

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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.

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

ADMINISTRATION, Department of, Title 2

2-43-444 (Public Employees' Retirement Board) Notice of Proposed Amendment - Investment Policy Statement for the Defined Contribution Retirement Plan - Investment Policy Statement for the 457 Deferred Compensation Plan. No Public Hearing Contemplated. 1831-1833

COMMERCE, Department of, Title 8

8-94-84 Notice of Public Hearing on Proposed Amendment - Administration of the 2010-2011 Federal Community Development Block Grant (CDBG) Program. 1834-1835

LABOR AND INDUSTRY, Department of, Title 24

24-201-44 (Board of Public Accountants) Notice of Public Hearing on Proposed Amendment, Adoption, and Repeal - Definitions - Fee Schedule - CPA/LPA Designation - Licensing Examinations - Professional Conduct Rules - Profession Monitoring Rules - Renewal and Continuing Education - Complaint Procedures - Exercise of Practice Privilege in Other Jurisdictions - Profession Monitoring of Holders of Special Practice Permit - Compliance With Continuing Education for Nonresidents - Renewal and Continuing Education. 1836-1868

REVENUE, Department of, Title 42

42-2-843 Notice of Negotiated Rulemaking - Negotiated Rulemaking Committee - Agency Liquor Stores.	1869-1871
42-2-844 Notice of Public Hearing on Proposed Adoption and Amendment - Oil and Gas Taxes.	1872-1877

SECRETARY OF STATE, Office of, Title 44

44-2-166 Notice of Public Hearing on Proposed Amendment - Scheduled Dates for the 2011 Montana Administrative Register.	1878-1880
-------------------------------------------------------------------------------------------------------------------------	-----------

RULE ADOPTION SECTION

ADMINISTRATION, Department of, Title 2

2-43-439 (Public Employees' Retirement Board) Notice of Amendment - Actuarial Rates and Assumptions.	1881-1883
2-59-441 Notice of Adoption - Examination Procedures.	1884

COMMERCE, Department of, Title 8

8-99-83 Notice of Amendment - Certified Regional Development Corporations Program.	1885-1886
------------------------------------------------------------------------------------	-----------

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-363 Notice of Repeal of a Temporary Emergency Rule - Closing the Belt Creek Within Sluice Boxes State Park from Logging Creek Bridge to Riceville Bridge Parking Area in Cascade County.	1887
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------

ENVIRONMENTAL QUALITY, Department of, Title 17

17-306 (Underground Storage Tanks) Notice of Amendment - Underground Storage Tanks.	1888
-------------------------------------------------------------------------------------	------

LABOR AND INDUSTRY, Department of, Title 24

24-171-29 (Board of Outfitters) Notice of Amendment, Adoption, and Repeal - Fees - Safety Provisions - Unprofessional Conduct and Misconduct - Provisional Guide License - Emergency Guide License.	1889-1891
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	1892-1893
How to Use ARM and MAR.	1894
Accumulative Table.	1895-1904
Boards and Councils Appointees.	1905-1911
Vacancies on Boards and Councils.	1912-1919

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.43.3502 pertaining to the)	AMENDMENT
investment policy statement for the)	
Defined Contribution Retirement Plan)	NO PUBLIC HEARING
and ARM 2.43.5102 pertaining to the)	CONTEMPLATED
investment policy statement for the)	
457 Deferred Compensation Plan)	

TO: All Concerned Persons

1. On October 15, 2010, the Public Employees' Retirement Board (PER Board) proposes to amend the above-stated rules.

2. The PER Board 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 PER Board no later than 5:00 p.m. on September 10, 2010, to advise us of the nature of the accommodation that you need. Please contact Dena Helman, Montana Public Employee Retirement Administration, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; telephone (406) 444-2578; TDD (406) 444-1421; fax (406) 444-5428; or e-mail dhelman@mt.gov.

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

2.43.3502 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 401(a) Defined Contribution Plan Investment Policy Statement approved by the board on ~~February 11, 2010~~ July 8, 2010.

(2) and (3) remain the same.

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

2.43.5102 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 457 Plan (deferred compensation) Investment Policy Statement approved by the board on ~~February 11, 2010~~ July 8, 2010.

(2) and (3) remain the same.

AUTH: 19-50-102, MCA
IMP: 19-50-102, MCA

REASON: The PER Board, as administrator of the Defined Contribution Retirement Plan (DCRP) of the Public Employees' Retirement System and the State of Montana Deferred Compensation Plan (457 Plan), adopted the original investment policy statement for each plan by reference in 2002.

Upon recommendation of the Employee Investment Advisory Council, the PER Board determined on July 8, 2010, to amend the two investment policy statements (IPS) to permit the Board's investment consultant to search for available replacement funds prior to recommending closure of an existing investment fund. Previously, the PER Board had to approve the closure of an existing fund prior to the investment consultant searching for a replacement. That process may result in the closure of a fund for which an IPS-compliant replacement fund did not exist. It also resulted in participants remaining invested in non-IPS compliant funds longer than necessary.

Because the PER Board determined to adopt the original investment policy statements by reference, 2-4-307(3), MCA, requires that changes to those statements also be adopted by reference. Therefore, it is necessary to amend the rules that adopt the statements by reference.

4. Concerned persons may present their data, views, or arguments concerning the proposed amendments in writing to Roxanne M. Minnehan, Executive Director, Montana Public Employee Retirement Administration, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; telephone (406) 444-5459; fax (406) 444-5428; or e-mail rminnehan@mt.gov and must be received no later than 5:00 p.m., September 23, 2010.

5. If persons who are directly affected by the proposed amendments 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 they have to Dena Helman at the above address no later than 5:00 p.m., September 23, 2010.

6. If the board receives requests for a public hearing on the proposed amendment from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed amendment; 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 1043 persons based on approximately 2367 participants in the Defined Contribution Retirement Plan and 8070 participants in the Deferred Compensation Plan as of December 2009, for a total 10,437 participants.

7. The PER Board 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 5 above or may be made by completing a request form at any rules hearing held by the PER Board.

8. 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 if a discrepancy exists 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.

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

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ John Nielsen
John Nielsen
President
Public Employees' Retirement Board

/s/ Michael P. Manion
Michael P. Manion, Chief Legal Counsel
and Rule Reviewer
Department of Administration

Certified to the Secretary of State August 16, 2010.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 8.94.3726 pertaining to the) PROPOSED AMENDMENT
administration of the 2010-2011)
Federal Community Development)
Block Grant (CDBG) Program)

TO: All Concerned Persons

1. On September 20, 2010, at 1:30 p.m., the Department of Commerce will hold a public hearing in Room B-18 of the Park Avenue Building at 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m. on September 13, 2010, to advise us of the nature of the accommodation that you need. Please contact Gus Byrom, Department of Commerce, Community Development Division, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2777; fax (406) 841-2771; TDD (406) 841-2702; or e-mail gbyrom@mt.gov.

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

8.94.3726 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2010-2011 CDBG PROGRAM (1) The Department of Commerce adopts and incorporates by reference the Montana Community Development Block Grant (CDBG) Program FFY 2010 Application Guidelines for Housing and Public Facilities Planning Grants, ~~and~~ FFY 2011 Application Guidelines for Public Facilities Projects, and FFY 2011 Application Guidelines for Housing and Neighborhood Renewal Projects; the Montana CDBG Economic Development Program FFY 2010 Application Guidelines for the CDBG Economic Development Program and FFY 2010 Application Guidelines for CDBG Economic Development Program Planning Projects; and the Montana CDBG Program and Neighborhood Stabilization Program (NSP) FFY 2010 Grant Administration Manual published as rules for the administration of the CDBG and NSP programs.

(2) and (3) remain the same.

AUTH: 90-1-103, MCA

IMP: 90-1-103, MCA

REASON: It is reasonably necessary to amend this rule because the federal regulations governing the state's administration of the FFY 2010 and FFY 2011 CDBG program and 90-1-103, MCA, require the department to adopt rules to implement the program. Local government entities must have these application guidelines before the entities may apply to the department for financial assistance under the CDBG program. The Application Guidelines describe the federal and state requirements with which local governments must comply in order to apply for CDBG funds.

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 the Department of Commerce, Community Development Division, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2777; fax (406) 841-2771; or e-mail gbyrom@mt.gov, and must be received no later than 5:00 p.m., September 30, 2010.

5. Gus Byrom, Department of Commerce, has been designated 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 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 Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; fax (406) 841-2701; e-mail lgregg@mt.gov; or by completing a request form at any rules hearing held by the department.

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, do not apply.

/s/ KELLY A. CASILLAS
KELLY A. CASILLAS
Rule Reviewer

/s/ DORE SCHWINDEN
DORE SCHWINDEN
Director
Department of Commerce

Certified to the Secretary of State August 16, 2010.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.201.301 definitions,)
24.201.410 fee schedule, 24.201.415)
CPA/LPA designation, 24.201.502,)
24.201.516 through 24.201.518,)
24.201.528, 24.201.531, 24.201.532,)
24.201.535, and 24.201.537 licensing)
examinations, 24.201.701,)
24.201.704 through 24.201.710,)
24.201.718, 24.201.720, 24.201.723,)
and 24.201.726 professional conduct)
rules, 24.201.1106, through)
24.201.1108, and 24.201.1115)
profession monitoring rules,)
24.201.2101, 24.201.2105,)
24.201.2106, 24.201.2108,)
24.201.2113, 24.201.2114,)
24.201.2120, 24.201.2121,)
24.201.2124, 24.201.2136 through)
24.201.2139, 24.201.2145,)
24.201.2146, 24.201.2148,)
24.201.2154, and 24.201.2161)
renewal and continuing education,)
24.201.2401 and 24.201.2410)
complaint procedures, the adoption of)
NEW RULE I exercise of practice)
privilege in other jurisdictions, and the)
repeal of 24.201.1111 profession)
monitoring of holders of special)
practice permit, 24.201.2112)
compliance with continuing education)
for nonresidents, 24.201.2122,)
24.201.2123, 24.201.2130 through)
24.201.2132, 24.201.2147, and)
24.201.2155 renewal and continuing)
education)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT,
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On September 20, 2010, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Accountants (board) no later than 5:00 p.m., on September 17, 2010, to advise us of the nature of the accommodation that you need. Please contact Amy Maracle, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2389; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdpac@mt.gov.

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

24.201.301 DEFINITIONS ~~For purposes of these rules the following terms have the meanings indicated:~~

(1) through (8) remain the same.

(9) "Practice privilege" means that privilege extended pursuant to 37-50-325, MCA, to a qualified individual whose principal place of business is not in this state and who holds a valid license as a certified public accountant.

(10) "Practice privilege holder" means an individual who avails himself or herself of the practice privilege.

(9) and (10) remain the same, but are renumbered (11) and (12).

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this definition section as a result of new legislation passed during the 2009 legislative session, with an effective date of October 1, 2009, Chapter 109, Laws of 2009 (House Bill 80). The new definitions are used to add clarifying new terms included in 37-50-325, MCA, granting practice privileges for mobility eligible certified public accounts in jurisdictions with substantially equivalent standards and requirements.

24.201.410 FEE SCHEDULE (1) remains the same.

(a) Certified public accountant out-of-state application	\$ 400 <u>150</u>
(b) Transfer of grades (all parts)	400 <u>150</u>
(c) Annual fee for nonpermit holder	45 <u>75</u>
(d) Annual fee for permit to practice (regular permit or special practice permit)	90 <u>150</u>
(e) Application as applicant for examination	25 <u>50</u>
(f) Late fee for failure to comply with CPE requirements in accordance with ARM 24.201.2106	400 <u>125</u>
(g) Late fee for failure to submit CPE reporting form within one month following the end of the CPE reporting year	25 <u>50</u>
(h) Fees for profession monitoring program reviews:	
(i) audits	450 <u>600</u>

(ii) reviews	225 <u>350</u>
(iii) compilations with disclosures	225 <u>350</u>
(iv) compilations without disclosures	445 <u>200</u>
(i) Late fee for failure to timely file quarterly reports by practice units under pre-issuance review	400 <u>125</u>
(j) Late fee for failure to timely file profession monitoring program reports	
(i) less than 31 days late	400 <u>150</u>
(ii) more than 30 days late	500 <u>600</u>
(2) and (3) remain the same.	

AUTH: 37-1-134, 37-50-203, 37-50-204, 37-50-323, MCA

IMP: 37-1-134, 37-1-141, 37-50-204, 37-50-314, 37-50-323, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate the reference to the special practice permit fee. With the passage of legislation during the 2009 session, the special practice permit is no longer issued. With the elimination of the special permit to practice, there is no longer a need to specify what type of permit to practice requires an annual fee, as only one type now exists. There also is reasonable necessity to increase fees to cover the costs of the board for issuing licenses, certificates, and permits, and for monitoring and regulating the profession of the practice of public accounting. Pursuant to 37-1-134, MCA, the fees set by the board must be commensurate with costs.

The board estimates that the fee changes will affect all of the approximately 3655 persons who hold or apply for a certificate, license, and practice permit issued by the board. Based on the fees paid during fiscal year 2010, the board estimates that the annual amount of the fee increase proposed in this rule will be approximately \$184,240.

24.201.415 USE OF CPA/LPA DESIGNATION (1) Certificate Montana certificate or license holders whose principal place of business is in Montana, who are not otherwise in the practice of public accounting, but providing financial or consulting services to the public, must have permits to practice if they hold themselves out to the public in any manner as a CPA or LPA.

(2) Certificate Montana certificate or license holders working for nonpublic accounting employers shall not use their CPA or LPA designations when presenting reports to outside parties, unless they maintain a permit to practice.

(3) Firms that comply with the exemption requirement of 37-50-335(2), MCA, and individuals who qualify for and are using the practice privilege granted by 37-50-325, MCA, may use the CPA designation pursuant to 37-50-301, MCA.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-301, 37-50-325, 37-50-335, MCA

REASON: The board determined it is reasonably necessary to amend this rule to add clarity concerning who is allowed to use the CPA designation. With the passage

of HB 80 in the 2009 legislative session, a Montana certificate holder must also maintain a permit to practice in order to use the CPA designation, but by reference to 37-50-335(2), MCA, out-of-state firms that have a board-sanctioned compliance or peer review and obtain a certain level of acceptance, can also use the CPA designation without obtaining a permit to practice. This amendment will clarify that all certificate or license holders whose principle business is in Montana must hold a permit to practice to use the CPA designation. Out-of-state licensees who obtained a practice privilege may use the CPA designation without obtaining a permit to practice.

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE REQUIREMENTS (1) through (2)(a) remain the same.

(b) takes place in the ~~five~~ three years prior to the date of the application for permit to practice; and

(c) includes at least:

~~(i) 12 calendar months (2000 hours actual work experience) with at least 500 hours of attest oriented experience requiring application of generally accepted standards and issuance of reports requiring application of generally accepted accounting principles. The prescribed experience may be fulfilled from a combination of attest experience having as its objective financial audits, compliance audits, reviews, compilations, or internal financial audits; or~~

~~(ii) 24 calendar months (4000 hours actual work experience) of private, governmental, academic, or public accounting work acceptable to the board.~~

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include academic experience as an acceptable means of obtaining the experience necessary to qualify for a permit to practice. Recently, educators have approached the board requesting a means to obtain a permit to practice and use the CPA/LPA designation. The board has recognized academia in the past and determined it is appropriate to put the public on notice of this alternative means of obtaining acceptable experience.

The board determined it is reasonably necessary to amend this rule to bring Montana experience requirements more in line with the Uniform Accountancy Act (UAA). Compliance with the UAA is used to evaluate and determine if a state's requirements are substantially equivalent. Substantial equivalence is the foundation of mobility and was enacted by the 2009 Legislature, in passing HB 80.

24.201.516 GRANTING OF EXAMINATION CREDIT (1) remains the same.

(a) An applicant for a certificate as a certified public accountant needs to pass all four test sections within a rolling 18-month period which begins on the date the first test section was taken and passed, and ends on the last day of the last month of that 18-month period. An applicant may take any section of the examination up to four times during a one-year period but cannot retake any failed test section in any one three-month testing period. In the event all four test sections

are not passed in the rolling 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(b) An applicant for a license as a licensed public accountant needs to pass any three test sections within a rolling 18-month period which begins on the date the first test section was taken and passed, and ends on the last day of the last month of that 18-month period. An applicant may take any section of the examination up to four times during a one-year period, but cannot retake any failed test section in any one three-month testing period. In the event three test sections are not passed in the rolling 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(2) remains the same.

AUTH: 37-50-204, MCA

IMP: 37-50-204, 37-50-302, 37-50-303, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate any confusion about when the 18-month period ends for those taking the uniform CPA exam. Recently, ending the 18-month period on the date of the first examination taken and passed, led to confusion and unfortunate timing errors, as applicants scheduled retake exams during the 18th month, but after the exact day. Clarification is needed to give notice to exam candidates of the timing requirements in completing all parts of the exam. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.517 ACCEPTANCE OF EXAMINATION CREDITS (1) In order for credits for passing the Uniform Certified Public Accountant Examination to be recognized by the board, an applicant who has never held a certificate as a certified public accountant, or a license as a licensed public accountant in any ~~state~~ jurisdiction must have earned those credits under circumstances comparable to those applicable to Montana applicants at the time those credits were earned. Those circumstances and conditions include the conditioning requirements for accumulation of examination credits, if the applicant did not pass all required parts of the examination on the first attempt.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-50-302, 37-50-303, 37-50-309, MCA

REASON: The board finds it reasonably necessary to amend this rule to accommodate foreign candidates attempting to obtain a certificate or license in Montana. Prior to this amendment, a certified or licensed public accountant in another jurisdiction might not have their uniform CPA examination results count, even if they were earned under similar circumstances. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.518 EXAMINATION CREDITS - OUT-OF-STATE APPLICANTS SEEKING A CERTIFICATE/LICENSE IN MONTANA (1) and (2) remain the same.

AUTH: 37-50-204, MCA

IMP: 37-50-204, 37-50-302, 37-50-303, 37-50-309, MCA

REASON: The board is amending the catchphrase of this rule to clarify that it applies only to those applicants seeking a certificate or license in Montana. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.528 LICENSURE OF OUT-OF-STATE APPLICANTS SEEKING A MONTANA CERTIFICATE, LICENSE, OR PERMIT (1) The board may issue a certificate, license, or permit to practice to a holder of a current and unencumbered certificate, license, or permit to practice issued under the laws of another ~~state~~ jurisdiction upon the applicant's meeting the applicable requirements established under 37-50-203, 37-50-302, 37-50-303, and 37-50-314, MCA, and the rules established thereunder.

(2) An individual whose principle place of business is out of state and who qualifies for the practice privilege is exempt from permitting or licensing requirements pursuant to 37-50-325, MCA.

~~(2) (3)~~ The board may waive the education requirements and issue a certificate, license, or permit to practice to a holder of a certificate, license, or permit issued by another ~~state~~ jurisdiction upon the applicant's showing that:

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

AUTH: 37-50-203, 37-50-309, MCA

IMP: 37-1-304, 37-1-306, 37-50-311, 37-50-312, 37-50-313, 37-50-314, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that licensing requirements apply only to individuals seeking a Montana certificate, license, or permit and does not apply to an out-of-state practitioner entering the state, under the newly enacted practice privilege passed during the 2009 legislative session.

24.201.531 SPECIAL PRACTICE PERMIT PRIVILEGE (1) ~~Persons wishing to practice public accounting in Montana pursuant to a special practice permit, as authorized by 37-50-323, MCA, must apply to the board and pay the appropriate fee.~~

(2) For the purposes of determining whether a A certified public accountant who is licensed in a jurisdiction that has licensing standards that are substantially equivalent to Montana's standards, or who meets the individual substantial equivalent standards, may practice under the practice privilege pursuant to 37-50-325, MCA.

(2) the The board has determined that the following all jurisdictions approved by NASBA are deemed to be "substantially equivalent". As of October 2009, the following jurisdictions are "substantially equivalent":

- (a) remains the same.
- (b) Guam; and
- (c) Commonwealth of the Northern Marianna Island; and
- ~~(e)~~ (d) all of the states in the United States of America, except:
 - (i) Colorado;
 - (ii) ~~Delaware;~~
 - (iii) ~~Florida;~~
 - (iv) ~~New Hampshire;~~ and
 - (v) ~~Vermont.~~

AUTH: 37-50-203, 37-50-323, MCA

IMP: 37-1-306, 37-50-203, 37-50-317, 37-50-323, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to reflect the 2009 Legislature's repeal of the special practice permit and the enactment of the practice privilege for qualified individuals from jurisdictions with substantially equivalent certifying, licensing, and permitting standards and requirements.

24.201.532 APPLICATION REVIEW (1) All applications, except ~~these~~ applications for a ~~special practice permit~~, firm registration are considered nonroutine and must be reviewed by the board.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, 37-50-335, MCA

REASON: The board determined it is reasonably necessary to amend this section to delete the reference to special practice permits, pursuant to the legislative repeal of such permits in HB 80. The amendment is being proposed to enact new legislation.

The board determined it is reasonably necessary to clarify that firm registration applications are routine applications and can be issued by the department without board review. This coincides with the current practice of issuing firm registrations when they are filed. The application of this rule was not broadly applied to firm registrations until very recently, and it was not the intent of the original rule adoption to have all firm registrations reviewed by the board. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.535 REACTIVATION OF INACTIVE STATUS (1) and (2) remain the same.

(3) Upon application and payment of the appropriate fee, the board may reactivate an inactive license if the applicant presents ~~satisfactory evidence~~ documentation verifying that the applicant has complied with the continuing education rules of the board under ARM 24.201.2106, within the three years immediately preceding the application for reactivation.

(4) Montana holders of certificates, licenses, or permits who avail themselves of practice privileges in other jurisdictions, may not place the Montana certificate, license, or permit on inactive status while using the practice privilege.

AUTH: 37-1-319, 37-50-203, MCA
IMP: 37-1-319, 37-50-325, MCA

REASON: The board is amending this rule to ensure that Montana holders of certificates, licenses, or permits comply with the intent of mobility and the practice privilege. The amendment is being proposed to enact new legislation.

24.201.537 RETIRED STATUS (1) and (2) remain the same.

(3) Montana holders of certificates, licenses, or permits who avail themselves of practice privileges in other jurisdictions may not place the Montana certificate, license, or permit on retired status while using the practice privilege.

AUTH: 37-1-131, MCA
IMP: 37-1-131, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that Montana certificate, license, or permit holders who practice public accounting in another jurisdiction, by using their Montana certificate/license/permit to obtain practice privilege, cannot then put that Montana license on inactive status and continue to perform public accounting services using practice privilege. The ability to use practice privilege was passed in HB 80 during the 2009 legislative session.

24.201.701 DEFINITIONS (1) remains the same.

(2) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged, unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the result of judicial proceeding or the finding of governmental agencies. A firm's, ~~or~~ permit holder's, or practice privilege holder's fees may vary depending, for example, on the complexity of services.

AUTH: 37-50-203, MCA
IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and the permit holder, as those license types have the same discretion on charging fees as a certificate/license holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.704 INDEPENDENCE (1) Independence, where required by professional standards, is essential to establishing and maintaining the public's faith and confidence in, and reliance on, the information reported on by the licensee, permit holder, or practice privilege holder. A licensee, permit holder, or practice privilege holder in the practice of public accounting shall be independent in fact and appearance when engaged to provide services where independence is required by professional standards.

(a) Independence in fact is the state of mind that permits a licensee, permit holder, or practice privilege holder to perform an attest service without being affected by influences that compromise professional judgment, thereby allowing the licensee, permit holder, or practice privilege holder to act with integrity and exercise objectivity and professional skepticism.

(b) Independence in appearance is the avoidance of circumstances that would cause a reasonable and informed third party, having knowledge of all relevant information, to reasonably conclude that the integrity, objectivity, or professional skepticism of the licensee, permit holder, or practice privilege holder had been compromised.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and the permit holder, as those license types have the same independence requirements as a certificate/license holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.705 INTEGRITY AND OBJECTIVITY (1) Integrity is a character trait demonstrated by acting honestly, candidly, and not knowingly misrepresenting facts, accommodating deceit, or subordinating ethical principles. Acting with integrity is essential to maintaining credibility and public trust. It incorporates both the spirit and substance in the application of the ethical and technical standards that govern the profession, or in the absence thereof, what is just and right. A licensee, permit holder, or practice privilege holder shall act with integrity in the performance of all professional activities in whatever capacity performed.

(2) Objectivity is a distinguishing feature of the accounting profession and is critical to maintaining the public's trust and confidence. It is a state of mind that imposes the obligation to be impartial and free of bias that may result from conflicts of interest or subordination of judgment. Objectivity requires a licensee, permit holder, or practice privilege holder to exercise an appropriate level of professional skepticism in carrying out all professional activities. Although a licensee, permit holder, or practice privilege holder may serve multiple interests in many different capacities, objectivity must be maintained. A licensee, permit holder, or practice privilege holder shall make a careful assessment of the effects on objectivity of all professional relationships and activities. A licensee, permit holder, or practice privilege holder shall maintain objectivity in the performance of all professional activities in whatever capacity performed.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and the permit holder, as those license types have the same integrity and objectivity requirements as a certificate/license holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.706 COMPETENCE (1) A firm, ~~or permit holder, or practice privilege holder~~ shall not undertake any engagement for the performance of professional services, unless the following general standards are met:

(a) a firm, ~~or permit holder, or practice privilege holder~~ shall undertake only those engagements which the firm, ~~or permit holder, or practice privilege holder~~ can reasonably expect to complete with professional competence, including compliance where applicable, with ARM 24.201.718;

(b) a firm, ~~or permit holder, or practice privilege holder~~ shall adequately plan and supervise an engagement; and

(c) a firm, ~~or permit holder, or practice privilege holder~~ shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder, as that license type has the same competence requirements as a certificate/license or permit holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.707 DISCREDITABLE ACTS (1) A firm, permit holder, certificate holder, ~~or license holder, or practice privilege holder~~ shall not commit any act discreditable to the profession. A discreditable act will be considered to have occurred if, for example, a firm, ~~or permit holder, or practice privilege holder~~ retains any records rightfully belonging to the client in order to enforce payment of fees.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when outlining the prohibition of performing discreditable acts in the practice of public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.708 DUE PROFESSIONAL CARE (1) Due care imposes upon the licensee, permit holder, or practice privilege holder the obligation to perform professional activities with concern for the best interest of those for whom the activities are performed and consistent with the profession's responsibility to the public. It is essential to preserving the public's trust and confidence. Due care requires the licensee, permit holder, or practice privilege holder to discharge professional responsibilities with reasonable care and diligence and to adequately plan and supervise all professional activities for which the licensee is responsible. A licensee, permit holder, or practice privilege holder shall act with due care in the performance of all professional activities in whatever capacity performed.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and permit holder when stating due professional care responsibilities for those practicing public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.709 COMMISSIONS (1) A firm, ~~or permit holder, or practice privilege holder~~ shall not pay a commission to obtain a client, nor accept a commission for referring the products or services of others to a client. This prohibition applies during the period in which the firm, ~~or permit holder, or practice privilege holder~~ is engaged to perform any services requiring independence and the period covered by those services.

(2) A firm, ~~or permit holder, or practice privilege holder~~ who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact in writing to any person or entity to whom the firm, ~~or permit holder, or practice privilege holder~~ recommends or refers a product or service to which the commission relates. Written acknowledgment of such disclosure shall be obtained.

(3) Any firm, ~~or permit holder, or practice privilege holder~~ who accepts a referral fee for recommending or referring any service of a firm or permit holder to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment in writing to the client and obtain written acknowledgment of such disclosure.

(4) remains the same.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when a commission may be collected or paid by a practitioner conducting public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.710 CONTINGENT FEES (1) A firm, ~~or~~ permit holder, or practice privilege holder shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services, when the firm, ~~or~~ permit holder, or practice privilege holder also performs for that client any services for which professional standards require independence. This prohibition applies during the period in which the firm, ~~or~~ permit holder, or practice privilege holder is engaged to perform any services for which professional standards require independence and the period covered by those services.

(2) A firm, ~~or~~ permit holder, or practice privilege holder who is not prohibited by this rule from performing professional services for a contingent fee shall disclose that fact in writing to any person or entity to whom ~~the~~ services are to be provided. Written acknowledgment of such disclosure shall be obtained.

(3) A firm, ~~or~~ permit holder, or practice privilege holder shall not offer to prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when a commission may be collected or paid by a practitioner conducting public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.718 APPLICABLE STANDARDS (1) A licensee, ~~permit holder, or~~ practice privilege holder shall comply with the standards set forth in this rule as applicable under the circumstances and at the time of service when providing professional services. In addition to the applicable standards set forth below, a licensee, ~~permit holder, or~~ practice privilege holder shall comply with the standards issued by other professional or governmental bodies, including international standards setting bodies with which a licensee, ~~permit holder, or~~ practice privilege holder is required by law, regulation, or the terms of engagement to comply.

(2) The board incorporates by reference the following standards, as they exist as of July 1, ~~2007~~ 2010:

(a) through (c) remain the same.

(d) all of the standards for accounting, valuation, and review services issued by AICPA;

(e) through (3)(e) remain the same.

AUTH: 37-50-203, MCA
IMP: 2-4-307, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when a commission may be collected or paid by a practitioner conducting public accounting.

The new terminology is required to implement new legislation passed during the 2009 legislative session.

The board determined it is also reasonably necessary at this time, to update the adopted standards that must be followed, in order for practitioners to responsibly use the most up-to-date standards available. This amendment is being proposed now to update the edition of standards currently adopted by reference, and eliminate further administrative expense of noticing this update in another rule notice.

24.201.720 CONFIDENTIALITY (1) A licensee, permit holder, or practice privilege holder has an obligation to maintain the confidentiality of information obtained in the performance of all professional activities. Maintaining such confidentiality is vital to the proper performance of the licensee's, permit holder's, or practice privilege holder's professional activities. A licensee, permit holder, or practice privilege holder shall not use or disclose, or permit others within the licensee's, permit holder's, or practice privilege holder's control to use or disclose, any confidential client or employer information without the consent of the client or employer. This obligation of confidentiality continues after the termination of the relationship between the licensee, permit holder, or practice privilege holder and the client or employer and extends to information obtained by the licensee, permit holder, or practice privilege holder in professional relationships with prospective clients and employers.

(a) This rule must not be construed to prohibit a licensee, permit holder, or practice privilege holder from disclosing information as required to meet professional, regulatory, or other legal obligations.

(2) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from firms, or permit holders, or practice privilege holders in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body requiring compliance with state law.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of a practice privilege holder when clarifying how and when confidentiality must be maintained. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.723 RECORDS (1) A firm, or permit holder, or practice privilege holder shall furnish to the client or former client, upon request made within a reasonable time after original issuance of the document in question:

(a) remains the same.

(b) a copy of any report or other document issued by the firm, or permit holder, or practice privilege holder to or for such client;

(c) any accounting or other records which the firm, or permit holder, or practice privilege holder obtained from or on behalf of the client which the firm, or

permit holder, or practice privilege holder removed from the client's premises or received for the client's account, but the firm, or permit holder, or practice privilege holder may make and retain copies of such documents when they form the basis for work done by the firm, or permit holder, or practice privilege holder; and

(d) a copy of the firm's, or permit holder's, or practice privilege holder's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

(2) remains the same.

(3) Retention by a firm, or permit holder, or practice privilege holder of ~~clients~~ client records after a demand is made for them is an act discreditable to the profession in violation of ARM 24.201.707.

(4) A firm's, or permit holder's, or practice privilege holder's working papers are the firm's, or permit holder's, or practice privilege holder's property and need not be surrendered to the client. Any working papers developed by the firm, or permit holder, or practice privilege holder incident to the performance of the engagement which do not result in changes in the client's records or are not in themselves part of the records ordinarily maintained by such clients, are considered to be solely "accountant's working papers" and are not the property of the client. If the firm, or permit holder, or practice privilege holder has retained file copies of a client's records already in possession of the client, the firm, or permit holder, or practice privilege holder is not required to return such copies to the client.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how records must be maintained. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.726 ADVERTISING (1) A firm, or permit holder, or practice privilege holder shall not use or participate in the use of any form of public communication referencing professional services which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim including, but not limited to, a statement or claim which:

(a) through (e) remain the same.

(f) states or implies that the firm, or permit holder, or practice privilege holder has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case;

(g) through (i) remain the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when

advertising must occur. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.1106 STATEMENT BY PERMIT HOLDERS AND FIRMS EXEMPT FROM REGISTRATION PURSUANT TO 37-50-335, MCA (1) through (4) remain the same.

(5) Every firm availing itself of the exemption from registration of 37-50-335, MCA, that has undergone a board-sanctioned compliance or peer review process in its principal place of business, must annually notify the board by letter or electronic communication of its continuing status as having received an acceptable, a pass, or a pass with deficiencies rating on financial services and having completed all required remediation.

AUTH: 37-50-203, MCA

IMP: 37-50-203, 37-50-325, 37-50-335, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when an exempt firm must notify the board of its practice status, until all review requirements have been completed. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.1107 FILING OF REPORTS (1) remains the same.

(2) The board may require a permit holder to submit ~~workpapers~~ work papers prepared in support of the reports issued in (1)(a) and (b).

(3) and (4) remain the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to correct the reference work papers. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) remains the same.

(2) The board reserves the authority to request a practice unit to submit a copy of any or all reports, financial statements, and supporting ~~workpapers~~ work papers for engagements subject to peer review.

(3) remains the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to correct the reference work papers. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.1115 PROFESSION MONITORING PROGRAM (PMP) REVIEWS AND ENFORCEMENT (1) remains the same.

(2) Responses are required from those practice units whose reports are classified as not acceptable or from practice units that have submitted a peer review report that is other than ~~unmodified pass or pass with deficiencies~~. The board may also require a written comprehensive statement of future procedures to be followed that will ensure an improvement in the quality of future reports.

(3) For those practice units which are required to submit responses under (2), the board will consider the review of the practice unit in closed, executive session. The board may ~~require~~ recommend one or more of the following actions:

(a) remains the same.

(b) third-party review of ~~workpapers~~ work papers;

(c) third-party review of other reports and ~~workpapers~~ work papers;

(d) through (g) remain the same.

(4) The enforcement coordinator will monitor practice unit compliance with board recommendations set forth under (3) and ~~may~~ shall refer noncompliant practice units to the ~~screening panel~~ board for ~~appropriate~~ possible initiation of the disciplinary action process under subchapter 24.

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-312, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to incorporate the new language used by the America Institute of Certified Public Accountants (AICPA), and recognized throughout the profession, to describe peer review results. This amendment is being made now as this is a recent language change from the AICPA. It also eliminates further administrative expense to the board for correcting this reference in a separate rule notice.

The board determined it is reasonably necessary to correct the reference work papers. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

The board determined it is reasonably necessary to amend this rule to implement the new process for monitoring compliance or noncompliance with board recommendations received, as a result of an unsatisfactory professional monitoring program (PMP) review. This process has been revised to ensure board conduct is within its authority.

24.201.2101 RENEWALS (1) remains the same.

(2) All ~~certified public accountants and licensed public accountants~~ certificates, licenses, and permits to practice must be renewed on or before the date set by ARM 24.101.413.

(3) Renewal licenses, certificates, and permits to practice will be issued by the board to all certified public accountants, licensed public accountants, and permit holders ~~in good standing~~ eligible for renewal upon payment of the established license renewal fees, pursuant to ARM 24.201.410.

(4) remains the same.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-141, 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate confusion of references to the same type of license made several different ways, and to clarify that eligibility for renewal, which includes compliance with continuing education as the standard for renewal. These amendments are being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.2105 ADVISORY COMMITTEE (1) The board may ~~select~~ appoint an advisory committee on continuing education whose purpose will be to assist the board in implementing continuing education regulations. The committee shall be composed of not less than five holders of a Montana permit to practice, ~~each of whom shall be competent by reason of training or experience and will include CPAs and LPAs on the proportion of CPAs certified and LPAs licensed, who hold permits to practice but not less than one LPA.~~ The committee may:

(a) evaluate and recommend to the board either prospectively or retrospectively, ~~whether~~ specific courses, programs, education, or training which qualify as formal programs of learning which that contribute directly to the professional competency of an individual engaged in public accounting, and the credit to be granted ~~therefore thereto.~~ In considering qualifications, any Any course, program, education, of or training not commensurate with contributing to professional ~~status~~ competence will not qualify;

(b) ~~recommend to the board in individual cases whether professional knowledge and competency have been reestablished by virtue of the completion of such program;~~

~~(c) verify the continuing education records on a test or complete basis from time to time~~ selected for random audit or as deemed appropriate by the board; and

~~(d) (c)~~ perform any other duties as requested by the board as they relate to these regulations continuing education.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to better identify the process for creating this committee. The removal of the requirement to include one LPA is necessary, because the number of this license type is very limited, and it may not be feasible to find an LPA to serve on this committee. The amendments also will improve the language and grammar of the rule and streamline the language describing the committee. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2106 BASIC REQUIREMENT (1) ~~During the three-year period, ending the June 30th immediately preceding the permit year of January 1 through~~ Continuing education is accrued in a rolling three-year period that requires annual

reporting. The annual reporting year begins July 1 and ends June 30 of every year. Any rolling three-year accrual period ends on June 30, immediately preceding the annual permit renewal deadline of December 31, applicants Applicants for a permit to practice must complete 120 hours of acceptable continuing education credit in every three-year period, except as otherwise provided under 37-50-314, MCA, and as explained in ARM 24.201.2154 and 24.201.2155.

(2) remains the same.

(3) Applicants who have already met the full basic requirement by the end of any June 30th reporting period may elect to have excess continuing education hours, taken during the immediately preceding months of May and June, apply to the subsequent reporting period.

(4) Applicants who have not completed their full basic requirements by the end of any June 30th reporting period may elect to have qualified continuing education hours, taken during the immediately following months of July and August, apply to the previous reporting period.

(5) Course credit hours may be split in order to carry over or carry back eligible credit.

(6) The implementation date of the continuing education requirement is three years from June 30, following an individual's initial issuance of a permit to practice.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the description of the three-year CPE reporting period and to strike the redundancy of using "full" and "basic," since the basic requirement is the "full" requirement. It is also clarifying how credits may be used when excess or incomplete hours are presented. The rule specifies when the CPE reporting period ends for newly permitted individuals. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2108 WHO MUST COMPLY - GENERAL (1) All persons who are issued a permit to practice must comply with the continuing education requirements, unless they have been excepted as provided by ARM 24.201.2112, or 24.201.2154, or 24.201.2155.

(2) Any individual who qualifies for the practice privilege in this state and who complies with the CPE requirements applicable in the jurisdiction of his or her principal place of business shall be deemed to have complied with the CPE requirements of this state.

AUTH: 37-50-201, 37-50-203, 37-50-323, MCA

IMP: 37-50-203, 37-50-314, 37-50-323, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that extending recognition of out-of-state education will meet Montana requirements for those practicing under the practice privilege. These amendments

are required to implement new legislation passed during the 2009 legislative session.

24.201.2113 NONRESIDENT HOLDERS OF A PERMIT TO PRACTICE - COMPLIANCE (1) Holders of regular Montana permits to practice (as opposed to a ~~special practice permit~~) who are out-of-state residents are required to comply with the continuing education requirements if they wish to maintain their permits to practice public accounting in Montana.

~~(2) A holder of a special practice permit is subject to the provisions of ARM 24.201.2112.~~

History: 37-50-201, 37-50-203, 37-50-323, MCA

IMP: 37-50-203, 37-50-314, 37-50-323, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to delete references to special practice permits that were repealed by the 2009 Legislature.

24.201.2114 OUT-OF-STATE APPLICANTS SEEKING A MONTANA PERMIT TO PRACTICE - CONTINUING EDUCATION REQUIREMENT

(1) An individual, who holds a valid and unrevoked certified public accountant certificate or public accountant license issued by any ~~other state or political subdivision of the United States~~ jurisdiction, and who makes application under the appropriate provisions of the statutes for a certificate or license in this state, and who receives a certificate or license from this state, shall be required to comply with the ~~full~~ basic requirement before being issued a permit to practice in this state. Compliance will be reported on a form provided by the board.

(2) If the individual holds a valid and unrevoked permit to practice public accounting, if one is issued by such other jurisdiction, or was otherwise allowed to practice public accounting in such other jurisdiction, and cannot meet the ~~full~~ basic requirement at the time of application for a permit to practice, the individual must request that the public accounting regulatory entity of such other jurisdiction submit in writing, directly to the board, verification that the individual was allowed to practice public accounting in that other jurisdiction. Upon acceptance of the verification by the board, the individual will be issued a permit to practice until the permit year following the June 30 following the individual's application. The individual must complete the ~~full~~ basic requirement by the June 30 following their application.

(3) Except that such individual's basic continuing education requirements for purposes of this rule shall be no greater than if the individual's initial registration in such other jurisdiction was made in this state as explained in ARM ~~8.54.808~~ 24.201.2106.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to broaden the recognition to those individuals holding a CPA or LPA designation from

any jurisdiction, not just a state or U.S. political subdivision, and that those who obtain a Montana CPA or LPA must meet Montana CPE requirements. This amendment also corrects outdated references within board rules. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2120 STATEMENT ON STANDARDS FOR FORMAL CONTINUING EDUCATION PROGRAMS, PROGRAMS WHICH QUALIFY, AND ACCEPTABLE SUBJECT MATTER AND PROGRAMS (1) ~~To help ensure that practitioners receive quality continuing professional education, appropriate standards are needed. With appropriate standards, programs are less likely to vary in quality of development and presentation and in measurement and reporting of credits~~ To protect the public and to ensure that practitioners participate in learning activities that maintain or increase their professional competence, the board has adopted standards for continuing education that establish a framework for the development, presentation, measurement, and reporting of continuing education programs to ensure that accounting professionals receive the quality continuing education necessary to satisfy their professional obligation to serve the public interest.

(2) ~~Moreover, the large number of programs available throughout the United States, the varying backgrounds of credentials of sponsoring organizations, and the mobility of participants in these programs create measuring and reporting problems that suggest the need for nationally uniform standards. The purpose of this statement is to provide such uniform criteria~~ A program qualifies as acceptable continuing education if it is a formal group or self-study program of learning which contributes directly to the professional competence of an individual permitted to practice public accounting, and such program meets the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement of Standards for Continuing Professional Education (CPE) programs issued jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) on January 19, 2001, or such other educational standards as may be established from time to time by the board.

(3) ~~Throughout these rules the term "programs" refers to both formal group and formal self-study programs. A group program is an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants. When a group program complies with the standards in these rules it becomes a "formal" group program. All other group programs are informal. A self-study program is an educational process designed to permit a participant to learn a given subject without major interaction with an instructor. For a self-study program to be "formal":~~ The following general subject matters are acceptable provided they contribute to the basic professional knowledge and competence of the individual and meet the minimum standards of quality or development and presentation and of measurement and reporting of credits set forth in the Statement of Standards for Continuing Professional Education (CPE) programs issued jointly by the AICPA and NASBA:

(a) the sponsor of it must provide a certificate upon evidence of satisfactory completion, such as a completed workbook or examination, and accounting and auditing;

(b) it must comply with the standards in these rules. "Sponsors" are the organizations responsible for presenting programs and are not necessarily program developers. However, it is their responsibility to see that their programs comply with all the standards of these rules. (ARM 24.201.2121 through 24.201.2124) taxation;

(c) management;

(d) computer science;

(e) communication arts;

(f) mathematics, statistics, probability, and quantitative application in business;

(g) economics;

(h) business law;

(i) functional fields of business: finance, production, marketing, personnel relations, business management, and organization;

(j) specialized areas of industry (e.g., film industry, real estate, farming, etc.);

(k) administrative practice (e.g., engagement letters, personnel, etc.);

(l) consulting services;

(m) ethics;

(n) personal development; and

(o) areas other than those listed above may be acceptable if the individual can demonstrate that they contribute to their professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the individual.

(4) The following group programs qualify for credit provided they meet the standards adopted in (2) and (3):

(a) professional education and development of programs of national, state, and local accounting organizations;

(b) technical sessions at meetings of national, state, and local accounting organizations and their chapters;

(c) university or college courses (both credit and noncredit courses);

(d) formal in-firm education programs;

(e) programs of other organizations (accounting, industrial, professional, etc.);

(f) committee meetings of professional societies which are structured as formal educational programs;

(g) dinner, luncheon, and breakfast meetings which are structured as formal educational programs; and

(h) firm meetings for staff and/or management groups which are structured as formal educational programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify. However, portions devoted to firm administrative, financial, and operating matters generally would not qualify.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify what educational programs qualify for meeting the continuing education requirements. The existing language is cumbersome and outdated and difficult for practitioners to understand. The new language is attempting to simplify the expectations in meeting the required continuing education. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2121 STANDARDS FOR CPE PROGRAM DEVELOPMENT - PRESENTATION AND MEASUREMENT (1) ~~The program should contribute to the professional competence of participants~~ The board adopts and incorporates by reference the Statement on Standards for Continuing Professional Education (CPE) program, as issued jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) on January 19, 2001, or such other education standards as may be established from time to time by the board.

~~(a) The fundamental purpose of continuing education is to increase the practitioners professional competence. A professional person is one characterized as conforming to the technical and ethical standards of his profession. This characterization reflects the expectation that a person holding himself out to perform services of a professional quality needs to be knowledgeable within a broad range of related skills. Thus, the concept of professional competence is to be broadly interpreted. It includes, but is not restricted to, accounting, auditing, taxation, and management advisory services. Accordingly, programs contributing to the development and maintenance of other professional skills also should be recognized as acceptable continuing education programs. Such programs might include, but not be restricted to the areas of communication, ethics, quantitative methods, behavioral sciences, statistics, and practice management.~~

~~(2) The stated program objectives should specify the level of the knowledge the participant should have attained or the level of competency he should be able to demonstrate upon completing the program. The standards incorporated by reference are available at the professional resources or publication offices at the respective web site:~~

~~(a) Program developers should clearly disclose what level of knowledge and/or skill is expected to be imparted under a particular program. Such levels may be expressed in a variety of ways, all of which should be informative to potential participants. As an illustration, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced, or overview, which might be defined as follows: www.aicpa.org; and~~

~~(i) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area;~~

~~(ii) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.~~

~~(iii) An advanced level program teaches participants to deal with complex situations.~~

~~(iv) An overview program enables participants to develop a perspective as to how a subject area relates to the broader aspects of accounting or brings participants up to date on new developments in the subject area.~~

~~(b) www.nasba.org.~~

~~(3) The education and/or experience prerequisites for the program should be stated.~~

~~(a) All programs should clearly identify what prerequisites are necessary for enrollment. If no prerequisite is necessary, a statement to this effect should be made. Prerequisites should be specified in precise language so potential participants can readily ascertain whether they qualify for the program or whether the program is above or below their level of knowledge or skill.~~

~~(4) Programs should be developed by individual(s) qualified in the subject matter and in instructional design.~~

~~(a) This standard is not intended to require that any individual program developer be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in a program's development, whether one or more persons are involved in that development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.~~

~~(b) "Instructional design" is a teaching plan that considers the organization and interaction of the materials as well as the method of presentation such as lecture, seminar, workshop, or programmed instruction.~~

~~(5) Program content should be current.~~

~~(a) The program developer must review the course materials periodically to assure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued where appropriate and obsolete materials should be deleted. However, between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing the participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.~~

~~(6) Programs should be reviewed by a qualified person(s) other than the preparer(s) to ensure compliance with the above standards.~~

~~(a) In order to ensure that programs meets the standard for program development, they should be reviewed by one or more individuals in the subject area and in the instructional design. Any one reviewer need not be competent in both the program subject matter and in instructional design, but both aspects of a program should be reviewed. However, it may be impractical to review certain programs, such as a short lecture given only once; in these cases, more reliance must be placed on the competence of the presenter.~~

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify what type of educational program development qualifies for meeting the continuing education requirements. The existing language is cumbersome and outdated and difficult for practitioners to understand. The new language is attempting to simplify the expectations in meeting the required continuing education. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2124 STANDARDS FOR CPE REPORTING (1) Participants in group or self-study programs should must document their participation including:

- (a) participant's name;
- ~~(a)~~ (b) sponsor;
- ~~(b)~~ (c) course title and/or description of content;
- ~~(c)~~ (d) date(s);
- ~~(d)~~ (e) location; and
- ~~(e)~~ (f) number of contact continuing education credit hours granted.

Documentation should must be retained for an appropriate period not less than five years.

~~(f) This standard is designed to encourage participants to document their attendance at a group program or participation in a self-study program. State laws or regulations may dictate the length of time to retain documentation. In the absence of legal specifications, a reasonable policy would be to retain documentation for five years from the date the program is completed. For self-study programs evidence of completion would normally be the certificate supplied by the sponsor.~~

~~(2) In order to support the reports that may be required of participants, the sponsor of group or self-study programs should retain evidence of an individual's participation in a group or self-study program for an appropriate period not less than five years:~~

- ~~(a) participant's name;~~
- ~~(a)~~ (b) record of participation;
- ~~(b)~~ (c) outline of the course (or equivalent);
- ~~(c)~~ (d) date(s);
- ~~(d)~~ (e) location;
- ~~(e)~~ (f) instructor(s); and
- ~~(f)~~ (g) number of contact hours.

~~(g) Because participants may come from any state or jurisdiction, the appropriate time for the sponsor to retain this information is not dependent solely on the location of the program or sponsor. To satisfy the detailed requirements of all jurisdictions, a retention period of five years from the date the program is completed is appropriate. The record of attendance should reflect the contact hours earned by each participant, including those who arrive late or leave early.~~

(3) For courses taken for academic credit in universities and colleges, evidence of satisfactory completion of the course and receipt of academic credit will be sufficient; for noncredit courses, a statement of the hours of attendance, signed by the instructor, must be obtained by the individual.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify documentation and retention requirements for course participants and course sponsors of CPE and to carve out requirements for courses attended for academic credit. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2136 CREDIT HOURS GRANTED - ~~GENERAL~~ GROUP STUDY PROGRAMS (1) Continuing education credit will be given with a minimum of 50 minutes constituting one hour. One-half continuing education credit increments (equal to a minimum of 25 minutes) are permitted after the first credit has been earned in a given learning activity. For university or college courses, each semester unit of credit shall equal 15 hours toward the requirement. A quarter unit of credit shall equal ~~40~~ ten hours.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA
IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend the title of this rule to clarify the content of the rule. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2137 CREDIT FOR FORMAL ~~INDIVIDUAL~~ SELF-STUDY PROGRAMS

(1) ~~Formal self-study programs shall be pretested by the developer to determine average completion time.~~

(a) Interactive self-study programs shall receive continuing education credit equal to the average completion time, if the sponsor is recognized and approved by NASBA's CPE quality assurance service (referred to as a NASBA QAS sponsor) or NASBA's national registry of CPE sponsors (referred to as a NASBA registry sponsor). An interactive self-study program is designed to use interactive learning methodologies that simulate a classroom learning process that provides significant ongoing, interactive feedback to the participant regarding the participant's learning progress.

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

(2) Individuals claiming credit for such ~~correspondence or formal individual self-study~~ courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. ~~Credit is allowed in the period in which the course is completed, except as allowed in ARM 24.201.2106.~~

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA
IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate redundant language. The pretest requirement for self-study program providers is referenced in ARM 24.201.2121. The study programs completion times are determined though an average completion time, rather than time studies. The amendment also clarifies the type of self-study courses that qualify for credit and the amount allowed for such credit. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2138 CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, SPEAKER, OR REPORT REVIEWERS (1) Instructors, discussion leaders, and speakers may claim continuing education credit for both preparation and presentation time to the extent the activities maintain or increase their professional competence and qualify for continuing education credit for participants. Credit may be claimed for actual preparation time up to two times the class ~~contact~~ credit hours for the first time the class is presented. ~~Credit as an instructor, discussion leader, or speaker may be claimed provided that the session is one which would meet the continuing education requirements of those attending.~~ The maximum credit for such preparation and teaching shall not exceed 50 percent of the ~~full~~ basic period requirement.

(2) Continuing education credit may be claimed for serving as a report reviewer under the board's ~~positive enforcement~~ profession monitoring program established in ARM ~~8.54.704~~ 24.201.1101 and following, or under other structured report review programs approved by the board. One hour of credit shall be granted for every ~~two hours~~ hour spent reviewing reports. The maximum credit for such reviews shall be no more than ~~eight~~ 16 hours in any given fiscal year reporting period. Such credits shall qualify towards the requirement related to reporting on financial statements in ARM 24.201.2106(2).

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that credit can only be claimed if the preparation and presentation maintains or advances the professional knowledge of the practitioner. The amendments are intended to clarify and eliminate confusion expressed by a number of practitioners when attempting to determine available credit through presentations. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

The board determined it is reasonably necessary to amend this section to correct the reference of the board's profession monitor program, update the outdated rule citation from when the board was under the Department of Commerce, and increase the number of credits allowed for those that participate as a reviewer with the board's profession monitor program. The increase is intended to recognize the complexity and interactive nature of reviewing reports by allowing hour-for-hour credit. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2139 CREDIT FOR PUBLISHED ARTICLES, BOOKS, ETC.

(1) Credit may be claimed for published articles and books provided they contribute to the professional competence of the individual. The amount of credit so awarded will be determined by the board on a case-by-case basis. ~~Credit may be allowed for published articles and books provided they contribute to the professional competence of the individual.~~ Credit for preparation of such publications may be claimed on a self-declaration basis up to not to exceed 25 percent of the full basic period requirement. ~~In ,unless exceptional circumstances an article(s) or book(s) may be provided to the board with an explanation of the circumstances which would justify a greater credit.~~

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to add clarity to the requirements for a practitioner to claim CPE credit for published articles or books. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2145 REPORTING REQUIREMENTS (1) On or before the July 31 after the end of the three-year reporting period, permit holders shall ~~give evidence to the board that their continuing education requirements have been met for the reporting period ending June 30 prior thereto~~ have reported credit hours to the board indicating that they have met the requirements for that reporting period.

(2) Persons who use the two-month carry-back provision of ARM ~~24.201.2106(5)~~ 24.201.2106(4) shall file their reporting forms by July 31, listing the course(s) they are planning to attend or complete. If the course(s) listed are not completed, they must notify the board office in writing immediately, ~~but not no~~ later than August 31. Such notification(s) shall explain why the course(s) were not completed and provide a plan to meet the continuing education requirements.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the reporting period requirement. The current rule language has been a source of confusion for licensees. The amendment is also intended to correct a rule reference and grammatically correct the sentence structure. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2146 CONTINUING EDUCATION REPORTING FOR PERMIT TO PRACTICE (1) Applicants for a permit to practice must provide a signed statement on ~~forms~~ a form prescribed by the board of that lists the continuing education programs in which they ~~claim to be acceptable~~ have participated, showing:

(a) sponsoring organization;:

- (b) location of program;₁
- (c) title of program or description of content;₁
- (d) dates attended;₁ and
- (e) credit hours claimed.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify how CPE must be reported. This amendment is attempting to clean up ambiguous wording and notify permit holders of their responsibility to accurately report CPE. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2148 VERIFICATION (1) The board will verify ~~on a test or complete basis,~~ continuing education information submitted by individuals by random audit.

(2) If an application for ~~permit to practice~~ is not approved, the applicant individual will be so notified in writing and may be granted a period of time by the board₁ in which to correct the deficiencies noted. The board will audit the CPE reporting form and supporting documentation to verify completion of the basic requirement.

(3) If specific CPE is recommended as a result of the profession monitoring program reviews, the board will audit the CPE supporting documentation to verify completion of the appropriate subject matter and number of credit hours.

(4) Out-of-state applicants licensed in another jurisdiction applying for a permit to practice in this state must submit a CPE reporting form documenting compliance with CPE requirements with their application. The board may verify or audit CPE submitted by out-of-state applicants on a case-by-case basis.

(5) Applicants seeking reactivation or reinstatement of a permit to practice must submit a CPE reporting form and supporting documentation to be verified by the board. The CPE requirements of ARM 24.201.2106, may be met in the three years immediately preceding the application for reactivation or reinstatement.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify CPE verification requirements and the random CPE audit provision of 37-1-131, MCA. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2154 EXTENSION OR HARDSHIP EXCEPTION (1) The board has authority to ~~make~~ grant an extension of time in order to complete the basic requirement or to grant a written hardship exception which must be reviewed and reapproved, if applicable, each year for a specific period of time, for reasons of individual hardship including health, military service, or inaccessibility to programs ~~or interference with an interstate practice.~~

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify how and for what reason an extension or hardship exception may be granted. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

The board determined it is reasonably necessary to amend this rule to eliminate language referring to interstate practice pursuant to legislation passed in the 2009 Legislature.

24.201.2161 REINSTATEMENT (1) An individual formerly the holder of a permit who wishes to apply for reinstatement of the permit must first satisfy the provisions of ARM 24.201.2106 in the three years immediately preceding application for permit reinstatement. Supporting documentation verifying the completion of CPE must be submitted to the board with the petition for reinstatement.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, 37-50-322, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that in order to reinstate a permit to practice, a practitioner must first meet the basic CPE requirement within the past three years and documentation of meeting that requirement must be submitted at the time of the petition for reinstatement. This is currently required of a practitioner filing a petition for reinstatement and this amendment would support the current practice. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2401 ANONYMOUS COMPLAINTS (1) The board shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter ~~may~~ must be dismissed for lack of sufficient information.

AUTH: 37-50-203, MCA
IMP: 37-1-307, 37-1-308, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that if a complaint lacks sufficient information the board is obligated to dismiss it and the action is not discretionary. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2410 ENFORCEMENT AGAINST LICENSEES AND PRACTICE PRIVILEGE HOLDERS (1) through (1)(b) remain the same.

- (c) performance of any fraudulent act while holding a certificate, license, or permit, or practice privilege issued or extended under Title 37, chapter 50, MCA;
- (d) failure to meet the continuing education requirements established by the board; or
- (e) failure to respond to correspondence from the board, or to comply with orders of the board; or
- (f) failure of any individual using the practice privilege in Montana to qualify for such practice privilege;
- (g) failure of any individual using the practice privilege in Montana to notify this board of any suspension, revocation, termination, or discipline of the license in any jurisdiction in which the individual practices; or
- (h) failure of a Montana licensee who is using the practice privilege in another jurisdiction to cooperate with another jurisdiction's board of accountancy's investigation into acts of the licensees in that other jurisdiction.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-50-203, MCA
IMP: 37-1-136, 37-1-316, 37-1-319, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holders when outlining who the board may impose disciplinary action against. The amendment further outlines failures for those practitioners practicing under the practice privilege that could result in imposition of disciplinary action. The new terminology is required to implement new legislation passed during the 2009 legislative session.

4. The proposed new rule provides as follows:

NEW RULE I EXERCISE OF PRACTICE PRIVILEGE IN OTHER JURISDICTIONS (1) Any licensee of this board offering or rendering services in or to another jurisdiction pursuant to practice privilege, based upon their license from this board, is deemed to have consented to the administrative jurisdiction of the other board of accountancy.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-1-307, 37-1-308, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to adopt this rule to put Montana licensees practicing public accounting in another jurisdiction under the practice privilege, on notice that they, by the action of practicing under the practice privilege, have agreed to recognize the jurisdiction of the other board of accountancy over their Montana license. This adoption is required to implement new legislation passed during the 2009 legislative session.

5. The rules proposed to be repealed are as follows:

24.201.1111 PROFESSION MONITORING OF HOLDERS OF A SPECIAL PRACTICE PERMIT found at ARM Page 24-22683.

AUTH: 37-50-203, 37-50-323, MCA
IMP: 37-1-306, 37-50-203, 37-50-323, 37-50-324, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the 2009 Legislature repealed special practice permits.

24.201.2112 COMPLIANCE WITH CONTINUING EDUCATION FOR NONRESIDENTS found at ARM page 24-22875.

AUTH: 37-50-203, 37-50-323, MCA
IMP: 37-1-306, 37-50-203, 37-50-317, 37-50-323, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the 2009 Legislature repealed special practice permits.

24.201.2122 STANDARDS FOR CPE PROGRAM PRESENTATION found at ARM page 24-22887.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the new standards for CPE that the board is adopting in amended rules 24.201.2120 and 2121 obviate this rule. This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2123 STANDARDS FOR CPE PROGRAM MEASUREMENT found at ARM page 24-22889.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board is repealing this rule because the new standards for CPE that the board is adopting in amended ARM 24.201.2120 and 2121 obviate this rule. This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2130 PROGRAMS WHICH QUALIFY found at ARM page 24-22895.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the substance of it is now contained in ARM 24.201.2120(2). This repeal is

being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2131 ACCEPTABLE SUBJECT MATTER FOR QUALIFYING PROGRAMS found at ARM page 24-22896.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the substance of it is now contained in ARM 24.201.2120(3). This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2132 ACCEPTABLE PROGRAMS found at ARM page 24-22897.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the substance of it is now contained in ARM 24.201.2120(4). This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2147 EVIDENCE OF COMPLETION - RETENTION found at ARM page 24-22908.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board is repealing this rule because the substance of it is now presented in ARM 24.201.2124. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2155 OTHER EXCEPTIONS found at ARM page 24-22915.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board is repealing this rule because a board's ability to discipline a license holder by requiring continuing education, in excess of the annual requirement, is already provided for in 37-1-312, MCA.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Public Accountants, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to dlibsdpac@mt.gov, and must be received no later than 5:00 p.m., September 27, 2010.

7. An electronic copy of this notice of public hearing is available through the department and board's site on the World Wide Web at www.publicaccountant.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.

8. 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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2323, e-mailed to dlibsdpac@mt.gov, or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on August 7, 2009, by electronic mail.

10. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS
MICHAEL JOHNS, CPA, CHAIRPERSON

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State August 16, 2010

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of establishing a negotiated) NOTICE OF NEGOTIATED
rulemaking committee relating to agency) RULEMAKING
liquor stores)

TO: All Concerned Persons

1. The Department of Revenue intends to establish a negotiated rulemaking committee to develop and amend department rules relating to agency liquor stores. This negotiated rulemaking process is required by 16-1-303(5), MCA for any rules relating to the operation of agency liquor stores.

2. The proposed rules must establish specific guidelines relative but not limited to: terminology as it applies to agency liquor stores, commission percentage reviews, using the estimated census count to determine agency store availability, and collaborating on retail distribution cost reductions to benefit the citizens of Montana.

3. Interests that are likely to be significantly affected by the proposed rules are agents in the agency liquor stores in Montana.

4. The individuals proposed to represent the department on the negotiated rulemaking committee are: Shauna Helfert, Administrator, Liquor Control Division; Mickey Carlson, Liquor Distribution Specialist; LaNora Steigen, Liquor Accountant; and Cleo Anderson, Rules Reviewer.

5. The department is seeking applications from interested parties to serve on the committee.

6. The proposed working schedule for the negotiated rulemaking committee is as follows:

(a) On August 26, 2010, this notice will be published in the Montana Administrative Register (MAR), and in the five major newspapers in Montana. Applications for membership on the negotiated rulemaking committee must be received no later than September 27, 2010. The notice will also be mailed to persons known to the department to have an interest in this matter.

(b) After receipt and consideration of the comments and applications, the department will establish a negotiated rulemaking committee no later than October 15, 2010. The members selected to serve on the committee must be able to adequately represent the interests of the persons that will be significantly affected by the proposed rules. The committee members will be notified in writing of their selection. Within five working days from the notification of selection, the committee members will be sent an information packet.

(c) The negotiated rulemaking committee will convene its first meeting on November 1, 2010, to negotiate and develop proposed rules. Teleconferencing and e-mail correspondence will be utilized as much as possible. At this time, it is not anticipated that additional meetings will be necessary. The initial meeting will convene at 9:00 a.m., in the Third Floor Reception Conference Room, Sam W. Mitchell Building, Helena, Montana. The committee will begin with an initial draft of amendments to current department rules at this meeting.

(d) If the negotiated rulemaking committee is successful in achieving a consensus on the proposed rules, the committee will transmit, to the department, a report specifying the areas in which the committee has reached a consensus and the issues that remain unresolved.

(e) Thereafter, and in accordance with Title 2, chapter 4, part 3, MCA (Adoption and Publication of Rules), the department will file the proposed rules for agency liquor stores with the Secretary of State for publication in the Montana Administrative Register.

(f) The department may seek the assistance and advice of the negotiated rulemaking committee with respect to comments received during the formal rulemaking process.

7. Any individual or entity interested in applying for or nominating another person for membership on the committee must submit the following information in writing to: Cleo Anderson, Department of Revenue, P. O. Box 7701, Helena, Montana 59604-7701, no later than September 27, 2010:

(a) The person's name or the nominee's name, address, and contact information including telephone or fax number or e-mail address.

(b) A description of the interests the person or nominee represents.

(c) Evidence that the person or nominee is authorized to represent parties related to the interests of the persons proposed to be represented.

(d) The name of the agency liquor store, and the relationship of the person or nominee to it.

(e) A commitment that the person or nominee will be able to participate in the negotiated rulemaking process as contemplated in paragraph 6 and will actively participate in good faith in the development of the rules under consideration.

(f) The ability of the person or nominee to cover committee participation costs (such as telephone calls, travel, and per diem expenses).

8. Interested parties may submit their views and comments concerning the proposed negotiated rulemaking process to Cleo Anderson, Department of Revenue, P.O. Box 7701, Helena, Montana 59604-7701, faxed to (406) 444-3696, or electronic mail to canderson@mt.gov no later than September 27, 2010.

9. Initially, the department proposes to limit the size of the negotiated rulemaking committee to no more than ten persons. However, after receipt of comments and applications, the department may determine that a smaller or larger number is necessary to adequately represent the interests of the persons significantly affected by the proposed rules. The selected committee members will represent all identified segments of agency liquor stores and state and local officials.

The selected committee members may represent other parties or agencies that have a significant relationship with agency liquor stores.

10. The department will make reasonable accommodations for persons with disabilities who wish to participate on the committee. If you require an accommodation, please advise the department of the nature of the accommodation you need when applying for membership on the committee.

11. Please note the following concerning the process of negotiated rulemaking:

(a) "Interest" for the purpose of this process means multiple parties that have similar points of view or that are likely to be affected in a similar manner in relationship to matters affected by the rule(s) (2-5-103(5), MCA).

(b) Negotiated rulemaking is not a substitute for the public notification and participation requirements of the Montana Administrative Procedure Act, and a consensus agreement by a negotiated rulemaking committee may be modified by an agency as a result of the subsequent rulemaking process (2-5-102, MCA).

(c) The negotiated rulemaking committee may not continue to function and must be disbanded after the adoption of the final rule(s) (2-5-106(4), MCA).

12. The specific grant of rulemaking authority authorizing the department to adopt the proposed rules is found in 16-1-303, MCA. The proposed rules will implement Title 16, chapter 2, parts 1, 2, and 3, MCA.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State August 16, 2010

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules I) NOTICE OF PUBLIC
through V and amendment of ARM) HEARING ON PROPOSED
42.25.1801 relating to oil and gas taxes) ADOPTION AND
) AMENDMENT

TO: All Concerned Persons

1. On September 20, 2010, at 1:00 p.m., a public hearing will be held in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the adoption and amendment of the above-stated rules.

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

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Revenue no later than 5:00 p.m., September 7, 2010, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-4375; or e-mail canderson@mt.gov.

The following rules are proposed to provide direction to the industry on the reportable taxable value of gas in instances where there is not an arm's-length wellhead price. The intent of the rules is to ensure an adequate and fair taxable value.

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

NEW RULE I GROSS VALUE OF NATURAL GAS (1) If natural gas is sold pursuant to an arm's-length contract at the wellhead, the contract price multiplied by the volume of natural gas will be accepted as the total gross value.

(2) If natural gas is sold in the absence of a contract the total gross value of the natural gas may be determined by reviewing comparable arm's-length contracts. The department will identify comparable arm's-length contracts utilizing factors including but not limited to; similar time, proximity to the location, similar duration, similar gas quality, and similar quantity of gas sold.

(3) If natural gas is sold through a non-arm's-length contract at the well or wells and sold with an arm's-length contract further downstream of the well or wells, the gross value of the natural gas may be determined at the delivery point with delivery price adjustments.

AUTH: 15-36-322, MCA

IMP: 15-36-305, MCA

REASONABLE NECESSITY The department is proposing to adopt New Rule I to provide clear guidance to taxpayers regarding the computation of the gross value of natural gas. Section (1) of the new rule clarifies that if natural gas is sold at the wellhead pursuant to an arm's-length contract, the value will be accepted as gross value for purposes of 15-36-305, MCA.

Sections (2) and (3) establish the means to determine the gross value of the natural gas if the gas is sold under a non-arm's-length contract, is not sold at the wellhead, or is sold in the absence of any contract.

NEW RULE II DELIVERY PRICE ADJUSTMENT (DPA) COSTS

(1) DPA costs are reasonable and necessary costs incurred by the operator to bring the gas to the point of delivery. DPA costs must be documented, itemized, and increase the value of the gas.

(2) Allowable delivery price adjustment costs include but are not limited to:

(a) Costs of direct labor associated with the central facilities. Direct labor is not meant to include personnel in corporate or headquarter offices who are not directly involved in the actual on-site central facility operations;

(b) Costs of materials, supplies, maintenance, repairs, and utilities directly associated with the central facility;

(c) Property taxes paid on the central facility;

(d) Liability and casualty insurance directly paid on the central facilities;

(e) Depreciation of the central facility is allowed as a reduction in gross value or a delivery price adjustment. The department will allow the depreciation of the initial capital investment of the central facilities, determined on a straight-line basis for a period of ten consecutive years beginning the year in which the facility first began to operate. The department will also allow additional capital investments made to the central facilities after the initial capital investment determined on a straight-line basis for a period of ten consecutive years beginning the year in which the facility first began to operate;

(f) A return on investment percentage will be allowed to the operator of the central facility provided a balance of the initial capital investment is available to be depreciated as calculated in accordance with (2)(e). The annual rate of return will consist of the undepreciated balance of the capital investment multiplied by Moody's Baa corporate bond rate. For example assume the following: both Company Y and Company X operate gas wells in Montana, both companies do not have arm's-length wellhead contracts, but rather delivered gas contracts well downstream of the wells, Company Y made an initial capital investment of a central facility asset (a gas processing plant) for \$1,000,000 and the initial investment has been fully depreciated (\$1,000,000), Company Y sold the asset to Company X for \$200,000 (Moody's Baa corporate rate is 3%), and Company X will be allowed a return on investment reduction of their gas value of 3% of the acquisition cost or 3% * \$200,000 or \$6,000.

(3) Unallowable delivery price adjustment costs include but not limited to:

(a) State and Federal income taxes, license taxes, sales taxes, fuel taxes, excise taxes, production taxes and other fees, including royalties are not allowable expenses.

(b) Acquisition costs cannot be deducted in the year incurred or capitalized, and amortized under this rule.

(c) Costs incurred in the normal lease separation of the natural gas are not allowed.

(d) No company overhead costs will be allowed.

(e) Indirect labor such as supervisory labor or office labor will not be allowed.

(f) No allocable costs that are not considered direct costs will be allowable.

AUTH: 15-36-322, MCA

IMP: 15-36-305, MCA

REASONABLE NECESSITY The department is proposing to adopt New Rule II to provide taxpayers with specific examples of allowable and unallowable reductions to the gross value of natural gas. Direct labor, supply costs, property tax, insurance, and depreciation of the original capital investment are all possible delivery price adjustments.

New Rule II also provides that a return on investment will be an allowable reduction to the gross value of natural gas. The rule states that the rate of return will only be allowed if there is an undepreciated balance of the capital asset. Since capital investments are only depreciated over ten years, the rate of return will only be allowed for the same ten years.

New Rule II also states that various taxes, acquisition costs, separation costs, overhead, or indirect labor are not allowable reductions in gross taxable value.

NEW RULE III POLICY ON DELIVERY PRICE ADJUSTMENTS

(1) Deductions are allowable only to the extent that they represent directly related costs of the operator's central facilities and were actually incurred and paid.

(2) The Montana Oil and Gas Production Tax is not an income tax.

Therefore, the delivery price adjustment rules do not allow the broad spectrum of deductions allowed under an income tax.

AUTH: 15-36-322, MCA

IMP: 15-36-305, MCA

REASONABLE NECESSITY The department is proposing to adopt New Rule III to provide taxpayers with guidance regarding delivery price adjustments. The policy is careful to state that if costs are not incurred and paid for, they are not delivery price adjustments.

New Rule III also informs taxpayers of the distinction between extraction taxes and income taxes. In the case of income taxes, if a cost is incurred generally it is deductible because the goal is to calculate the tax on net income.

The goal of extraction taxes is to tax the product at a market or taxable value. Some costs incurred, such as delivery price adjustment, increase the value of the gas.

New Rule III simply states that not all costs incurred are allowable as delivery price adjustments or reductions in gross value.

NEW RULE IV NECESSITY OF PROOF (1) Any delivery price adjustment or reduction in value will be disallowed if the operator does not keep adequate records or other proof to show the amount and purpose for the expense. To satisfy the adequate records requirement, there must be records maintained that were prepared at or near the time of use, and the records must be supported by receipts, vouchers, or other documentary evidence.

AUTH: 15-36-322, MCA
IMP: 15-36-305, MCA

REASONABLE NECESSITY The department is proposing to adopt New Rule IV to explain the source document requirements for delivery price adjustments. New Rule IV mirrors the record keeping requirements for all tax types when an entity or an individual is attempting to take a reduction in gross taxable value.

NEW RULE V DETERMINING QUALIFYING PRODUCTION

(1) Qualifying production time period begins immediately after the last day of the month preceding the month when production first started. The qualifying production time period continues for 12 or 18 contiguous months, 12 for vertical production or 18 for horizontally completed wells.

(a) Example – A vertical oil or natural gas well first produces May 2010. The well will have a reduced tax rate as illustrated in 15-36-304, MCA for the months May 2010 to April 2011.

(2) The tax incentive applies to the total gross value of all oil or natural gas sold in the 12- or 18-month period. If the sales occur after the 12- or 18-month period nonqualifying production tax rates as described in 15-36-304, MCA apply.

AUTH: 15-36-322, MCA
IMP: 15-36-304, MCA

REASONABLE NECESSITY The department is proposing to adopt New Rule V to explain the department's current and long standing practice for qualifying production. Specifically the rule states that in order to receive a lower rate and be classified as qualifying production, the production and sales of the gas must be done in the first 12 months for vertical wells and the first 18 months for horizontally completed wells.

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

42.25.1801 DEFINITIONS In addition to the definitions found in 15-36-303, MCA, the following definitions apply to terms used in this chapter:

(1) "Arm's-length contract" means a contract or an agreement to sell that has been arrived at between independent, nonaffiliated parties with adverse economic

interests. Contracts or agreements for the purposes of these rules will be defined to be non-arm's-length if the parties to the contract or agreements have business relationships other than the agreement between the buyer and seller which have influenced the sales price.

(2) "Central facilities" are installations which are used to cool, heat, separate, dehydrate, compress, sweeten, or gather natural gas at a point remote from the well or wells.

(3) "Delivery point" means a point away from the well or lease where the natural gas is sold.

(4) "Delivery price adjustments" includes all expenses directly incurred and paid for in the operation and maintenance of "central facilities". Delivery price adjustments are merely a reduction in price and are not meant to be a deductible expense beyond the well or wells. Delivery price adjustments only occur when the department deems it necessary to establish the correct natural gas gross value.

(5) "Lease" means that particularly described tract of land contained in a contract in writing whereby a person having a legal estate in the land so described conveys a portion of his interest to another, in consideration of a certain rental or other recompense or consideration. A lease may contain one or more wells. One operator shall be named as the lease operator and shall be responsible for filing the oil and natural gas production tax return.

(2) through (5)(c) remain the same but are renumbered (6) through (9)(c).

(10) "Qualifying production time period" is the first 12 months of production of a vertical well or the first 18 months of production of a horizontally completed well.

(6) through (8) remain the same but are renumbered (11) through (13).

AUTH: 15-36-322, MCA

IMP: 15-1-101, 15-36-301, 15-36-302, 15-36-303, 15-36-304, 15-36-305, 15-36-309, 15-36-310, 15-36-311, 15-36-312, 15-36-313, 15-36-314, 15-36-315, 15-36-319, 15-36-321, 15-36-326, 82-1-111, MCA

REASONABLE NECESSITY The department is proposing to amend ARM 42.25.1801 to address new definitions contained in the rules in this subchapter.

Arm's-length contracts are further clarified to alert the reader where the gross value of the natural gas will be determined.

Central facilities are specifically defined in the rule because costs incurred by central facilities may qualify to be delivery price adjustments.

Delivery point is defined to provide a distinction between the well and the delivery point. This is an important distinction as delivery price adjustments may be allowable reductions in natural gas gross value at the delivery point to ultimately arrive at the gross value of the natural gas.

Delivery price adjustments are defined as adjustments to a delivered price downstream of the well or wells. The definition states that reductions in gross value are not automatically awarded but rather reviewed and approved by the department.

Qualifying production time period is defined in the rule to establish that for vertical wells the first contiguous 12 months of production are eligible for the lower tax rate. The same holds true for horizontal production.

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: Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-4375; or e-mail canderson@mt.gov and must be received no later than September 24, 2010.

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

7. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its 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 Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. 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 person in 5 above or faxed to the office at (406) 444-4375, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of Senate Bill 430 (1999), Senator Glenn Roush, was contacted on July 29, 2010, by regular mail.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State August 16, 2010.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING ON
1.2.419 regarding the scheduled dates) PROPOSED AMENDMENT
for the 2011 Montana Administrative)
Register)

TO: All Concerned Persons

1. On September 15, 2010, a public hearing will be held at 9:00 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 rule.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on September 8, 2010 to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 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 rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

1.2.419 FILING AND PUBLICATION SCHEDULE FOR THE MONTANA ADMINISTRATIVE REGISTER (1) The scheduled filing dates, time deadline, and publication dates for material to be published in the Montana Administrative Register are listed below:

	2010 Schedule	
Filing		Publication
January 4		January 14
January 19		January 28
February 1		February 11
February 16		February 25
March 1		March 11
March 15		March 25
April 5		April 15
April 19		April 29
May 3		May 13
May 17		May 27
June 1		June 10
June 14		June 24
July 6		July 15

July 19	July 29
August 2	August 12
August 16	August 26
August 30	September 9
September 13	September 23
October 4	October 14
October 18	October 28
November 1	November 12
November 15	November 26
November 29	December 9
December 13	December 23

2011 Schedule

<u>Filing</u>	<u>Publication</u>
<u>January 3</u>	<u>January 13</u>
<u>January 18</u>	<u>January 27</u>
<u>January 31</u>	<u>February 10</u>
<u>February 14</u>	<u>February 24</u>
<u>February 28</u>	<u>March 10</u>
<u>March 14</u>	<u>March 24</u>
<u>April 4</u>	<u>April 14</u>
<u>April 18</u>	<u>April 28</u>
<u>May 2</u>	<u>May 12</u>
<u>May 16</u>	<u>May 26</u>
<u>May 31</u>	<u>June 9</u>
<u>June 13</u>	<u>June 23</u>
<u>July 5</u>	<u>July 14</u>
<u>July 18</u>	<u>July 28</u>
<u>August 1</u>	<u>August 11</u>
<u>August 15</u>	<u>August 25</u>
<u>August 29</u>	<u>September 8</u>
<u>September 12</u>	<u>September 22</u>
<u>October 3</u>	<u>October 13</u>
<u>October 17</u>	<u>October 27</u>
<u>October 31</u>	<u>November 10</u>
<u>November 14</u>	<u>November 25</u>
<u>November 28</u>	<u>December 8</u>
<u>December 12</u>	<u>December 22</u>

(2) remains the same.

AUTH: 2-4-312, MCA
IMP: 2-4-312, MCA

4. ARM 1.2.419 is proposed to be amended to set dates pertinent to the publication of the Montana Administrative Register during 2011. The schedule is

proposed during the month of September in order that it may be adopted during October to allow state agencies the opportunity to plan their rulemaking schedule to meet program needs for the upcoming year.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jquintana@mt.gov, and must be received no later than 5:00 p.m., September 23, 2010.

6. Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

7. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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

/s/ Jorge Quintana
JORGE QUINTANA
Rule Reviewer

/s/ Harper Lawson for
LINDA MCCULLOCH
Secretary of State

Dated this 16th day of August, 2010.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.1306 pertaining to actuarial)
rates and assumptions)

TO: All Concerned Persons

1. On June 24, 2010, the Montana Public Employees' Retirement Board (PER Board) published MAR Notice No. 2-43-439 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1433 of the 2010 Montana Administrative Register, Issue Number 12.

2. The PER Board has amended the above-stated rule as proposed.

3. The PER Board has thoroughly considered the comments received. A public hearing was held on July 15, 2010 at 9:00 a.m. No testimony was provided. A summary of the comments received and the board's responses are as follows:

COMMENT #1: The Montana Public Employee Retirement Administration (MPERA) received telephone calls from certain payroll clerks asking how the new actuarial rates and assumptions impact their employees and why they are receiving these notices of proposed amendment.

RESPONSE #1: The changes to actuarial rates and assumptions referenced in this notice impact the cost of service purchases available to retirement system members. They also impact the calculation of the benefit payment options available upon retirement to the members and their survivors. The PER Board believes that members of the retirement systems it administers should be kept advised of changes to the PER Board's rules that directly impact those members. The PER Board has consistently relied on its employers' payroll clerks and other human resource contacts to provide notice of administrative rule changes to their employees.

Approximately every five years, the PER Board's actuary conducts an "experience study" to determine whether the assumptions and earnings rates relied on by the actuary remain accurate. If the study indicates significant differences in the assumptions versus actual experience, the assumptions and rates must be changed to reflect reality. The PER Board's actuary, Cheiron, conducted an experience study in June 2010 which resulted in several changes to the assumptions and rates contained in BOARD Admin 09, Actuarial Valuation Assumptions and Methods. Those changes are:

A decrease in the net investment earnings assumption from 8% to 7.75%;

A decrease in the general wage increase assumption from 4.25% to 4.00%;

Male spouses in all systems other than the Judges' Retirement System (JRS) are assumed to be three years older than their female spouses, a decrease from the four years previously assumed;

Male spouses in JRS are assumed to be four years older than their female spouses, an increase from the three years previously assumed;

A decrease in the assumed interest rate on member contributions in all retirement systems from 5.0% to 3.5%;

A change in the relied upon mortality tables from various 1994 mortality tables to various 2000 mortality tables and 2000 tables projected to 2015.

These changes, when considered as a whole, resulted in changes to BOARD Admin 10, Actuarial Equivalence Option Factor Determination. The option factors in BOARD Admin 10 are used to calculate the joint and survivor annuity retirement options available in the Public Employees' Retirement System (PERS), JRS, the Sheriffs' Retirement System (SRS) and the Game Wardens' and Peace Officers' Retirement System (GWPORS). According to draft calculations performed by the PER Board's benefit analysts, the changes in option factors result in an increase in the amount of the joint and survivor annuity retirement options for nearly all retirement system members wishing to retire in July 2010. The PER Board assumes, but cannot guarantee, that future retirees will be similarly impacted.

The changes to BOARD Admin 09 will also impact the calculation of the cost of service purchases in all systems. The PER Board has not conducted an analysis of the impact of these new factors on the cost of those optional service purchases.

A final change to BOARD Admin 09 updates the assumptions related to participation in the Municipal Police Officers' Retirement System's (MPORS) Deferred Retirement Option Plan (DROP), including the earned rate of return and the percentage of MPORS members participating in the DROP. The earned rate of return was amended during the 2007 legislative session to provide the actuarial assumed rate of return, now 7.75%, rather than the actual rate of return. Additionally, the experience study reflects that MPORS members do not participate in the DROP at the rate initially assumed, or for the initially assumed period of time. These participation assumptions will impact the actuarial valuation of the DROP and MPORS, but will have no bearing on any MPORS member's DROP account.

Interested persons may request a copy of the June 2010 experience study from Roxanne M. Minnehan, Executive Director, Montana Public Employee Retirement Administration (MPERA), 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, Montana 59620-0131; telephone (406) 444-5459; fax (406) 444-5428; or e-mail rminnehan@mt.gov.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ John Nielsen
John Nielsen
President
Public Employees' Retirement Board

/s/ Michael P. Manion
Michael P. Manion, Chief Legal Counsel
and Rule Reviewer
Department of Administration

Certified to the Secretary of State August 16, 2010.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to examination)
procedures)

TO: All Concerned Persons

1. On July 15, 2010, the Department of Administration, Division of Banking and Financial Institutions, published MAR Notice No. 2-59-441 regarding the proposed adoption of the above-stated rule at page 1585 of the 2010 Montana Administrative Register, issue number 13.

2. No comments were received.

3. The department has adopted New Rule I (ARM 2.59.115) exactly as proposed.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State August 16, 2010.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.99.301, 8.99.302, 8.99.303,)
and 8.99.305 pertaining to the)
Certified Regional Development)
Corporations Program)

TO: All Concerned Persons

1. On May 27, 2010, the Department of Commerce published MAR Notice No. 8-99-83 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1231 of the 2010 Montana Administrative Register, Issue Number 10.

2. A public hearing was held on June 21, 2010. No written testimony was received; however, several oral (conference call) comments were received.

3. 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: Six comments were received regarding the department's ability to veto locally-made hiring decisions for professional economic development staff.

RESPONSE #1: The department amended ARM 8.99.302 to remove language allowing the department to veto locally-made hiring decisions for professional economic development staff.

COMMENT #2: Six comments were received regarding the change from annual reporting to quarterly reporting.

RESPONSE #2: Quarterly reporting will be tied directly to strategic work plans and core CRDC activities. Progress will be evaluated based upon annual work plan objective achievements. Quarterly updates will not be overly burdensome. No changes to these proposed amendments will be made.

4. The department has amended the following rules as proposed: ARM 8.99.301, 8.99.303, and 8.99.305.

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

8.99.302 CERTIFICATION OF REGIONAL DEVELOPMENT
CORPORATIONS (1) through (1)(b) remain as proposed.

(c) a staffing plan that includes current job titles, job descriptions, and qualifications of primary personnel. At a minimum, the applicant is required to provide 4,160 hours of staff time annually to economic development activities, which must include at least 2,080 hours of professional economic development staff time. The applicant shall include a hiring plan or a contracting plan in meeting this requirement.

(i) For the purpose of this rule, economic development activities means work in the development and management of revolving loan funds, business technical assistance, state and federal grants and programs, local and regional planning, business retention and expansion programs, and business recruitment programs all directly related to regional strategic plans;

~~(ii) the department may review, approve, and/or veto hiring decisions for professional economic development staff;~~

(d) through (2) remain as proposed.

AUTH: 90-1-116, MCA

IMP: 90-1-116, MCA

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

/s/ DORE SCHWINDEN
DORE SCHWINDEN
Director
Department of Commerce

Certified to the Secretary of State August 16, 2010.

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

In the matter of the adoption of a)	
temporary emergency rule closing the)	NOTICE OF REPEAL OF A
Belt Creek within Sluice Boxes State)	TEMPORARY EMERGENCY RULE
Park from Logging Creek Bridge to)	
Riceville Bridge Parking Area in)	
Cascade County)	

TO: All Concerned Persons

1. On May 27, 2010 the Department of Fish, Wildlife and Parks (department) adopted a temporary emergency rule closing Belt Creek within Sluice Boxes State Park from Logging Creek Bridge to Riceville Bridge Parking Area in Cascade County, published at page 1290 of the 2010 Montana Administrative Register, Issue No. 10. Belt Creek was closed due to a log jam that created an obstruction in a narrow, steep-walled section of a canyon that caused the creek to be impassable by recreationists. This situation constituted an imminent peril to the public health, safety, and welfare of anyone recreating on the creek.

2. As conditions have substantially changed and public safety is no longer an issue, the temporary emergency rule closing Belt Creek within Sluice Boxes State Park from Logging Creek Bridge to Riceville Bridge Parking Area in Cascade County, MAR Notice No. 12-363, is no longer necessary. As this situation no longer constitutes an imminent peril to public health, safety, and welfare, the department is repealing the rule. The repeal of the rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be removed at access points. The repeal notice will be sent to interested parties, and published in Issue No. 16 of the 2010 Montana Administrative Register.

3. The repeal of the temporary emergency rule is effective August 6, 2010.

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

/s/ Robert N. Lane
Robert N. Lane
Fish, Wildlife and Parks

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

Certified to the Secretary of State August 6, 2010.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF AMENDMENT
17.56.101, 17.56.102, 17.56.105,)	
17.56.201, 17.56.202, 17.56.302 through)	(UNDERGROUND STORAGE
17.56.305, 17.56.309, 17.56.310,)	TANKS)
17.56.401 through 17.56.403, 17.56.408,)	
17.56.409, 17.56.701 through 17.56.705,)	
17.56.901, and 17.56.902 pertaining to)	
underground storage tanks)	

TO: All Concerned Persons

1. On June 24, 2010, the Department of Environmental Quality published MAR Notice No. 17-306 regarding a notice of proposed amendment (no public hearing contemplated) of the above-stated rules at page 1450, 2010 Montana Administrative Register, issue number 12.

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

3. No public comments or testimony were received.

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 16, 2010.

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.171.401 fees, 24.171.412) ADOPTION, AND REPEAL
safety provisions, 24.171.2301)
unprofessional conduct and)
misconduct, the adoption of NEW)
RULE I provisional guide license, and)
the repeal of 24.171.604 emergency)
guide license)

TO: All Concerned Persons

1. On June 24, 2010, the Board of Outfitters (board) published MAR notice no. 24-171-29 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1472 of the 2010 Montana Administrative Register, issue no. 12.

2. On July 15, 2010, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the July 23, 2010, deadline.

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

COMMENT 1: One commenter noted that ARM 24.171.2301 is incorrectly numbered in the heading of the notice as 23.171.2301.

RESPONSE 1: The board acknowledges the error and has corrected the rule number in the header of this final notice.

COMMENT 2: One commenter questioned whether the board intends to create a new type of guide license through the proposed rule changes. The commenter suggested that the board amend the rules further to clarify the board's intent to create a separate method for obtaining an inactive guide license similar to that available for outfitters.

RESPONSE 2: The board confirms that the intent of the rule changes is to provide a process for obtaining an inactive guide license and that the board never intended to create a new licensure type. Consistent with the comments and the board's intent, the board is amending ARM 24.171.401, 24.171.2301, and New Rule I (24.171.605) accordingly.

4. The board has amended ARM 24.171.412 exactly as proposed.

5. The board has amended ARM 24.171.401 and 24.171.2301 with the following changes, stricken matter interlined, new matter underlined:

- 24.171.401 FEES (1) through (1)(i)(i) remain as proposed.
- (ii) initial processing of ~~provisional~~ inactive guide license 50
 - (iii) activation of ~~provisional~~ inactive guide license 100
 - (iv) renewal of ~~provisional~~ inactive guide license 50
- (j) through (2) remain as proposed.

AUTH: 37-1-131, 37-1-134, 37-1-319, 37-47-201, 37-47-306, MCA

IMP: 37-1-134, 37-1-141, 37-1-319, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, 37-47-316, 37-47-317, 37-47-318, MCA

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT (1) through (1)(o) remain as proposed.

(p) not use a ~~provisional~~ guide prior to ensuring that the ~~form evidencing initial licensure~~ guide license is fully signed and dated;

(q) not use a ~~provisional~~ guide with an inactive license, unless the proper fee is mailed within the time provided by rule; or

(r) not fail to return any ~~provisional~~ inactive guide license that is not activated during the license year.

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

(e) not act as a guide under a ~~provisional~~ guide license, unless and until the guide and the outfitter have first signed and dated the ~~sworn statement~~ guide license evidencing that the license is active; and

(f) not act as a guide under a ~~provisional~~ guide license, unless the proper fee is mailed within the time provided by rule.

(3) remains as proposed.

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA

IMP: 37-1-312, 37-1-316, 37-1-319, 37-47-201, 37-47-341, MCA

6. The board has adopted NEW RULE I (24.171.605), with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.171.605) PROVISIONAL GUIDE LICENSE (1) An outfitter may endorse up to three additional guides each license year who are designated by the outfitter on the application form as "~~provisional~~ inactive guides" under this rule.

(2) A An inactive guide license must be issued to the outfitter on behalf of a ~~provisional~~ guide if the application is complete, routine, and accompanied by all supporting documentation required by the application, ~~and~~ along with the initial processing or renewal fee for a ~~provisional~~ an inactive guide license. A ~~provisional~~ An inactive guide license will not be issued if the application is incomplete, nonroutine, or not accompanied by all supporting documentation required by the application, ~~and~~ along with the initial processing or renewal fee.

(3) ~~The provisional guide license is not active when issued. A provisional~~ An inactive guide license is active only after the guide and the outfitter sign and date the guide license. The fee for activation of ~~the provisional~~ an inactive guide license must be sent to the board office within ten days of activation.

(4) ~~A provisional~~ An inactive license may be renewed under this process.

(5) Each ~~provisional~~ inactive guide license issued by the board to an outfitter shall be either activated or returned to the board office on or before December 31 of the license year.

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA

IMP: 37-1-131, 37-1-319, 37-47-201, 37-47-301, 37-47-303, 37-47-307,
MCA

7. The board has repealed ARM 24.171.604 exactly as proposed.

BOARD OF OUTFITTERS
LEE KINSEY, 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 16, 2010

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 March 31, 2010. This table includes those rules adopted during the period April 1, 2010, through June 30, 2010, 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 March 31, 2010, 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 2010 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.

ADMINISTRATION, Department of, Title 2

I	Examination Procedures, p. 1585
2.21.215	and other rules - Annual Leave Policy, p. 804, 1356, 1603
2.21.305	and other rules - Disaster and Emergency Leave Policy, p. 808, 1358, 1605
2.21.501	and other rules - Jury Duty - Witness Leave Policy, p. 1362, 1792
2.21.617	and other rules - Holidays - Holiday Pay, p. 1, 646
2.21.1701	and other rules - Overtime - Nonexempt Compensatory Time, p. 1365, 1793
2.21.1801	and other rules - Exempt Compensatory Time Policy, p. 811, 1360, 1606
2.21.3702	and other rules - Recruitment - Selection, p. 1368, 1633
2.21.3801	and other rules - Probation, p. 1382, 1794
2.21.5005	and other rules - Reduction in Work Force, p. 253, 908
2.21.6606	and other rules - Employee Records Management, p. 256, 1070
2.21.6702	and other rules - Incentive Award Program, p. 590, 1072
2.59.1701	and other rules - Licensing and Regulation of Mortgage Brokers - Mortgage Lenders - Mortgage Loan Originators - License Renewals for Mortgage Lenders as of July 1, 2009 - New Applicants for a Mortgage Loan Originator License – Temporary Licenses - New Applicants for a Mortgage Broker or Mortgage Lender License – Temporary Licenses - Net Worth Requirement for Mortgage Brokers - Unacceptable Assets - Proof of Net Worth - Records to be Maintained by Mortgage Lenders - Financial Responsibility, p. 1292, 307

2.59.1701 and other rules - Definitions - Mortgage Loan Originator Licensing - Continuing Education Provider Requirements, p. 945, 1480

(Public Employees' Retirement Board)

2.43.1306 Actuarial Rates - Assumptions, p. 1433

2.43.3501 and other rule - Adoption by Reference of the State of Montana Public Employees Pooled Trust - Adoption by Reference of the State of Montana Public Employee Defined Contribution Plan Document - State of Montana Public Employee Deferred Compensation (457) Plan Document, p. 941, 1229, 1725

2.43.3502 and other rule - Investment Policy Statement for the Defined Contribution Retirement Plan - Investment Policy Statement for the 457 Deferred Compensation Plan, p. 937, 1227, 1724

(Teachers' Retirement System)

2.44.304 and other rule - Qualifications of the Actuary Engaged by the Teachers' Retirement System - Annual Report of Employment Earnings by Disabled Retirees of the Teachers' Retirement System, p. 1763

(State Compensation Insurance Fund)

2.55.320 and other rule - Classifications of Employments - Retrospective Rating Plans, p. 2179, 306

AGRICULTURE, Department of, Title 4

I Eurasian Watermilfoil Management Area, p. 1129, 1493

4.5.210 Priority 3 Regulated Plants, p. 1588

4.10.201 and other rules - Pesticide Administration, p. 457, 909

4.12.601 and other rules - Fertilizer Regulations, p. 1436, 1795

STATE AUDITOR, Title 6

6.6.1906 and other rules - Administration of a New Risk Pool by Comprehensive Health Care Association and Plan, p. 1132, 1494

6.6.3501 and other rules - Annual Audited Reports - Establishing Accounting Practices and Procedures to Be Used in Annual Statements, p. 2394, 315

COMMERCE, Department of, Title 8

I Submission and Review of Applications for Funding Under the Treasure State Endowment Program, p. 4, 1073

I Administration of the 2010-2011 Federal Community Development Block Grant (CDBG) Program, p. 2416, 1285

8.99.301 and other rules - Certified Regional Development Corporations Program, p. 1231

8.99.901 and other rules - Award of Grants - Loans Under the Big Sky Economic Development Program, p. 192, 738

(Board of Housing)

8.111.602 Low Income Housing Tax Credit Program, p. 814, 1499

EDUCATION, Department of, Title 10

10.7.106A and other rules, School Finance, p. 1635

10.16.3022 and other rules - Special Education, p. 473, 1076

(Montana State Library)

10.102.1150A and other rules - Library Standards, p. 958, 1500

10.102.4001 and other rules - Resource Sharing - Allocation of Federation Funding, p. 6, 1074

FISH, WILDLIFE AND PARKS, Department of, Title 12

(Fish, Wildlife and Parks Commission)

12.6.2201 and other rules, Exotic Species, p. 1643

12.6.2205 Noncontrolled Species, p. 2419, 741

12.11.115 and other rules - Recreational Water Use on Lake Five, p. 671, 1287

12.11.202 and other rules - Recreational Water Use of the Beaverhead and Big Hole Rivers, p. 968, 1726

12.11.501 and other rules - No Wake Zones on Echo Lake and Swan Lake, p. 197, 744

12.11.3215 Recreational Water Use on Holter Lake, p. 2240, 739

ENVIRONMENTAL QUALITY, Department of, Title 17

17.40.206 Examinations, p. 266, 745

17.50.403 and other rules - Solid Waste - Licensing and Operation of Solid Waste Landfill Facilities, p. 164, 1326, 317, 647

17.55.102 and other rules - Definitions - Facility Listing - Facility Ranking - Delisting a Facility on the CECRA Priority List - Incorporation by Reference - Proper and Expedious Notice - Third-Party Remedial Actions at Order Sites - Additional Remedial Actions Not Precluded - Orphan Share Reimbursement - Purpose, p. 1730, 2077, 816

17.56.101 and other rules - Underground Storage Tanks, p. 1450

17.56.506 and other rules - Reporting of Confirmed Releases - Adoption by Reference - Release Categorization, p. 12, 1502

(Board of Environmental Review)

17.8.745 Montana Air Quality Permits-Exclusion for De Minimis Changes, p. 268, 1292

17.24.1109 Bonding Letters of Credit, p. 2426, 911

17.30.502 and other rules - Department Circular DEQ-7, p. 818, 1385, 1796

- 17.30.617 and other rule - Water Quality - Outstanding Resource Water Designation for the Gallatin River, p. 2294, 328, 1398, 438, 1953, 162, 1324, 264, 1648
- 17.38.106 Fees, p. 2421, 910
- 17.38.201A and other rules - Incorporation by Reference - Maximum Inorganic Chemical Contaminant Levels - Maximum Radiological Contaminant - Chemical and Radiological Quality Samples - Testing - Sampling Records - Reporting Requirements - Public Notification for Community and Noncommunity Supplies, p. 828
- 17.50.403 and other rule - Definitions - Annual Operating License Requirements, p. 833, 1799

TRANSPORTATION, Department of, Title 18

- I-V Administration of an Emergency Medical Service Grant, p. 18, 649
- 18.2.101 and other rules - Incorporation of Model Rules - Contested Case Procedures, p. 1387, 1731
- 18.8.202 and other rules - Transportation of Hazardous Materials - Definitions - Motor Carriers Operating Interstate - Maximum Allowable Weights - Maximum Allowable Weights on the Noninterstate - Federal Motor Carrier Safety Rules - Safety Inspection Program, p. 674, 1179
- 18.9.103 Distributor's Statements, p. 22, 650
- 18.12.401 and other rules, Aeronautics Division, p. 1650

JUSTICE, Department of, Title 23

- 23.3.148 Release of Driving Records, p. 1237
- 23.12.204 Juvenile Records, p. 972, 1401
- 23.12.602 and other rules - Uniform Fire Code - Fire Safety - Fireworks, p. 1535, 1608, 395

(Gambling Control Division)

- 23.16.116 and other rule - Transfer of Interest Among Licensees - Loan Evaluation, p. 1393, 1732

LABOR AND INDUSTRY, Department of, Title 24

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

- I Carbon Monoxide Detector Standard, p. 978
- I-VI Incumbent Worker Training Grants Program, p. 479, 913
- I-XIII Approved Construction Techniques for Fire Mitigation, p. 980
- 24.11.203 and other rules - Independent Contractor Exemption Certificates - Employment Status Determinations by the Department, p. 1139, 1608
- 24.16.201 and other rules - Employment of Persons in an Executive, Administrative, or Professional Capacity, p. 594, 1180

- 24.16.7506 and other rules - Collective Bargaining Proceedings Heard by the Board of Labor Appeals, p. 1652
- 24.17.127 Prevailing Wage Rates for Public Works Projects - Building Construction Services - Heavy Construction Services - Highway Construction Services - Nonconstruction Services, p. 1840, 399, 912
- 24.301.131 and other rules - Incorporation by Reference of International Building Code - Building Code Modifications - Incorporation by Reference of International Existing Building Code - Incorporation by Reference of International Mechanical Code - Incorporation by Reference of International Fuel Gas Code - Plumbing Requirements - Electrical Requirements - Inspection Fees - Refunds - Credits - Definitions, p. 1244, 1733
- 24.301.161 Model Energy Code, p. 1844, 750

(Board of Architects and Landscape Architects)

- 24.101.413 and other rule - Renewal Dates - Requirements - Fee Schedule, p. 200, 1078
- 24.114.403 and other rule - Business Entity Practice - Branch Offices, p. 600, 1080

(Board of Barbers and Cosmetologists)

- 24.121.301 and other rules - Definitions - Out-of-State Applicants - Inspections - School Requirements - School Standards - Curricula - Implements and Equipment - Sanitizing Equipment - Salon Preparation - Unprofessional Conduct, p. 271, 1402
- 24.121.301 and other rules - Definitions - Implements - Equipment - Continuing Education - Unprofessional Conduct, p. 837
- 24.121.401 Fees, p. 2337, 915

(Board of Dentistry)

- 24.138.402 and other rules - Fee Schedule - Dental Auxiliaries - Requirements and Restrictions - Continuing Education - Restricted Volunteer Licensure, p. 1743, 411
- 24.138.508 and other rules - Dental Anesthetic Certification - Dental Permits - Exemptions - Continuing Education, p. 1068, 2091, 406

(State Electrical Board)

- 24.141.301 and other rules - Definitions - Fee Schedule - Continuing Education, p. 203, 1081

(Board of Hearing Aid Dispensers)

- 24.150.301 and other rules - Definitions - Fees - Record Retention - Licensure - Renewals - Continuing Education - Unprofessional Conduct - Minimum Testing - Transactional Document Requirements - Notification - Licensees From Other States - Exceptions, p. 284, 1085

(Board of Massage Therapy)

- I & II Definitions - Licensure Requirements, p. 602, 1185
- 24.101.413 and other rules - Renewal Dates - Massage Therapy, p. 207, 746
- 24.155.301 and other rules - Definitions - Continuing Education - Unprofessional Conduct, p. 1239

(Board of Medical Examiners)

- I Qualification Criteria for Evaluation and Treatment Providers, p. 1467
- 24.101.413 and other rules - Renewal Dates - Medical Examiners-Licensure - Telemedicine - Podiatry - Nutrition Practice - Acupuncture - Physician Assistant-Scope of Practice - Reciprocity - Board Report Obligations, p. 2340, 1187
- 24.156.616 and other rules - Registry - Licenses - Testing Requirements - Registration, p. 1610, 73, 1506

(Board of Optometry)

- 24.168.401 and other rules - Fee Schedule - Licensure Requirements - Continuing Education - Licensure By Endorsement, p. 298, 1405

(Board of Outfitters)

- 24.101.403 and other rules - Renewal Dates and Requirements - Fees, p. 1590
- 24.171.401 and other rules - Safety Provisions -Unprofessional Conduct - Misconduct - Provisional Guide License - Emergency Guide License, p. 1472
- 24.171.602 and other rules - Guide or Professional Guide License - Emergency Guide License - Unprofessional Conduct - Guide to Hunter Ratio, p. 1616, 651

(Board of Plumbers)

- 24.180.401 and other rule - Fee Schedule - Continuing Education Provider Qualifications, p. 974, 1609

(Board of Private Security)

- 24.182.301 and other rules - Definitions - Fee Schedule - Firearms - Requalification - Application - Experience Requirements - Written Examination - Temporary Permit - Trainee - Firearms Licensure - Unprofessional Conduct, p. 606, 1194

(Board of Professional Engineers and Professional Land Surveyors)

- 24.183.408 and other rules - Authorization - Applications - Examination Procedures - Continuing Education - Screening Panel, p. 1554, 530

(Board of Psychologists)

- 24.189.301 and other rules - Definitions - Supervisory Experience - Continuing Education, p. 302, 1508

(Board of Realty Regulation)

24.101.413 and other rules - Renewal Dates - Brokers and Salespersons - Property Management - Timeshare Licensure and Registration, p. 1748, 532

24.210.301 and other rules - Definitions - Licensing - Renewals - Unprofessional Conduct - Continuing Education, p. 928, 2373, 749

LIVESTOCK, Department of, Title 32

32.3.104 and other rules - Trichomoniasis - Deputy State Veterinarians, p. 1852, 2092, 2356, 413

32.8.101 and other rule - Grade A Pasteurized Milk - Time From Processing That Fluid Milk May Be Sold for Public Consumption, p. 2095, 986

32.23.102 and other rule - Transactions Involving the Purchase and Resale of Milk Within the State - Quota Transfers, p. 1477, 1800

(Board of Horse Racing)

32.28.801 and other rule - Eligibility for Maidens Over Seven Years Old - Conditions Accompanying a Claim, p. 1594

MILITARY AFFAIRS, Department of, Title 34

34.6.101 and other rules - Education Benefit Program, p. 2357, 423

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36.11.111 and other rule - Export of Timber Harvested in the State - Maximum Size of Nonadvertised Timber Permits, p. 988, 1269, 1735

(Board of Water Well Contractors)

36.21.410 and other rules - Board of Water Well Contractors, p. 843, 1614

(Board of Land Commissioners)

36.25.137 and other rules - Surface Leasing - Cabinsite Leasing Rules, p. 25, 1293

36.25.205 Procedures for the Issuance of State Oil and Gas Leases, p. 858, 1617

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

I-VI Medicaid for Workers with Disabilities, p. 1271

I-VI State Matching Fund Grants to Counties for Crisis Intervention - Jail Diversion - Involuntary Precommitment - Short-Term Inpatient Treatment Costs - Contracts for Crisis Beds - Emergency and Court-Ordered Detention Beds for Persons With Mental Illness, p. 1871, 2360, 1306

I-X Permissive Licensing of Drop-in Child Care Facilities, p. 1165

- 37.5.117 and other rules - Swimming Pools, Spas, and Other Water Features, p. 604, 1104, 80, 1197
- 37.5.117 and other rules - Healthy Montana Kids Plan, p. 1768
- 37.5.118 and other rules - Administrative Review of Fair Hearing Decisions, p. 50, 539
- 37.12.401 Laboratory Testing Fees, p. 488, 1207
- 37.30.1001 and other rules - Standards for Providers of Services Funded Through Certain Disability Transitions Programs, p. 684, 1318
- 37.40.307 and other rule - Medicaid Nursing Facility Reimbursement, p. 991, 1520
- 37.57.1001 Title V Maternal and Child Health Block Grant, p. 692
- 37.78.102 Temporary Assistance for Needy Families (TANF), p. 1597
- 37.79.135 and other rules - Healthy Montana Kids Plan, p. 1024, 1539
- 37.80.101 Child Care Assistance, p. 1600
- 37.85.212 Resource Based Relative Value Scale (RBRVS), p. 1030, 1540
- 37.86.105 and other rules - Medicaid Physician Administered Drug Reimbursement - Pharmacy Outpatient Drug Reimbursement, p. 2120, 433
- 37.86.805 and other rules - Medicaid Reimbursement for Hearing Aid Services - Outpatient Drugs - Home Infusion Therapy Services - Eyeglasses - Early and Periodic Screening - Diagnostic and Treatment Services - Comprehensive School and Community Treatment - Transportation - Per Diem - Specialized Nonemergency Medical Transportation - Ambulance Services, p. 996, 1533
- 37.86.2207 and other rules - Medicaid Reimbursement of Children's Mental Health Services, p. 866, 1512
- 37.86.2801 and other rules - Medicaid Inpatient and Outpatient Hospital Services, p. 1002, 1534
- 37.86.3501 and other rules - Case Management Services for Adults with Severe Disabling Mental Illness, p. 1378, 424
- 37.86.5201 and other rules - Medicaid Health Improvement Program, p. 1037, 1544
- 37.87.1202 and other rule - Medicaid Reimbursement for Psychiatric Residential Treatment Facility (PRTF) Services, p. 862, 1511
- 37.90.401 and other rule - Home and Community-Based Services for Adults With Severe Disabling Mental Illness, p. 1020, 1538
- 37.104.101 and other rules - Emergency Medical Services (EMS), p. 2446, 535
- 37.108.507 Components of Quality Assessment Activities, p. 2455, 437

PUBLIC SERVICE REGULATION, Department of, Title 38

- I Nonproprietary Nature of Utility Executive Compensation, p. 875
- I Minimum Filing Requirements for Utility Applications for Approval of Natural Gas Production or Gathering Resources, p. 2362, 653
- I-XIII Interconnection Standard Established by the Federal Energy Policy Act of 2005, p. 491, 1801
- 38.5.1411 Medical Emergencies, p. 1647, 2242, 754

REVENUE, Department of, Title 42

- I Value Before Reappraisal for 2009 Agricultural Land, p. 903, 1408
- I Tax Assessment Reviews, p. 731, 1212
- I-III Insure Montana Tax Credit, p. 1779
- I-V Montana School Districts' Election to Waive Protested Taxes, p. 1708
- 42.2.325 Confidentiality of Tax Records, p. 1398
- 42.4.104 and other rules - Individual Energy Tax Credits, p. 887, 1407
- 42.4.201 and other rules - Energy Conservation Credit, p. 878, 1406
- 42.4.301 and other rules - Individual Taxpayer's Tax Credits, p. 714, 1211
- 42.4.1604 Tax Credits for Corporations, p. 694, 1208
- 42.4.1702 and other rules - Tax Credits for Corporations and Individual Taxpayers, p. 697, 1209
- 42.5.201 and other rules - Electronic Funds Filing and Remittance, p. 1717
- 42.12.101 and other rules - Liquor License Applications, p. 1044, 1414
- 42.12.312 and other rules - Special Licenses and Permits, p. 1059, 1415
- 42.12.312 and other rules - Special Licenses and Permits, p. 1712
- 42.12.401 and other rules - Restaurant Beer and Wine Licenses - Lottery Process, p. 1063, 1416
- 42.12.401 and other rules - Restaurant Beer and Wine Licenses - Lottery Process, p. 1701
- 42.13.101 and other rules - Regulations for Liquor Licensees, p. 1896, 757
- 42.13.101 Sale of Alcohol to a Minor - Sale to Intoxicated Persons, p. 734
- 42.15.107 and other rules - Individual Income Taxes, p. 614, 1088
- 42.17.101 and other rule - Withholding Taxes, p. 1776
- 42.17.203 and other rules - Withholding Taxes, p. 54, 654
- 42.18.121 and other rule - Montana Appraisal Manual for Residential, Commercial, and Industrial Property, p. 1720
- 42.18.205 and other rules - Appraiser Certification, p. 1685
- 42.19.401 Property Tax Assistance Program, p. 60, 655
- 42.20.307 and other rules - Agricultural Land Valuation, p. 1971, 549
- 42.20.701 and other rules - Forest Land Property, p. 1961, 540
- 42.22.101 and other rule - Centrally Assessed Appraiser Certification Requirements, p. 1695
- 42.25.1801 and other rules - Oil and Gas Taxes, p. 1783
- 42.31.401 and other rules - Telecommunications 9-1-1, p. 1999, 759

SECRETARY OF STATE, Office of, Title 44

- I-III Post Election Audits, p. 516, 918, 1548
- 44.3.104 and other rules - Elections, p. 520, 906, 1319, 1417
- 44.3.105 and other rules - Elections, p. 2126, 1174, 1545
- 44.3.2203 Elections, p. 513, 917
- 44.3.2403 and other rule - Elections, p. 510, 916

- 44.6.104 and other rule - Filing Fees Charged by the Business Services Division for Federal Tax Liens - Uniform Commercial Code Documents, p. 1789
- 44.6.111 Fees Charged by the Business Services Division for the Farm Bill Master List, p. 644, 921

(Commissioner of Political Practices)

- 44.10.331 Limitations on Receipts from Political Committees to Legislative Candidates, p. 1654, 561
- 44.10.338 Limitations on Individual and Political Party Contributions, p. 1651, 560

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 2010 appear. Vacancies scheduled to appear from September 1, 2010, through November 30, 2010, 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, 2010.

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 2010

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Agriculture Development Council (Agriculture)			
Mr. Verges Ageson Gilford	Governor	reappointed	7/16/2010 7/1/2013
Qualifications (if required): agriculture producer			
Mr. Ervin Schlemmer Joliet	Governor	reappointed	7/16/2010 7/1/2013
Qualifications (if required): agriculture producer			
Board of Funeral Service (Governor)			
Mr. Thomas Meeks Great Falls	Governor	reappointed	7/1/2010 7/1/2015
Qualifications (if required): licensed crematory operator			
Board of Hearing Aid Dispensers (Governor)			
Mr. Gene W. Bukowski Billings	Governor	reappointed	7/1/2010 7/1/2013
Qualifications (if required): hearing aid dispenser with a master's degree and national certification			
Board of Pharmacy (Labor and Industry)			
Ms. Lee Ann Bradley Missoula	Governor	reappointed	7/1/2010 7/1/2015
Qualifications (if required): licensed pharmacist			
Board of Physical Therapy Examiners (Labor and Industry)			
Ms. Robin Peterson Smith Billings	Governor	reappointed	7/1/2010 7/1/2013
Qualifications (if required): physical therapist			

BOARD AND COUNCIL APPOINTEES FROM JULY 2010

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Professional Engineers and Land Surveyors (Labor and Industry)			
Mr. Ronald Drake Helena	Governor	Wright	7/16/2010 7/1/2014
Qualifications (if required): licensed chemical engineer			
Mr. David Elias Anaconda	Governor	reappointed	7/16/2010 7/1/2014
Qualifications (if required): licensed land surveyor			
Rep. Hal Jacobson Helena	Governor	reappointed	7/16/2010 7/1/2014
Qualifications (if required): public representative			
Ms. Ingrid Clare Lovitt-Abramson Missoula	Governor	Tanner	7/16/2010 7/1/2011
Qualifications (if required): public representative			
Board of Radiologic Technologists (Labor and Industry)			
Mr. Mike Nielsen Billings	Governor	reappointed	7/1/2010 7/1/2013
Qualifications (if required): radiologic technician/radiology practitioner assistant			
Board of Realty Regulation (Labor and Industry)			
Mr. Stephen Hess Butte	Governor	Peasley	7/1/2010 5/9/2014
Qualifications (if required): public representative and identifies himself as a Democrat			

BOARD AND COUNCIL APPOINTEES FROM JULY 2010

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Regents (Governor)			
Ms. Teresa Snyder Bozeman	Governor	Barnosky	7/1/2010 6/30/2011
Qualifications (if required): university student			
Board of Veterinary Medicine (Governor)			
Ms. Kim Baker Hot Springs	Governor	reappointed	7/31/2010 7/31/2015
Qualifications (if required): consumer			
Ms. Joan Carey Marshall Ekalaka	Governor	reappointed	7/31/2010 7/31/2015
Qualifications (if required): veterinarian			
Board of Water Well Contractors (Governor)			
Mr. Pat Byrne Great Falls	Governor	reappointed	7/27/2010 7/1/2013
Qualifications (if required): water well contractor			
Department of Commerce Director (Commerce)			
Director Dore Schwinden Helena	Governor	not listed	7/26/2010 8/1/2010
Qualifications (if required): none specified			
District Court Council (District Court)			
Judge Robert L. Dusty Deschamps III Missoula	District Court	Salvagni	7/1/2010 7/1/2013
Qualifications (if required): nominated			

BOARD AND COUNCIL APPOINTEES FROM JULY 2010

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
District Court Council (District Court) cont.			
Mr. Glen Welch No city listed Qualifications (if required): nominated	District Court	reappointed	7/1/2010 6/30/2010
Electrical Board (Labor and Industry)			
Mr. Mel Medhus III Kalispell Qualifications (if required): master electrician	Governor	Talarico	7/1/2010 7/1/2015
Historical Society Board of Trustees (Governor)			
Ms. Shirley Groff Butte Qualifications (if required): public member	Governor	reappointed	7/1/2010 7/1/2015
Mr. John G. Lepley Fort Benton Qualifications (if required): public member	Governor	reappointed	7/1/2010 7/1/2015
Mr. James W. Murry Clancy Qualifications (if required): public member	Governor	reappointed	7/1/2010 7/1/2015
Mental Disabilities Board of Visitors (Governor)			
Ms. Joan Nell Macfadden Great Falls Qualifications (if required): having experience with emotionally disturbed children	Governor	reappointed	7/1/2010 7/1/2012

BOARD AND COUNCIL APPOINTEES FROM JULY 2010

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Mental Disabilities Board of Visitors (Governor) cont.			
Ms. Sandra Mihelish Helena	Governor	reappointed	7/1/2010 7/1/2012
Qualifications (if required): experience with welfare of mentally ill individuals			
Mr. Graydon Davies Moll Ronan	Governor	reappointed	7/1/2010 7/1/2012
Qualifications (if required): having experience with developmentally disabled adults			
Montana Noxious Weed Management Advisory Council (Agriculture)			
Ms. Jennifer Anderson Livingston	Director	Bushnell	7/27/2010 6/30/2012
Qualifications (if required): representative of the Sportsman/Wildlife Group			
Mr. Cantalupo Nico Baker	Director	Cole	7/27/2010 6/30/2012
Qualifications (if required): At-Large representative			
State-Tribal Economic Development Commission (Commerce)			
Mr. Evan Barrett Helena	Governor	Evers	7/26/2010 0/0/0
Qualifications (if required): representative of the Governor's Office of Economic Development			
Statewide Interoperability Executive Advisory Council (Administration)			
Commissioner Ed Tinsley Fort Harrison	Governor	Mesch	7/26/2010 11/13/2010
Qualifications (if required): Administrator Disaster and Emergency Services Division			

BOARD AND COUNCIL APPOINTEES FROM JULY 2010

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Teachers' Retirement Board (Administration) Mr. James Turcotte Helena Qualifications (if required): public representative	Governor	reappointed	7/1/2010 7/1/2015

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
9-1-1 Advisory Council (Administration) Mr. Leo C. Dutton, Helena Qualifications (if required): Montana Sheriff's and Peace Officers Association's representative	Director	10/6/2010
Alternative Health Care Board (Labor and Industry) Ms. Mary Anne Brown, Great Falls Qualifications (if required): midwife	Governor	9/1/2010
Mr. Tom Mensing, Red Lodge Qualifications (if required): public representative	Governor	9/1/2010
Board of Barbers and Cosmetologists (Labor and Industry) Ms. Delores Lund, Plentywood Qualifications (if required): public representative	Governor	10/1/2010
Ms. Maxine Collins, Helena Qualifications (if required): manicurist	Governor	10/1/2010
Board of Medical Examiners (Labor and Industry) Dr. Michael LaPan, Sidney Qualifications (if required): podiatrist	Governor	9/1/2010
Dr. Arthur K. Fink, Glendive Qualifications (if required): osteopath	Governor	9/1/2010
Dr. Anna Earl, Chester Qualifications (if required): doctor of medicine	Governor	9/1/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Outfitters (Labor and Industry) Mr. John Wilkinson, Miles City Qualifications (if required): fishing and hunting outfitter</p>	Governor	10/1/2010
<p>Board of Psychologists (Labor and Industry) Ms. Bonnie Hyatt Murphy, Livingston Qualifications (if required): public representative</p>	Governor	9/1/2010
<p>Historical Preservation Review Board (Historical Society) Ms. Rebecca Hanna, Choteau Qualifications (if required): paleontologist</p>	Governor	10/1/2010
<p>Ms. Rosalyn LaPier, Missoula Qualifications (if required): historical researcher</p>	Governor	10/1/2010
<p>Kindergarten to College Work Group (Governor) Director Keith Kelly, Helena Qualifications (if required): ex-officio member</p>	Governor	9/11/2010
<p>Rep. David Ewer, Helena Qualifications (if required): ex-officio member</p>	Governor	9/11/2010
<p>Rep. Jonathan Windy Boy, Box Elder Qualifications (if required): representative of the Governor</p>	Governor	9/11/2010
<p>Mr. Evan Barrett, Butte Qualifications (if required): ex-officio member</p>	Governor	9/11/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Kindergarten to College Work Group (Governor) cont.		
Ms. Sheila Stearns, Helena Qualifications (if required): Commissioner of Higher Education	Governor	9/11/2010
Mr. Dick Clark, Helena Qualifications (if required): ex-officio member	Governor	9/11/2010
Ms. Jan Lombardi, Helena Qualifications (if required): representative of the Governor	Governor	9/11/2010
Director Anthony Preite, Helena Qualifications (if required): ex-officio member	Governor	9/11/2010
Ms. Janine Pease, Billings Qualifications (if required): Board of Regents representative	Governor	9/11/2010
Ms. Erin Williams, Missoula Qualifications (if required): parent representative	Governor	9/11/2010
Mr. Steve Meloy, Helena Qualifications (if required): Board of Public Education executive secretary	Governor	9/11/2010
Mr. Steve Gettel, Great Falls Qualifications (if required): School for the Deaf and Blind representative	Governor	9/11/2010
Director Anna Whiting-Sorrell, Helena Qualifications (if required): ex-officio member	Governor	9/11/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Kindergarten to College Work Group (Governor) cont. Superintendent Denise Juneau, Helena Qualifications (if required): Superintendent of Public Instruction</p>	Governor	9/11/2010
<p>Mr. Bernard Olsen, Lakeside Qualifications (if required): Board of Public Education representative</p>	Governor	9/11/2010
<p>Ms. Kelly Chapman, Helena Qualifications (if required): Student Assistance Foundation representative</p>	Governor	9/11/2010
<p>Ms. Mara Menehan, Helena Qualifications (if required): student representative</p>	Governor	9/11/2010
<p>Montana Noxious Weed Seed Free Forage Advisory Council (Agriculture)</p>		
<p>Mr. Dennis Cash, Bozeman Qualifications (if required): ex-officio non-voting member representing Montana State University Extension</p>	Director	9/17/2010
<p>Mr. Charles Miller, Hamilton Qualifications (if required): forage producer</p>	Director	9/17/2010
<p>Mr. Keith Brophy, Valier Qualifications (if required): pellets cubes or related products processor</p>	Director	9/17/2010
<p>Mr. Richard Maki, Belt Qualifications (if required): forage producer</p>	Director	9/17/2010
<p>Mr. Miles Hutton, Turner Qualifications (if required): outfitter or guide</p>	Director	9/17/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont.		
Mr. David Wichman, Moccasin Qualifications (if required): ex-officio non-voting member representing Montana State University Agriculture	Director	9/17/2010
Ms. Stacey Barta, Big Timber Qualifications (if required): from an Eastern weed district	Director	9/17/2010
Statewide Interoperability Executive Advisory Council (Administration)		
Director Mike Ferriter, Helena Qualifications (if required): Director of the Department of Corrections	Governor	11/13/2010
Director Janet Kelly, Helena Qualifications (if required): Director of the Department of Administration	Governor	11/13/2010
Director Mary Sexton, Helena Qualifications (if required): Director of the Department of Natural Resources and Conservation	Governor	11/13/2010
Mr. Chuck Winn, Bozeman Qualifications (if required): municipal government representative	Governor	11/13/2010
Mr. Leo C. Dutton, Helena Qualifications (if required): county law enforcement representative	Governor	11/13/2010
Director Jim Lynch, Helena Qualifications (if required): Director of the Department of Transportation	Governor	11/13/2010
Ms. Sheena Wilson, Helena Qualifications (if required): Governor's office representative	Governor	11/13/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Interoperability Executive Advisory Council (Administration) cont.		
Commissioner Kathy Bessette, Havre Qualifications (if required): county government representative	Governor	11/13/2010
Director Anna Whiting-Sorrell, Helena Qualifications (if required): Director of the Department of Public Health and Human Services	Governor	11/13/2010
Mr. Christian Mackay, Helena Qualifications (if required): Executive officer of the Board of Livestock	Governor	11/13/2010
Director Joe Maurier, Helena Qualifications (if required): Director of the Department of Fish, Wildlife and Parks	Governor	11/13/2010
Atty. General Steve Bullock, Helena Qualifications (if required): attorney general	Governor	11/13/2010
Chief Alan Michaels, Glendive Qualifications (if required): municipal law enforcement representative	Governor	11/13/2010
Mr. Jeff Logan, Missoula Qualifications (if required): paid fire department representative	Governor	11/13/2010
Mr. Rick Poss, Lewistown Qualifications (if required): emergency medical community representative	Governor	11/13/2010
Ms. Heather Roos, Miles City Qualifications (if required): 9-1-1 community representative	Governor	11/13/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Interoperability Executive Advisory Council (Administration) cont.		
Mr. Ed Joiner, Lame Deer Qualifications (if required): tribal government representative	Governor	11/13/2010
Ms. Brenna Neinast, Havre Qualifications (if required): federal representative	Governor	11/13/2010
Ms. Jodi Camrud, Billings Qualifications (if required): federal representative	Governor	11/13/2010
Commissioner Ed Tinsley, Fort Harrison Qualifications (if required): Administrator Disaster and Emergency Services Division	Governor	11/13/2010
Vocational Rehabilitation Council (Public Health and Human Services)		
Mr. Lynn Winslow, Helena Qualifications (if required): advocacy program representative	Governor	10/1/2010
Representative Carol Lambert, Broadus Qualifications (if required): statewide independent living council representative	Governor	10/1/2010
Ms. Claudette Vance, Kalispell Qualifications (if required): community rehabilitation program representative	Governor	10/1/2010
Ms. Nina Cramer, Missoula Qualifications (if required): representative of organized labor	Governor	10/1/2010
Mr. Dick Trerice, Helena Qualifications (if required): state education agency representative	Governor	10/1/2010

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 2010 THROUGH NOVEMBER 30, 2010

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Vocational Rehabilitation Council (Public Health and Human Services) cont. Ms. Mary Hall, Missoula Qualifications (if required): parent organization representative	Governor	10/1/2010
Ms. Chanda Hermanson, Helena Qualifications (if required): advocacy program representative	Governor	10/1/2010