit a federal form 3-186A or submit the information electronically as authorized by the department;

(b) and (c) remain as proposed.

(3) Captive-bred raptors held by a permittee may be permanently transferred to residents or nonresidents authorized to possess raptors, provided the permittees submit a federal form 3-186A or submit the information electronically as authorized by the department in accordance with the reporting requirements of ARM 12.6.1103.

AUTH: 87-5-204, MCA  
IMP: 87-5-204, MCA

12.6.1130 RELEASE OF RAPTORS (1) through (2)(b) remain as proposed.

(c) the release must be reported by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department.

(3) through (3)(b) remain as proposed.

(c) the release must be reported by submitting a paper form 3-186A to the department or by submitting the information electronically as authorized by the department.

(4) remains as proposed.

AUTH: 87-5-204, MCA

IMP: 87-5-204, MCA

4. The commission has adopted the following rules as proposed but with changes from the original proposal, matter to be stricken interlined, new matter underlined.

NEW RULE IV (12.6.1135) RAPTORS USED FOR EDUCATION

(1) through (1)(d) remain as proposed.

(e) Conservation education programs must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation. Falconry birds may not be used for P~~presentations that do not address falconry and conservation education may not be presented.~~

(f) through (4) remain as proposed.

AUTH: 87-5-204, MCA

IMP: 87-5-204, MCA

5. The commission proposed to repeal ARM 12.6.1119 but decided not to repeal this rule.

6. The commission repealed the following rule:

12.6.1121 FACILITIES AND EQUIPMENT

AUTH: 87-5-204, MCA

IMP: 87-5-204, MCA

7. Fifteen written comments were received during the comment period and ten verbal comments were recorded at public meetings. Of the 25 comments, 22 were generally in support of the new falconry regulations with a few suggesting minor changes as indicated below. Three individuals offered comments opposed to the new falconry regulations or the practice of falconry in general. The commission has thoroughly considered the comments and testimony received. A summary of the comments received and the commission's responses are as follows:

COMMENT #1: The increase of the permit fee from \$25 to \$150 is significant and will cause a hardship on falconers, especially young apprentice falconers just entering the sport.

RESPONSE #1: The United States Fish and Wildlife Service (service) issued new federal regulations requiring state falconry programs to become certified and eliminating the federal falconry permit. Upon the certification of Montana's falconry program by the service, the Department of Fish, Wildlife and Parks (department) will be solely responsible for the regulation of Montana's falconers and the associated costs.

The commission revised ARM 12.6.1120 from the proposed fee of \$150 and adopted a \$125 permit fee in order to prevent an increased cost to Montana's falconers.

The commission also adopted new language in ARM 12.6.1120 to provide a first-time apprentice permit fee of \$50 instead of the current \$125.

COMMENT #2: The department should provide summary information to falconers regarding the number of days falconers spend in the field annually, the type and quantity of game taken, and the number of wild raptors captured.

RESPONSE #2: The commission appreciates this comment and will communicate the request to the department.

COMMENT #3: An export permit should not be required to ship wild birds captured in Montana to other states.

RESPONSE #3: Montana statute does not allow nonresidents to come to Montana and capture wild raptors in the state. The export permit requirement, which has been in the administrative rules since 1992, is a means for the department to track shipment of Montana wild caught raptors to nonresidents and potentially to limit export if abuse in the shipment of Montana wild caught raptors out of state is identified.

COMMENT #4: Clarify the units of measure for the scales and balances used to weigh raptors.

RESPONSE #4: The commission revised and adopted ARM 12.6.1106 stating that scales and balances must be capable of weighing to the gram or half ounce.

COMMENT #5: Renewal for falconry licenses should be every five years rather than every three years.

RESPONSE #5: The commission is not willing to lengthen the term of the license. The three-year term allows for contact with falconers to assure that individual information has not changed for each falconer including locations of mews,

verification that bird inventories kept by the department coincide with what is reported on the renewal form, and that mailing addresses have not changed.

COMMENT #6: The proposed changes should not be adopted because they make the rules less restrictive resulting in less protection for the resource and increase workload for the department.

RESPONSE #6: The commission is dedicated to the protection of all of Montana's resources and proposed the changes in order to comply with the new federal regulations for falconry and to obtain a certified falconry program. The federal regulations were based on published scientific evidence that falconry has no impact on the raptor resource. The nationwide take of raptors each year averages 1100 birds and a significant portion of which are red-tailed hawks. The rules, as adopted by the commission, do not increase the allowable take of raptors from the wild for the sport of falconry. Although some of the changes to the rules are less restrictive (for example, allowing apprentice falconers to practice falconry with a wider variety of raptor species), some changes are more restrictive (for example, requiring the use of two radio transmitters on a hybrid raptor when flown).

The department will have an increase in workload upon certification of the falconry program by the service. The department is accepting of the increased workload to support the sportsmen and women of Montana.

8. These rule amendments, adoptions, and repeals are effective August 28, 2009.

/s/ Bob Ream  
Bob Ream, Acting Chairman  
Fish, Wildlife and Parks Commission

/s/ William A. Schenk  
William A. Schenk  
Rule Reviewer

Certified to the Secretary of State August 17, 2009

BEFORE THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT  
RESIDENTIAL OR OUTDOOR PROGRAMS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT AND  
ARM 24.181.301 definitions, ) ADOPTION  
24.181.402 fees, and the adoption of )  
NEW RULES I through XL pertaining )  
to private alternative adolescent )  
residential and outdoor programs )

TO: All Concerned Persons

1. On March 12, 2009, the Board of Private Alternative Adolescent Residential or Outdoor Programs (board) published MAR Notice No. 24-181-3 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 303 of the 2009 Montana Administrative Register, issue no. 5.

2. On April 3, 2009, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the April 10, 2009, 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: Two commenters suggested the board change "expectations" to "goals" in New Rule I.

RESPONSE 1: The board considered the comments but concluded the word "expectations" clearly demonstrates the intent of the board. The board is adopting the rule exactly as proposed.

COMMENT 2: One commenter objected to the provision in New Rule II that allows program participants unrestricted telephone access to report abuse. The commenter asserted it would be unworkable due to cultural differences among participants as to the meaning of child abuse under our country's laws.

RESPONSE 2: The board considered the comment and is amending the rule to allow participants timely access to report child abuse via the Montana hotline.

COMMENT 3: A commenter asked if the FBI cooperates with the fingerprinting and/or criminal background investigation required in New Rule III and whether there is a process in place to ensure this cooperation.

RESPONSE 3: The board interpreted the comment as a request for information and not a suggestion for a rule revision. Prior board discussions reflect that the FBI does cooperate with the fingerprinting and/or criminal background investigation.

COMMENT 4: Two commenters suggested the board amend New Rule IV to specify that a person posing a potential threat includes someone awaiting trial on the charges specifically listed in (2)(b).

RESPONSE 4: The board agreed with the comment and is amending the rule accordingly.

COMMENT 5: One commenter suggested the definition in New Rule IV of "posing a potential threat" include persons against whom child abuse or neglect claims have been substantiated.

RESPONSE 5: The board considered the comment and determined that both the individual fact situation and the substantiation process to address the situation are different from considerations for the safety and care of program participants in residential or outdoor programs. The board concluded that the language of the proposed rule fully addresses the matter.

COMMENT 6: Three commenters suggested the board amend New Rule VI to specify that training on passive physical restraint is required only if the program intends to utilize physical restraint as a method of behavioral management.

RESPONSE 6: The board concluded that the comments referred to situations where staff did not intend to use passive restraint. The board concluded that the proposed rule adequately addresses these situations and is not amending the rule further.

COMMENT 7: A commenter stated New Rule VIII was awkwardly worded.

RESPONSE 7: The board agreed with the comment and is amending the rule accordingly.

COMMENT 8: Two commenters suggested that the term "treatment planning" be deleted from the title of New Rule IX because not all programs provide treatment.

RESPONSE 8: The board agreed with the suggestion and is amending the rule's title accordingly.

COMMENT 9: Three commenters suggested that "personnel" be changed to "procedures" in (2)(f) of New Rule X for accuracy and clarity.

RESPONSE 9: The board agreed and is amending the rule accordingly.

COMMENT 10: Three commenters stated that the title of New Rule XI is not clear whether the rule refers to policy for the discharge and transfer of participants or program employees.

RESPONSE 10: The board notes that the rule applies to program participants and is amending the title accordingly.

Comments 11-16 apply to New Rule XII:

COMMENT 11: Several commenters stated the rule is not clear and requested the board define or set the standard for what the board means by "least restrictive method" of behavioral management.

RESPONSE 11: The board determined that the term is meant to be descriptive only and that the restriction is intended to be the least amount necessary. The board decided not to further define the term. Following consideration of numerous comments and suggestions on this rule, the board is amending New Rule XII to address concerns and clarify the board's intent regarding behavioral management.

COMMENT 12: Commenters requested clarification on the prohibition in (3)(k) against placing program participants in a locked room. Commenters asked if it meant a program can only put a participant in a locked room for therapeutic reasons, and suggested the board delete "for nontherapeutic purposes" from the rule.

RESPONSE 12: The board concluded that the commenters' interpretation is not consistent with the intent of the entire rule. Following consideration of numerous comments and suggestions on this rule, the board is amending New Rule XII to address concerns and clarify the board's intent regarding behavioral management.

COMMENT 13: One commenter pointed out that there are many passive physical restraint methods and suggested the board not list any specific methods. The commenter also asked the board to define "short term intervention."

RESPONSE 13: The board concluded that the specific methods were provided only as examples and that the rule is intended to focus on proper staff training. Following consideration of numerous comments and suggestions on this rule, the board is amending New Rule XII to address concerns and clarify the board's intent regarding behavioral management.

COMMENT 14: Two commenters suggested the rule require programs to describe the discipline methods used. The commenters also stated that corporal punishment is not effective, medication should not be used as a form of punishment, and program participants should not be forced to take an uncomfortable position for an extended period of time.

RESPONSE 14: Following consideration of numerous comments and suggestions on this rule, the board is amending New Rule XII to address concerns and clarify the board's intent regarding behavioral management.

COMMENT 15: Two commenters stated that students should never be denied visits or communication with their parents/guardians, program standards should include a written contract between the program and parents/guardians, and each program should have a written communications policy. The commenters further stated that participants should never be confined to a locked room, youth should never be used as disciplinarians for other youth, and that if a program intends to use restraint for behavioral management, the program should only use passive physical restraint in compliance with federal regulations.

RESPONSE 15: The board concluded that disciplinary processes are already addressed in program policy statements. Following consideration of numerous comments and suggestions on this rule, the board is amending New Rule XII to address concerns and clarify the board's intent regarding behavioral management.

COMMENT 16: Two commentators suggested new rule language for New Rule XII.

RESPONSE 16: Following discussion of other comments at the April 2009 meeting, the board considered the substitute language. The board compared the proposed rule with the suggested new language and determined that the commenters' rule better captures the board's concerns and intent and is set forth in a clearer, more easily readable format. The board is amending New Rule XII accordingly.

During the May 2009 meeting, board counsel addressed a citation to the Code of Federal Regulation contained in the commenters' rule. Counsel advised that this reference does not contain standards on passive physical restraint and should be stricken. The board is amending New Rule XII accordingly.

COMMENT 17: One commenter was disappointed that the rules do not include an occupancy standard and square footage requirements to limit overcrowding of kids.

RESPONSE 17: The board discussed these issues previously and concluded that they are adequately addressed in regulations of the Department of Public Health and Human Services and Department of Labor Building Codes.

COMMENT 18: Two commenters requested clarification on New Rule XV. One commenter asked if an initial prescription by program staff would also require notification of parents. A second commenter pointed out that physicians usually discuss initiation or change in medication with parents of a participant before the prescription is written, not later.

RESPONSE 18: The board discussed the comments and concluded that they were an observation on physician practice, rather than a suggested change. The board is adopting the rule exactly as proposed.



COMMENT 19: Three commenters asserted that New Rule XVI does not clearly define what accepted standards are regarding infectious diseases.

RESPONSE 19: The board agreed with the comment and is amending the rule accordingly.

COMMENT 20: A commenter suggested the board amend the titles of New Rules XXIV thru XXXVI for consistency among the titles of all the outdoor program rules.

RESPONSE 20: The board agreed with the comment and is amending the titles of New Rules XXIV thru XXXVI accordingly.

COMMENT 21: Two commenters suggested the board amend New Rule XXV to specify that training on de-escalation of crisis situations and passive physical restraint is required only if the outdoor program intends to utilize physical restraint.

RESPONSE 21: The board considered the comments at the April 2009 meeting and decided to revise the rule and require compliance with the standards for use of restraint for behavioral management contained in the Code of Federal Regulations (CFR). At the May 2009 meeting, the board was advised that the CFR reference was incorrect and the restraint standards could not be found in the CFR. Following lengthy discussion, the board decided to adopt New Rule XXV exactly as proposed.

COMMENT 22: Two commenters suggested the board amend New Rule XXVI to allow for physical exams within a reasonable period after participant enrollment. The commenters noted that some participants are escorted to programs and have not had a physical examination prior to enrollment.

RESPONSE 22: The board decided that allowing an exam within a reasonable time after enrollment would make the requirement as workable as possible, while still ensuring the protection of program participants. The board is amending the rule to allow physical exams up to five days following enrollment.

COMMENT 23: Three commenters questioned the participant to staff ratio in New Rule XXVII. The commenters asserted that the 20:1 ratio is unsafe in an outdoor setting and is well above outdoor program management standards.

RESPONSE 23: The board considered the comments, as well as input from board members who are familiar with outdoor program activities. The board discussed the welfare of outdoor program participants and the potential for the outdoor environment to increase the need for staff involvement. The board also noted that emergency situations could arise which require a staff member to escort a participant away from the outdoor experience and affect the participant to staff ratio. The board is therefore amending the rule to provide for such emergent situations and change to an 8 to 1 participant to staff ratio.

COMMENT 24: A commenter stated that the requirement in New Rule XXXII for staff training in medication administration should apply only if the field experience has participants who require medication.

RESPONSE 24: The board intends this rule to outline minimum acceptable training for staff in medication administration and is adopting the rule exactly as proposed.

COMMENT 25: Two commenters asked for clarification on which industry risk management procedures are required in New Rule XXXVI.

RESPONSE 25: The board agreed that (2) of this rule is not specific and could cause confusion among readers. The board is therefore amending the rule to delete the requirement to adhere to accepted risk management procedures.

COMMENT 26: One commenter asked about board rules regarding programs that contract out for river, rock-climbing, or horse-packing trips.

RESPONSE 26: The board notes that this comment is outside the scope of this current rulemaking project.

4. The board has amended ARM 24.181.301 and 24.181.402 exactly as proposed.

5. The board has adopted NEW RULE I (24.181.601), NEW RULE III (24.181.605), NEW RULE V (24.181.608), NEW RULE VI (24.181.609), NEW RULE VII (24.181.610), NEW RULE XIII (24.181.620), NEW RULE XIV (24.181.621), NEW RULE XV (24.181.622), NEW RULE XVII (24.181.624), NEW RULE XVIII (24.181.625), NEW RULE XIX (24.181.626), NEW RULE XX (24.181.627), NEW RULE XXI (24.181.628), NEW RULE XXII (24.181.701), NEW RULE XXIII (24.181.704), NEW RULE XXXVII (24.181.802), NEW RULE XXXVIII (24.181.803), NEW RULE XXXIX (24.181.807), and NEW RULE XL (24.181.810), exactly as proposed.

6 The board has adopted NEW RULE II (24.181.603), NEW RULE IV (24.181.607), NEW RULE VIII (24.181.611), NEW RULE IX (24.181.612), NEW RULE X (24.181.613), NEW RULE XI (24.181.615), NEW RULE XII (24.181.616), NEW RULE XVI (24.181.623), NEW RULE XXIV (24.181.706), NEW RULE XXV (24.181.708), NEW RULE XXVI (24.181.710), NEW RULE XXVII (24.181.711), NEW RULE XXVIII (24.181.716), NEW RULE XXIX (24.181.717), NEW RULE XXX (24.181.718), NEW RULE XXXI (24.181.719), NEW RULE XXXII (24.181.722), NEW RULE XXXIII (24.181.723), NEW RULE XXXIV (24.181.724), NEW RULE XXXV (24.181.728), and NEW RULE XXXVI (24.181.730), with the following changes, stricken matter interlined, new matter underlined:

NEW RULE II (24.181.603) RIGHTS AND RESPONSIBILITIES OF PROGRAM PARTICIPANTS (1) through (1)(d) remain as proposed.

- (e) communication privileges within the limitations of the program policy, excepting that at all times program participants will be allowed ~~unrestricted~~ timely access to contact the Montana abuse reporting hotline to report allegations of abuse;
- (f) through (2) remain as proposed.

NEW RULE IV (24.181.607) PROGRAM PARTICIPANT PROTECTION (1) through (2)(a) remain as proposed.

(b) is charged with a crime involving youth under the age of 18 years, physical or sexual violence against any person, any felony drug related offense, or is awaiting trial on the charges listed above.

(3) and (4) remain as proposed.

NEW RULE VIII (24.181.611) ADMISSIONS (1) Each program shall have written admissions policy and procedures including but not limited to documentation of:

(a) through (g) remain as proposed.

NEW RULE IX (24.181.612) TREATMENT PLANNING AND DELIVERY OF SERVICES

(1) through (1)(c) remain as proposed.

NEW RULE X (24.181.613) INCIDENTS, CRISIS INTERVENTION, AND EMERGENCY PLANS AND SAFETY (1) through (1)(d) remain as proposed.

(e) personnel procedures to follow in medical emergencies and when arranging for medical care which requires, at a minimum:

(i) through (2) remain as proposed.

NEW RULE XI (24.181.615) PARTICIPANT TRANSFER AND DISCHARGE

(1) remains as proposed.

NEW RULE XII (24.181.616) BEHAVIORAL MANAGEMENT ~~(1) Each program shall have written behavioral management policy and procedures that employs the least restrictive method to assure the safety of all the parties concerned (i.e. program participants and staff) and also includes:~~

~~(a) a definition of appropriate and inappropriate behaviors of program participants;~~

~~(b) acceptable and unacceptable staff responses to inappropriate behaviors;~~  
and

~~(c) acceptable consequences to inappropriate behaviors.~~

~~(2) All staff will receive a copy of this policy and staff shall receive training relative to behavior management at least annually.~~

~~(3) The program behavioral management policy shall prohibit the following:~~

~~(a) excessive physical labor with no purpose other than for punishment;~~

~~(b) denying necessary food, clothing, bedding, rest, toilet use, or bathing facilities as punishment;~~

~~(c) verbal abuse, ridicule, humiliation, profanity, threats, or other forms of degradation directed at a program participant or a participant's family;~~

~~(d) forcing a program participant to take an uncomfortable position for an extended period of time, which is anticipated to cause pain, for no purpose other than for punishment;~~

~~(e) denial of visits or communication with the program participant's parent(s) or guardian(s) except as specified in the program's written policy, design and planned activities, the program participant's service plan, or court order;~~

~~(f) locked confinement;~~

~~(g) administration of medication for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services;~~

~~(h) administration of discipline of a program participant by another participant without staff supervision;~~

~~(i) the intentional or malicious infliction of physical or mental suffering including pain;~~

~~(j) the use of pain to force compliance; and~~

~~(k) placement of a program participant alone in a locked room for nontherapeutic purposes.~~

~~(4) Programs shall only allow passive physical restraint when required in an emergency situation in which there is an imminent threat to life or physical safety of the program participant, staff, or others. Passive physical restraint shall not be associated with punishment in any way. Only staff trained in industry accepted de-escalation techniques and passive physical restraint, such as CPI and Mandt, may restrain program participants.~~

~~(5) Programs that use time out or short-term intervention for behavior modification or for therapeutic purposes will have written policy and procedures that have been provided to the program participants and legally responsible parties.~~

~~(6) Each program shall have written policy and procedures for handling emergency situations such as suicide threat or attempt, abuse, assault, and program participants running away from the program.~~

(1) The program shall employ methods to assure the safety of all concerned parties (i.e. program participants, staff, parents, and guardians).

(2) The program shall have written behavioral management policy and procedures including, but not limited to, the following:

(a) description of the methods of discipline to be used by the program which include:

(i) the philosophy of discipline, methods of discipline permitted, and the purpose of the discipline as it relates to the ongoing learning and development process for program participants;

(ii) a statement outlining that discipline methods must not employ the use of corporal punishment as defined in 20-4-302, MCA; and

(iii) the methods of discipline must not include abuse as defined in 53-21-102, MCA, including such things as verbal abuse, ridicule, humiliation, profanity, threats or other forms of degradation directed at the program participant or the program participant's family, or practices which are humiliating or degrading to the program participant.

(3) In developing the discipline methods for this policy, programs must take into account the following prohibitions:

(a) medication cannot be administered as a form of discipline or as a substitute for appropriate treatment services;

(b) program participants cannot be forced to take an uncomfortable position for an extended period of time, which is anticipated to cause physical pain, for no purpose other than for punishment;

(c) program participants cannot be denied visits or communication with the program participant's parent(s) or guardian(s), except as specified in the program's design and planned activities, or the program participant's treatment plan or court order;

(d) program participants may not be confined in a locked room; and

(e) program participants may not administer discipline to another program participant unless proper staff supervision exists and the discipline follows the written policy regarding participant to participant discipline interactions.

(4) If the program intends to utilize restraint as a method of behavioral management, the program must only use passive physical restraint methods.

(a) Restraint must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior, the patient's size, gender, physical, medical, psychiatric condition, and personal history.

(b) Restraint may only be used in emergency situations to ensure the physical safety of the youth, parent(s) or guardian(s), other youth, or staff of the program and only when less restrictive measures have been found to be ineffective to protect the youth or others from harm.

(c) Restraint procedures must be implemented in accordance with program policies and discontinued when the behaviors that necessitated the restraint or seclusion are no longer in evidence.

(d) The policy governing the use of restraint must include a chain of notification within the organization, notification of parent(s) or guardian(s) and outline the manner in which the use of restraint is to occur.

(5) The behavioral management policy shall be provided to all staff and direct care staff shall receive training relative to behavioral management.

NEW RULE XVI (24.181.623) INFECTIOUS DISEASES (1) Each program shall have written policy and procedures designed to prevent or control infectious and communicable diseases ~~in accordance with accepted standards.~~

NEW RULE XXIV (24.181.706) OUTDOOR PROGRAM STAFF REQUIREMENTS (1) through (6) remain as proposed.

NEW RULE XXV (24.181.708) OUTDOOR PROGRAM STAFF TRAINING (1) through (2)(e)(v) remain as proposed.

NEW RULE XXVI (24.181.710) OUTDOOR PROGRAM PARTICIPANT ADMISSION REQUIREMENTS (1) through (1)(b) remain as proposed.

(c) a requirement that program participants have a physical examination by a licensed medical provider that has been completed within six months preceding or within five calendar days of enrollment into the program. Medical release forms for

each program participant must be kept by field staff team providing direct care to participants.

NEW RULE XXVII (24.181.711) RATIO OF OUTDOOR PROGRAM PARTICIPANTS TO STAFF (1) Outdoor programs shall have written policies establishing ratios between direct care staff and program participants which meet program participant needs for health and safety. The maximum program participant to direct care staff ratio shall not exceed ~~20~~ eight participants to one direct care staff member, except in an emergent situation.

NEW RULE XXVIII (24.181.716) OUTDOOR PROGRAM PHYSICAL ENVIRONMENT (1) through (3) remain as proposed.

NEW RULE XXIX (24.181.717) OUTDOOR PROGRAM TOOLS AND POTENTIALLY HAZARDOUS MATERIALS (1) remains as proposed.

NEW RULE XXX (24.181.718) OUTDOOR PROGRAM HYGIENE (1) and (2) remain as proposed.

NEW RULE XXXI (24.181.719) OUTDOOR PROGRAM WATER, FOOD, AND NUTRITION (1) remains as proposed.

NEW RULE XXXII (24.181.722) OUTDOOR PROGRAM MEDICAL AND MEDICATION MANAGEMENT, STORAGE, AND ADMINISTRATION (1) and (2) remain as proposed.

NEW RULE XXXIII (24.181.723) OUTDOOR PROGRAM EMERGENCY AND EVACUATION PLANS (1) remains as proposed.

NEW RULE XXXIV (24.181.724) OUTDOOR PROGRAM SOLO EXPERIENCE (1) remains as proposed.

NEW RULE XXXV (24.181.728) OUTDOOR PROGRAM EDUCATION (1) remains as proposed.

NEW RULE XXXVI (24.181.730) OUTDOOR PROGRAMS- HIGH ADVENTURE REQUIREMENTS (1) through (1)(j) remain as proposed.

(2) For the high adventure activities identified in (1), each program shall adopt written policy and procedures that address minimum training, experience, and qualifications for leaders and staff ~~and must adhere to accepted industry risk management procedures~~.

BOARD OF PRIVATE ALTERNATIVE  
ADOLESCENT RESIDENTIAL OR  
OUTDOOR PROGRAMS  
JOHN SANTA, 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 August 17, 2009

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 AND  
Rules I, II, and III and the amendment ) AMENDMENT  
of ARM 37.88.101, 37.88.901, )  
37.88.905, 37.88.906, and 37.88.907 )  
pertaining to Medicaid mental health )  
center services for adults with severe )  
disabling mental illness )

TO: All Concerned Persons

1. On June 25, 2009, the Department of Public Health and Human Services published MAR Notice No. 37-475 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 985 of the 2009 Montana Administrative Register, Issue Number 12.

2. The department has amended ARM 37.88.905, 37.88.906, and 37.88.907 as proposed.

3. 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 I (37.88.903) MENTAL HEALTH CENTER SERVICES FOR ADULTS, DEFINED (1) A mental health center ~~must~~ may provide:  
(a) through (2) remain as proposed.

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

RULE II (37.88.908) MENTAL HEALTH CENTER SERVICES FOR ADULTS, PROGRAM OF ASSERTIVE COMMUNITY TREATMENT (PACT) (1) A program of assertive community treatment (PACT) is a self-contained clinical treatment:

(a) through (f) remain as proposed.

(g) maintains a ratio of at least one staff person, not including a psychiatrist, or peer specialist for each nine persons served. Assertive community treatment teams must be approved by the Addictive and Mental Disorders Division; and

(h) assertive community treatment teams must be approved by the Addictive and Mental Disorders Division, and comply ~~complies~~ with the Montana Program of Assertive Community Treatment (PACT) Standards. The department adopts and incorporates by reference the Montana PACT Standards (2009) which set forth the standards of treatment for adults with SDMI. A copy of the standards may be obtained from the Addictive and Mental Disorders Division, P.O. Box 202905, Helena, MT 59620-2905.



AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

RULE III (37.88.909) MENTAL HEALTH CENTER SERVICES FOR ADULTS, INTENSIVE COMMUNITY-BASED REHABILITATION FACILITY

(1) "Intensive community-based rehabilitation facility" means an adult mental health group home that provides medically necessary rehabilitation services to adults with severe disabling mental illness who have a history of institutional placements due to mental illness and a history of repeated unsuccessful placements in less intensive community-based programs. The provider must provide the following services to individuals:

- (a) through (d) remain as proposed.
- (e) discharge planning for transition to a less restrictive setting ~~when~~ appropriate; and
- (f) remains as proposed.

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

4. The department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS (1) and (2) remain as proposed.

(3) Adult intensive outpatient therapy services may be medically necessary for a person with safety and security needs who has demonstrated the ability and likelihood of benefit from continued outpatient therapy. The person must meet the requirements of (3)(a) or (b). The person must also meet the requirements of (3)(c). The person has:

- (a) a DSM-IV diagnosis with a severity specifier of moderate or severe of mood disorder (293.31, 293.33, 293.34, 293.83, 295.70, 296.7, 296.22, 296.23, 296.24, 296.32, 296.33, 296.34, 296.42, 296.43, 296.44, 296.80, 296.89); or
- (b) through (9) remain as proposed.

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.88.901 MENTAL HEALTH CENTER SERVICES FOR ADULTS, DEFINITIONS (1) through (3)(b)(vi) remain as proposed.

(4) "Co-occurring capability" means a mental health program can, for individuals who are eligible for mental health services:

- (a) through (18) remain as proposed.

AUTH: 53-2-201, 53-6-113, MCA

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

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

COMMENT #1: Rule I (37.88.903) as proposed states that "A mental health center must provide: . . ." I question the use of the word must. Will all mental health centers be required to provide all of the listed services under proposed Rule I (37.88.903)?

RESPONSE #1: No, the proposed rule was not intended to require all mental health centers to provide all the listed services. Accordingly, the department has substituted the word "may" for the word "must" in Rule I (37.88.903).

COMMENT #2: Please keep recreational services as part of community-based psychiatric rehabilitation and support (CBPRS) funding.

RESPONSE #2: The proposed rule makes no change to ARM 37.88.901(3)(b)(vi) "activities which are purely recreational in nature." Therapeutic recreational activities may be provided as CBPRS if they are part of the individual's individualized strength-based treatment plan.

COMMENT #3: In ARM 37.88.901(4), "Co-occurring capability" means a mental health program can:

- (a) screen all individuals for substance use disorders;
- (b) provide access to outpatient therapists trained to diagnose and work with substance abusers;
- (c) explicitly address some specific treatment needs of individuals with substance use disorders; and
- (d) collaborate with another provider to access necessary consultation when an individual also requires services from that provider.

Please provide clarification that mental health centers should be able to work with persons who present with primary substance use disorders and have no qualifying SDMI diagnosis.

RESPONSE #3: The department agrees and has adopted language in the final rule making clear that this expectation applies to individuals who have been determined eligible for mental health services. The amendments to ARM 37.88.101 now refer to diagnoses instead of SDMI. An individual who has one of the listed diagnoses can be treated at the mental health center for a primary diagnosis of substance abuse.

COMMENT #4: In ARM 37.88.901(4), "Co-occurring capability" means a mental health program can:

- (b) provide access to outpatient therapists trained to diagnose and work with substance abusers;

This statement should be revised to state: "(b) provide access, either onsite or through referral, to outpatient therapists trained to diagnose and work with substance abusers."

RESPONSE #4: The department disagrees, and will retain the language originally proposed stating that this requirement pertains to individuals with qualifying mental health diagnoses who have co-occurring substance abuse diagnoses.

Publicly funded treatment is available for individuals with diagnoses of chemical dependency. Individuals with diagnoses of substance abuse do not have access to these services. Therefore, individuals with qualifying mental health diagnoses and co-occurring substance abuse diagnoses need to be served onsite rather than through referral. Continuity of care is best served with onsite therapists.

COMMENT #5: I recommend changing Rule III(e) (37.88.909) discharge planning for transition to a less restrictive setting when appropriate and to (e) discharge planning for transition to a less restrictive setting. Please eliminate the phrase: "when appropriate."

It is my opinion that discharge planning should always be part of any treatment plan. Otherwise, the consumer and the provider will have no benchmark to indicate when they are done.

RESPONSE #5: The department agrees and has deleted the phrase "when appropriate."

COMMENT #6: Please include a requirement that every program of assertive community treatment team must employ at least one peer specialist.

RESPONSE #6: The department agrees, but believes Rule II (37.88.908) already requires at least one peer specialist per team. It includes the statement:  
(h) complies with the Montana Program of Assertive Community Treatment (PACT) Standards. The department adopts and incorporates by reference the Montana PACT Standards (2009) which set forth the standards of treatment for adults with SDMI. A copy of the standards may be obtained from the Addictive and Mental Disorders Division, P.O. Box 202905, Helena, MT 59620-2905.

The Montana PACT Standards (2009) include the requirement of at least one peer specialist per team. Please see the response to comment #7, below.

COMMENT #7: Please add "or peer specialist" to Rule II(g) (37.88.908) for calculating the ratio of staff to persons served.

RESPONSE #7: The department agrees and has added the phrase "or peer specialist" to Rule II (37.88.908) as requested by several commentors.

/s/ John Koch  
Rule Reviewer

/s/ Hank Hudson  
Anna Whiting Sorrell, Director  
Public Health and Human Services

Certified to the Secretary of State August 17, 2009.

## **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 P.O. Box 201706, Helena, MT 59620-1706.

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

Definitions:

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

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

### Use of the Administrative Rules of Montana (ARM):

Known  
Subject

1. Consult ARM Topical Index.  
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2009. This table includes those rules adopted during the period July 1, 2009, through September 30, 2009, 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 June 30, 2009, 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 2009 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.

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## BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in July 2009 appear. Vacancies scheduled to appear from September 1, 2009, through November 30, 2009, 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 August 1, 2009.

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 JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Aging Advisory Council</b> (Public Health and Human Services)			
Ms. Betty Aye Broadus Qualifications (if required): public representative	Governor	Bowman	7/23/2009 7/18/2010
Mr. Marvin Carter Laurel Qualifications (if required): public representative	Governor	Hagener	7/23/2009 7/18/2011
Ms. Gladys Considine Missoula Qualifications (if required): public representative	Governor	reappointed	7/23/2009 7/9/2012
Ms. Mary Lou Miller Wolf Point Qualifications (if required): public representative	Governor	reappointed	7/23/2009 7/18/2012
Mr. Alex Ward Helena Qualifications (if required): public representative	Governor	Maxson	7/23/2009 7/18/2011
Ms. JoLynn Yenne Bigfork Qualifications (if required): public representative	Governor	Mumby	7/23/2009 7/18/2012



**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Funeral Service</b> (Labor and Industry)			
Mr. RJ Dick Brown Lewistown Qualifications (if required): mortician	Governor	reappointed	7/1/2009 7/1/2014
<b>Board of Labor Appeals</b> (Labor and Industry)			
Mr. Ed Logan Billings Qualifications (if required): public representative	Governor	not listed	7/21/2009 1/1/2013
<b>Board of Massage Therapists</b> (Labor and Industry)			
Mr. Stacy Baird East Helena Qualifications (if required): massage therapist	Governor	not listed	7/22/2009 5/6/2012
Ms. Grace Bowman Billings Qualifications (if required): public representative	Governor	not listed	7/22/2009 5/6/2013
Mr. Michael Eayrs Kalispell Qualifications (if required): massage therapist	Governor	not listed	7/22/2009 5/6/2011
Ms. Deborah Kimmet Missoula Qualifications (if required): massage therapist	Governor	not listed	7/22/2009 5/6/2013

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Massage Therapists</b> (Labor and Industry) cont.			
Mr. Nick Soloway Helena Qualifications (if required): massage therapist	Governor	not listed	7/22/2009 5/6/2013
<b>Board of Nursing</b> (Labor and Industry)			
Ms. Connie Reichelt Havre Qualifications (if required): advanced practice registered nurse	Governor	reappointed	7/1/2009 7/1/2013
<b>Board of Radiologic Technologists</b> (Labor and Industry)			
Ms. Kelli Bush Butte Qualifications (if required): radiologic technician	Governor	reappointed	7/1/2009 7/1/2012
<b>Board of Regents</b> (Higher Education)			
Mr. Robert Barnosky Billings Qualifications (if required): student	Governor	Jessen	7/1/2009 6/30/2010
<b>Chief Water Judge</b> (not listed)			
Mr. C. Bruce Loble Bozeman Qualifications (if required): none specified	Chief Justice	reappointed	7/1/2009 6/30/2013

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>District Court Council</b> (Supreme Court)			
Ms. Lori Maloney Butte Qualifications (if required): none specified	District Court	reappointed	7/1/2009 6/30/2012
Judge Gregory R. Todd Billings Qualifications (if required): none specified	District Court	reappointed	7/1/2009 6/30/2012
<b>Electrical Board</b> (Labor and Industry)			
Mr. Rick Hutchinson Black Eagle Qualifications (if required): licensed electrician	Governor	reappointed	7/1/2009 7/1/2014
<b>Electronic Government Advisory Council</b> (Administration)			
Mr. Tim Christensen Missoula Qualifications (if required): public representative	Governor	reappointed	7/23/2009 6/18/2011
Ms. Karen Harrison Lolo Qualifications (if required): public representative	Governor	Hanson	7/23/2009 6/18/2011
Commissioner Andy Hunthausen Helena Qualifications (if required): local government official	Governor	Tinsley	7/23/2009 6/18/2011

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Electronic Government Advisory Council (Administration) cont.</b>			
Mr. Christian Mackay Helena Qualifications (if required): agency representative	Governor	reappointed	7/23/2009 6/18/2011
Director Mary Sexton Helena Qualifications (if required): agency representative	Governor	reappointed	7/23/2009 6/18/2011
<b>Grant Review Committee (Commerce)</b>			
Sen. Mike Cooney Helena Qualifications (if required): Department of Labor and Industry representative	Governor	Childress	7/29/2009 0/0/0
<b>Historical Society Board of Trustees (Historical Society)</b>			
Mr. Jim Court Billings Qualifications (if required): public member	Governor	reappointed	7/1/2009 7/1/2014
Ms. Lee Rostad Martinsdale Qualifications (if required): public member	Governor	reappointed	7/1/2009 7/1/2014
Mr. Jim Utterback Helena Qualifications (if required): public member	Governor	reappointed	7/1/2009 7/1/2014

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Information Technology Managers Advisory Council (Administration)</b>			
Ms. Margaret Kauska Helena	Director	not listed	7/1/2009 6/30/2013
Qualifications (if required): none specified			
<b>Judicial Standards Commission (Justice)</b>			
Judge Gary L. Day Miles City	elected	not listed	7/1/2009 6/30/2013
Qualifications (if required): none specified			
Mr. John Murphy Great Falls	Governor	reappointed	7/21/2009 7/1/2013
Qualifications (if required): public representative			
Mr. Victor F. Valgenti Missoula	Supreme Court	not listed	7/1/2009 6/30/2013
Qualifications (if required): none specified			
<b>Land Information Advisory Council (Administration)</b>			
Mr. Mike Birtles Billings	Governor	not listed	7/22/2009 6/30/2011
Qualifications (if required): U.S. Interior Department representative			
Director Dan R. Bucks Helena	Governor	not listed	7/22/2009 6/30/2011
Qualifications (if required): agency representative			

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Land Information Advisory Council (Administration) cont.</b>			
Ms. Annette Cabrera Billings Qualifications (if required): local government representative	Governor	reappointed	7/22/2009 6/30/2011
Mr. Rudy Cicon Chester Qualifications (if required): land surveyor	Governor	reappointed	7/22/2009 6/30/2011
Mr. Lance Clampitt Bozeman Qualifications (if required): U.S. Interior Department representative	Governor	not listed	7/22/2009 6/30/2011
Commissioner Connie Eissinger Brockway Qualifications (if required): local government representative	Governor	reappointed	7/22/2009 6/30/2011
Ms. Erin Geraghty Helena Qualifications (if required): GIS professional	Governor	Sweet	7/22/2009 6/30/2011
Ms. Kris Larson Helena Qualifications (if required): GIS professional	Governor	Wall	7/22/2009 6/30/2011
Director Jim Lynch Helena Qualifications (if required): agency representative	Governor	not listed	7/22/2009 6/30/2011

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Land Information Advisory Council (Administration) cont.</b>			
Mr. Ed Madej Helena Qualifications (if required): private sector representative	Governor	reappointed	7/22/2009 6/30/2011
Mr. Joe Maurier Helena Qualifications (if required): agency representative	Governor	not listed	7/22/2009 6/30/2011
Ms. Catherine Maynard Bozeman Qualifications (if required): U.S. Agriculture Department representative	Governor	not listed	7/22/2009 6/30/2011
Director Richard Opper Helena Qualifications (if required): agency representative	Governor	not listed	7/22/2009 6/30/2011
Mr. Don Patterson Missoula Qualifications (if required): U.S. Agriculture Department representative	Governor	reappointed	7/22/2009 6/30/2011
Mr. Art Pembroke Helena Qualifications (if required): local government representative	Governor	reappointed	7/22/2009 6/30/2011
Mr. Lorin Peterson Pablo Qualifications (if required): tribal government representative	Governor	reappointed	7/22/2009 6/30/2011

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Land Information Advisory Council (Administration) cont.</b>			
Mr. Alex Philip Missoula Qualifications (if required): private sector representative	Governor	reappointed	7/22/2009 6/30/2011
Ms. Christiane von Reichert Missoula Qualifications (if required): land surveyor	Governor	reappointed	7/22/2009 6/30/2011
<b>Library Commission (Higher Education)</b>			
Mr. Don Allen Billings Qualifications (if required): public representative	Governor	reappointed	7/22/2009 5/22/2012
Mr. Quillin Richard Whitefish Qualifications (if required): public representative	Governor	Smith	7/22/2009 5/22/2011
Ms. Anita Scheetz Sidney Qualifications (if required): public representative	Governor	Moody	7/22/2009 5/22/2012
<b>Mental Health Ombudsman (Governor)</b>			
Ms. Alicia Pichette Helena Qualifications (if required): none specified	Governor	Franklin	7/1/2009 8/2/2011



**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Postsecondary Scholarship Advisory Council</b> (Office of Higher Education)			
Mr. LeRoy Schramm Helena	Governor	reappointed	7/21/2009 7/20/2012
Qualifications (if required): having experience in postsecondary education			
<b>Private Lands/Public Wildlife Council</b> (Fish, Wildlife and Parks)			
Mr. Brenden Nichols Bozeman	Governor	reappointed	7/30/2009 7/30/2011
Qualifications (if required): sportsperson			
Mr. Mike Penfold Billings	Governor	reappointed	7/30/2009 7/30/2011
Qualifications (if required): sportsperson			
Mr. Jack Billingsley Glasgow	Governor	Byrne	7/30/2009 7/30/2011
Qualifications (if required): outfitter			
Mr. Joe Cohenour East Helena	Governor	Haugen	7/30/2009 7/30/2011
Qualifications (if required): sportsperson			
Sen. Steve Gallus Butte	Governor	Larson	7/30/2009 7/30/2011
Qualifications (if required): legislator			

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Private Lands/Public Wildlife Council</b> (Fish, Wildlife and Parks) cont.			
Ms. Lindsay Giem-Seidensticker Twin Bridges Qualifications (if required): landowner	Governor	reappointed	7/30/2009 7/30/2011
Ms. Kathy Hadley Deer Lodge Qualifications (if required): landowner	Governor	reappointed	7/30/2009 7/30/2011
Mr. Wagner Harmon Bainville Qualifications (if required): outfitter	Governor	McDonald	7/30/2009 7/30/2011
Mr. Richard Iverson Culbertson Qualifications (if required): landowner	Governor	reappointed	7/30/2009 7/30/2011
Commissioner Chris King Winnett Qualifications (if required): landowner	Governor	McDonald	7/30/2009 7/30/2011
Mr. Rick Miller Colstrip Qualifications (if required): sportsperson	Governor	reappointed	7/30/2009 7/30/2011
Rep. Bob Ream Helena Qualifications (if required): Fish, Wildlife and Parks Commissioner	Governor	Vermillion	7/30/2009 7/30/2011

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Private Lands/Public Wildlife Council</b> (Fish, Wildlife and Parks) cont.			
Mr. Jack Rich	Governor	Schott	7/30/2009
Seeley Lake			7/30/2011
Qualifications (if required): outfitter			
Mr. Brett Todd	Governor	reappointed	7/30/2009
Big Timber			7/30/2011
Qualifications (if required): outfitter			
Rep. Jeffrey W. Welborn	Governor	Ward	7/30/2009
Dillon			7/30/2011
Qualifications (if required): legislator			
<b>Professional Engineers and Land Surveyors</b> (Labor and Industry)			
Mr. Tom Heinecke	Governor	reappointed	7/1/2009
Kalispell			7/1/2013
Qualifications (if required): licensed mechanical engineer			
Mr. John Neil	Governor	reappointed	7/1/2009
Great Falls			7/1/2013
Qualifications (if required): licensed civil engineer			
<b>Research and Commercialization Technology Board</b> (Commerce)			
Mr. Jim Davison	Governor	reappointed	7/21/2009
Anaconda			7/1/2011
Qualifications (if required): public representative			

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice)</b>			
Ms. Maureen Connor Philipsburg	Governor	Dinsmore	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		
Ms. Katherine Eccleston Anaconda	Governor	Guay	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		
Mr. Jim Kambich Butte	Governor	Curran	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		
Mr. Jon A. Krutar Helena	Governor	Hadley	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		
Mr. Michael McLean Anaconda	Governor	Manning	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		
Mr. Roy O'Connor Missoula	Governor	Johnson	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		
Mr. Elton Ringsak Butte	Governor	Babb	7/31/2009 7/31/2011
Qualifications (if required):	resident of the Upper Clark Fork River Basin		

**BOARD AND COUNCIL APPOINTEES FROM JULY, 2009**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice) cont.</b>			
Mr. William Rossbach	Governor	Evans	7/31/2009
Missoula			7/31/2011
Qualifications (if required): resident of the Upper Clark Fork River Basin			

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Alternative Health Care Board</b> (Labor and Industry)                      Ms. Molly Danison, Missoula                      Qualifications (if required): midwife</p>	Governor	9/1/2009
<p><b>Board of Athletic Trainers</b> (Labor and Industry)                      Mr. George Harper, Helena                      Qualifications (if required): public representative</p>	Governor	10/1/2009
<p>Mr. Shawn Ruff, Great Falls                      Qualifications (if required): athletic trainer in a secondary school</p>	Governor	10/1/2009
<p><b>Board of Medical Examiners</b> (Labor and Industry)                      Ms. Carole Erickson, Missoula                      Qualifications (if required): public representative</p>	Governor	9/1/2009
<p>Mr. Dwight Thompson, Harlowton                      Qualifications (if required): licensed physician assistant</p>	Governor	9/1/2009
<p>Dr. Kris Spanjian, Billings                      Qualifications (if required): doctor of medicine</p>	Governor	9/1/2009
<p>Ms. Patricia Bollinger, Helena                      Qualifications (if required): nutritionist</p>	Governor	9/1/2009
<p>Mr. Patrick Boylan, Corvallis                      Qualifications (if required): public representative</p>	Governor	9/1/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Outfitters</b> (Governor)            Mr. Shawn McNeely, Bozeman            Qualifications (if required): fishing and hunting outfitter</p>	Governor	10/1/2009
<p>Mr. Lee Kinsey, Livingston            Qualifications (if required): fishing outfitter</p>	Governor	10/1/2009
<p><b>Board of Psychologists</b> (Labor and Industry)            Dr. George Watson, Bozeman            Qualifications (if required): psychologist in private practice</p>	Governor	9/1/2009
<p><b>Capital Finance Advisory Council</b> (Administration)            Attorney Mike McGrath, Helena            Qualifications (if required): Attorney General</p>	Governor	11/22/2009
<p>Mr. Fred Flanders, Helena            Qualifications (if required): representative of the Montana Higher Educational Student Assistance Corporation</p>	Governor	11/22/2009
<p>Rep. David Ewer, Helena            Qualifications (if required): Budget Director</p>	Governor	11/22/2009
<p>Superintendent Linda McCulloch, Helena            Qualifications (if required): Secretary of State</p>	Governor	11/22/2009
<p>Director Janet Kelly, Helena            Qualifications (if required): Department of Administration Director</p>	Governor	11/22/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Capital Finance Advisory Council</b> (Administration) cont. Sen. Rick Laible, Victor Qualifications (if required): Legislator	Governor	11/22/2009
Director Mary Sexton, Helena Qualifications (if required): Department of Natural Resources Director	Governor	11/22/2009
Director Anthony Preite, Helena Qualifications (if required): Department of Commerce Director	Governor	11/22/2009
Director Richard Opper, Helena Qualifications (if required): Department of Environmental Quality Director	Governor	11/22/2009
Director Jim Lynch, Helena Qualifications (if required): Department of Transportation Director	Governor	11/22/2009
Mr. JP Crowley, Helena Qualifications (if required): Board of Housing representative	Governor	11/22/2009
Secretary Brad Johnson, Helena Qualifications (if required): Secretary of State	Governor	11/22/2009
Ms. Teresa Cohea, Helena Qualifications (if required): Board of Investments representative	Governor	11/22/2009
Rep. Franke Wilmer, Bozeman Qualifications (if required): Legislator	Governor	11/22/2009



**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Capital Finance Advisory Council</b> (Administration) cont.            Mr. Stephen M. Barrett, Bozeman            Qualifications (if required): Board of Regents representative</p>	Governor	11/22/2009
<p>Mr. Bill Kearns, Townsend            Qualifications (if required): Facility Finance Authority representative</p>	Governor	11/22/2009
<p>Attorney General Steve Bullock, Helena            Qualifications (if required): Attorney General</p>	Governor	11/22/2009
<p><b>Correctional Enterprises Advisory Council</b> (Corrections)            Ms. Peggy Grimes, Missoula            Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Sen. Kim Gillan, Billings            Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Rep. Mike Jopek, Whitefish            Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Larry Mayo, Butte            Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Dr. David Yarlott, Crow Agency            Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Gerald Bender, Deer Lodge            Qualifications (if required): public representative</p>	Governor	10/17/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Correctional Enterprises Advisory Council</b> (Corrections) Ms. Cheryl Moore-Gough, Bozeman Qualifications (if required): public representative	Governor	10/17/2009
Mr. Mike Monforton, Bozeman Qualifications (if required): public representative	Governor	10/17/2009
Mr. Brian Sheridan, Missoula Qualifications (if required): public representative	Governor	10/17/2009
Commissioner Joe Brenneman, Kalispell Qualifications (if required): public representative	Governor	10/17/2009
<b>Corrections Advisory Council</b> (Corrections) Sen. Jim Shockley, Victor Qualifications (if required): public representative	Governor	10/17/2009
Lt. Governor John Bohlinger, Helena Qualifications (if required): public representative	Governor	10/17/2009
Sen. Trudi Schmidt, Great Falls Qualifications (if required): public representative	Governor	10/17/2009
Sen. Steve Gallus, Butte Qualifications (if required): public representative	Governor	10/17/2009
Judge Kurt Krueger, Butte Qualifications (if required): public representative	Governor	10/17/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Corrections Advisory Council</b> (Corrections) cont.                      Rep. Tim Callahan, Great Falls                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Commissioner Allan Underdal, Shelby                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Bob Peake, Helena                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Ms. Emily Matt Salois, Missoula                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Sheriff Dave Castle, Great Falls                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>County Attorney George Corn, Hamilton                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Kevin Madman, Browning                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Channis Whiteman, Crow Agency                      Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Ms. Kris Copenhaver, Billings                      Qualifications (if required): public representative</p>	Governor	10/17/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Flathead Basin Commission</b> (Natural Resources and Conservation)                      Ms. Jan Metzmaker, Whitefish                      Qualifications (if required): public representative</p>	Governor	10/1/2009
<p>Ms. Margaret Sogard, Bigfork                      Qualifications (if required): public representative</p>	Governor	10/1/2009
<p>Mr. Thompson R. Smith, Charlo                      Qualifications (if required): public representative</p>	Governor	10/1/2009
<p><b>Historical Preservation Review Board</b> (Historical Society)                      Mr. Donald Matlock, Hamilton                      Qualifications (if required): public representative</p>	Governor	10/1/2009
<p><b>Montana Noxious Weed Seed Free Forage Advisory Council</b> (Agriculture)                      Mr. John Kelly, Great Falls                      Qualifications (if required): livestock/agriculture industry member</p>	Director	9/17/2009
<p>Mr. James Melin, Livingston                      Qualifications (if required): forage producer</p>	Director	9/17/2009
<p><b>Vocational Rehabilitation Council</b> (Public Health and Human Services)                      Ms. Ruth Straley, Helena                      Qualifications (if required): business representative</p>	Governor	10/1/2009
<p>Mr. Ronald Mills, Miles City                      Qualifications (if required): representative of the disabilities community</p>	Governor	10/1/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Vocational Rehabilitation Council</b> (Public Health and Human Services) cont.		
Ms. Denise Corrao, Miles City Qualifications (if required): representative of the disabilities community	Governor	10/1/2009
Ms Andrea Falcon, Kalispell Qualifications (if required): business representative	Governor	10/1/2009
<b>Youth Justice Council</b> (Justice)		
Rep. Rosalie Buzzas, Missoula Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Mr. Dennis Dronen, Belt Qualifications (if required): juvenile probation officer	Governor	9/7/2009
Judge Pedro Hernandez, Billings Qualifications (if required): representative of the local court system	Governor	9/7/2009
Mr. Ted Lechner, Billings Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Ms. Katie Yother, Bozeman Qualifications (if required): youth representative	Governor	9/7/2009
Ms. Joy Mariska, Billings Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Ms. Jennifer Kistler, Missoula Qualifications (if required): youth representative	Governor	9/7/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Youth Justice Council</b> (Justice) cont. Mr. Dale Four Bear, Poplar Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Mayor Pamela B. Kennedy, Kalispell Qualifications (if required): local elected official	Governor	9/7/2009
Father Jerry Lowney, Helena Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Mr. Wayne Stanford, Stevensville Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Ms. Teri Young, Miles City Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Ms. Penny Kipp, Pablo Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Ms. Kim Miller, Virginia City Qualifications (if required): competency in addressing problems facing youth	Governor	9/7/2009
Ms. Donna Falls Down, Hardin Qualifications (if required): tribal court system representative	Governor	9/7/2009
Ms. Chantelle Gournay, Helena Qualifications (if required): youth representative	Governor	9/7/2009

**VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

Board/current position holder

Appointed by

Term end

**Youth Justice Council** (Justice) cont.

Ms. Tara Houde, Missoula

Governor

9/7/2009

Qualifications (if required): youth representative