

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 18

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through VI pertaining to the) PROPOSED ADOPTION
medical marijuana program)

TO: All Concerned Persons

1. On October 17, 2008, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room of the Colonial Building, at 2401 Colonial Drive, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on October 6, 2008, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 202951, Helena, Montana, 59620-2951; telephone (406)444-9503; fax (406)444-6744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I DEFINITIONS In addition to the terms defined in 50-46-102, MCA, the following definitions apply to this chapter:

(1) "Adult applicant" means a qualifying patient of 18 years of age or older.

(2) "Applicant" means an individual applying for registration in the Montana Medical Marijuana Program.

(3) "Approved patient" means a qualified patient who is on the program registry and has been issued a registry identification card.

(4) "Attending physician" means a Doctor of Osteopathy or medical doctor who has established a bona fide physician/patient relationship with the applicant, is licensed under Title 37, chapter 3, MCA, and who, with respect to an applicant diagnosed with a debilitating medical condition:

(a) is primarily responsible for the medical care and treatment of the applicant;

(b) has reviewed the applicant's medical records at the request of the applicant;

(c) has conducted a thorough physical examination of the applicant;

(d) has provided or planned follow-up care; and

(e) has documented these activities in the applicant's medical record.

(5) "Bona fide physician/patient relationship" means a physician/patient relationship made in good faith without fraud or deceit and is sincere with earnest and wholehearted intent.

(6) "Minor applicant" means a qualifying patient less than 18 years of age.

(7) "Registry" means the department's Medical Marijuana Program confidential listing of approved patients and approved caregivers.

AUTH: 50-46-210, MCA

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

NEW RULE II REGISTRATION AND APPLICATION PROCESS (1) An adult applicant, or a parent or guardian of a minor applicant, must have a Montana mailing address and submit an application form provided by the department for consideration to be placed in the state's confidential medical marijuana registry. An application form is available by contacting the Department of Public Health and Human Services, Licensure Bureau, 2401 Colonial Drive, Helena, MT 59620-2925. Application forms are also available on the department's web site at www.dphhs.mt.gov.

(2) Application materials that must be provided include:

(a) application fee;

(b) the applicant's name, address, date of birth, social security number, or state of Montana identification (ID) number;

(c) the name, address, date of birth, and social security number or state of Montana ID number of the applicant's designated caregiver, if any;

(d) the attending physician's signed and dated statement which includes their name, address, telephone number, Montana medical license number, and written certification attesting to the attending physician's diagnosis that the applicant has a debilitating medical condition as defined in 50-46-102, MCA.

(3) A copy of the relevant portions of an applicant's medical record may serve as the attending physician's written certification as long as it clearly states:

(a) the patient has been diagnosed by the attending physician with a qualifying debilitating medical condition;

(b) the medical use of marijuana may mitigate the symptoms or effects of the debilitating medical condition; and

(c) the date the medical record was made and the attending physician's signature.

(4) The signed and dated attending physician's statement or copies of chart notes or medical records must be current within three months of the date of an applicant's new or renewal application.

(5) The department will verify with the Montana Board of Medical Examiners that the attending physician is licensed to practice in the state of Montana, is currently on active status, and the license is in good standing.

(6) If the applicant wants to use a caregiver, a caregiver must be designated on the application. The caregiver must sign a statement agreeing to provide medical marijuana only to those qualifying patients who have designated on their application that individual as their caregiver.

(7) The department will conduct a name-based criminal background check using the Montana Criminal Justice Information Network to verify that a person designated to be a caregiver has not been convicted of a felony drug offense in accordance with 50-46-103, MCA.

(8) The department will issue a registry identification card to an approved caregiver for each approved applicant who lists them as their caregiver.

(9) The department will either approve or deny an application within 15 working days of receipt of the application. If approved, the department shall issue a registry identification card to the applicant within five working days of approving the application.

(10) The registry identification card expires one year from the date of issuance and may be renewed.

(11) If the application is denied, the department will send the applicant notice of this denial and inform the applicant the reasons for denial.

AUTH: 50-46-210, MCA

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

NEW RULE III INVALIDATION OR REVOCATION OF REGISTRY

IDENTIFICATION CARD (1) An approved patient who no longer has a debilitating medical condition and their approved caregiver, if any, shall return all registry identification cards to the department within ten days of the patient receiving written diagnosis by the approved patient's attending physician. It is the responsibility of the cardholder to return the registry identification card.

(2) A registration card is not valid if the card has been altered or mutilated in a way that impairs legibility. A photocopy of a registry identification card is not valid.

(3) The department may revoke an approved caregiver's registry identification card if the department determines that an approved caregiver has violated the provisions of this chapter or the Montana Medical Marijuana Act.

AUTH: 50-46-210, MCA

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

NEW RULE IV FEES (1) The application fee is \$50.

(2) The annual renewal fee is \$50.

(3) All fees:

(a) must be submitted with the application;

(b) must be paid by check or money order made payable to the Department of Public Health and Human Services; and

(c) are nonrefundable unless the applicant is denied.

AUTH: 50-46-210, MCA

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

NEW RULE V CHANGE OF CAREGIVER (1) Caregiver changes may be initiated no more than two times in a 12-month period unless extenuating

circumstances exist. Such circumstances may include, but are not limited to, the following:

- (a) death of an approved caregiver;
 - (b) documented family discord, if the approved caregiver is considered a family member; or
 - (c) approved caregiver relocation to another area and can no longer serve the approved patient.
- (2) When changes are requested, the department must be notified in writing of the changes, including:
- (a) new caregiver, if designated;
 - (b) adding a caregiver if no caregiver previously designated; or
 - (c) removing current caregiver with no replacement assigned.
- (3) The department shall process any change of caregiver requests within ten working days of receipt of a written request.
- (4) Upon receipt of a change of caregiver request, the department will notify the cardholders in writing regarding the termination date of their registry identification cards. When a change in approved caregiver occurs, both the approved patient and previously approved caregiver must destroy their registry identification card.
- (5) Upon approval of the written change request, the approved patient and new approved caregiver, if designated, must be sent a new registry identification card and correspondence listing the effective date of the approved caregiver change.

AUTH: 50-46-210, MCA

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

NEW RULE VI REPLACING LOST OR STOLEN REGISTRY

IDENTIFICATION CARDS (1) If a program registry identification card has been lost or stolen, the department must receive written notification from the approved patient or the approved caregiver prior to replacing the registry identification card.

(2) If the registry identification card has been lost or stolen, the department will advise the approved patient or approved caregiver to notify local law enforcement.

(3) Upon receipt of notification by the cardholder, the department will reissue as duplicate the registry identification card and send it to the approved patient or approved caregiver.

(4) The approved patient's file will include the notification regarding the lost or stolen card and duplicate registry identification card reissue information.

AUTH: 50-46-210, MCA

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

4. On November 2, 2004, Initiative I-148 (otherwise known as the Montana Medical Marijuana Act) was approved by 62 percent of Montana voters. The Department of Public Health and Human Services was the designated agency to develop and implement a program in which qualified patients and identified caregivers were confidentially "registered" under the Montana Medical Marijuana

Act. In early 2005, the department issued the first Medical Marijuana Program registry identification cards.

The Legislative Audit Division performed an audit of the Montana Medical Marijuana Program during the summer of 2007. The Legislative Audit Division recommended that the department develop rules to establish fees as required under 50-46-210, MCA.

As a result, the department has prepared a proposed rule package based on existing policy pertaining to the Medical Marijuana Program. The rules contained in this package address the statutory mandate to develop an administrative process for the initial application and subsequent renewal of registry identification cards for qualifying patients and caregivers. Further, the rules establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering the requirements under the Act.

There is no other option for meeting the mandate of 50-46-210, MCA, therefore the department is proposing New Rules I through VI to address the manner in which the department will consider applications for and renewals of registry identification cards for qualifying applicants and caregivers.

The department is proposing New Rule I to define terms used in conjunction with the program not defined in 50-46-102, MCA. Defining the terms provides clarification to applicants, caregivers, physicians, the general public, and department staff.

New Rule II is proposed to place in administrative rule the process which the department has been using to implement the Montana Medical Marijuana Act. Through the provisions of the Act, the department has developed policies and procedures to implement and administer the Act. Due to the specificity of the Act and until the previously mentioned legislative audit, the department felt it was unnecessary to promulgate rules. The department concurred with the Legislative Audit Division's recommendation to promulgate rules, and therefore proposes this rule to address the registration and application process. The application form must contain enough unique identifying information to adequately identify applicants and caregivers.

The department is proposing New Rule III to clarify the impact of a written diagnosis that an approved patient no longer has a debilitating illness, as well as to clarify when the department may revoke a caregiver registry identification card. In the event an approved patient's diagnosis changes, this rule reinforces that the patient no longer meets the conditions necessary for possession of a registry identification card or placement on the registry.

New Rule IV is proposed in response to the recommendation of the Legislative Audit Division. When the department implemented the program, the initial fee charged was \$200. The department reduced the fee to \$100 six months after implementation and the fee was reduced to \$50 on July 1, 2006. It is anticipated that an average of

300 qualifying patients per year will be approved for the program generating \$15,000 in revenue and \$39,050 will be generated from 781 approved patient renewals.

New Rule V is proposed to identify the process for changes in caregiver. Either the approved patient or approved caregiver can terminate the patient/caregiver relationship. This rule is necessary to minimize the number of times this relationship may be changed. When an approved patient designates a caregiver on an application, when approved, that caregiver can then grow up to six marijuana plants for each approved patient that has designated that individual as caregiver. If this relationship terminates, the caregiver could have six marijuana plants for an approved patient where a patient/caregiver relationship no longer exists. Minimizing the number of times the approved patient/caregiver relationship can be terminated during a 12-month period prevents unnecessary changes in caregivers, protects the caregiver from having to destroy plants too often thereby creating a financial burden, minimizes the time caregivers have plants with no approved patients, yet allows the approved patient the flexibility to maintain a satisfactory patient/caregiver relationship.

The rule is also necessary to remove from the registry those caregivers who are no longer approved caregivers. These provisions help ensure than an approved patient has only one caregiver as authorized by 50-46-102, MCA.

The department is proposing New Rule VI to identify the process for replacing registry identification cards because the registry identification card protects the approved patient and approved caregiver for the medical use of marijuana. It is in the best interests of both the patient and caregiver to notify the department as soon as possible regarding the loss or theft of a registry identification card.

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: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 202951, Helena, Montana, 59620-2951; telephone (406) 444-9503; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., October 23, 2008.

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

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list 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 department.

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 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.

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

/s/ Lisa Swanson
Rule Reviewer

/s/ Russell E. Cater for
Joan Miles, Director
Public Health and Human Services

Certified to the Secretary of State September 15, 2008.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF AMENDMENT
2.59.1701 through 2.59.1705 and)	AND ADOPTION
2.59.1710 pertaining to the licensing and)	
regulation of mortgage brokers and loan)	
originators and the adoption of NEW)	
RULES I through VIII regarding)	
continuing education, prelicensing)	
examination, designated managers,)	
examinations, failure to correct)	
deficiencies, grounds for the denial of an)	
application, costs in bringing the)	
administrative action, and scheme to)	
defraud or mislead)	

TO: All Concerned Persons

1. On April 24, 2008, the Department of Administration published MAR Notice No. 2-59-396 regarding the proposed amendment and adoption of the above-stated rules at page 666 of the 2008 Montana Administrative Register, Issue No. 8.

2. On May 21, 2008, a public hearing was held in Helena concerning the proposed amendment and adoption. Four people testified. Five people submitted written comments. One person who commented at the hearing also submitted additional written comments.

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

Comment #1: Cyndy Rigler, president of Western Home Mortgage Corporation and of the Montana Association of Mortgage Brokers (MAMB), opposed the fee increase in ARM 2.59.1704. She submitted an additional comment comparing licensing fees that other professions in Montana pay to the licensing fees that mortgage brokers pay. Brian Gorman of Alpha Mortgage Investments, Inc. also commented that the fee increase is a substantial increase with no justification as to why, but it appears to be an attempt to grow the revenues of the department so as to justify its growth and existence. Charles Bott, secretary of the Montana Association of Mortgage Brokers and president of CrossBow Mortgage, Inc., submitted comments identical to those of Cyndy Rigler. Steve Stiles, Big Sky Mortgage Services, commented that the licensing fees are unnecessary and put an undue burden on brokers. He stated that the cost will ultimately be passed on to consumers. He commented that the state should go to a two-year license instead of a one-year license.

Response #1: The department proposed the fee increase because the cost of regulating mortgage brokers and loan originators exceeds the revenue from this licensing program. Section 32-9-117, MCA, states, "The fees set by the department must be commensurate with the costs of the program." In order to cover the costs of the program administration, the department must raise the renewal licensing fees. In fiscal year 2008, the department operated this licensing program at a loss of \$180,218. The department has not increased renewal fees since the inception of the program in 2004. By virtue of this new fee increase for license renewals, the department estimates that it would gain an additional \$76,250 in revenue. This estimate is based upon the current number of licensees. Even with the fee increase, the department may have to absorb an additional revenue loss in FY 2009. However, the department is taking a reasonable action to raise the renewal fees to match the fees that are paid for the initial licenses. The department is not aware of the operational costs to administer other licensing professions in Montana. The department is bound by statute to set fees to be commensurate with the cost of this program. Therefore, the department cannot draw a comparison to fees charged for other licensing professions in Montana. The one-year license format is set by statute and cannot be changed by administrative rule.

Comment #2: Cyndy Rigler commented that the fee increase rule was not provided to MAMB in the proposed notice of amendment and adoption issued in September 2007 or in the draft of the rules provided to MAMB in January. MAMB would like the opportunity to review this matter with the department prior to the fee increase being adopted.

Response #2: The department provided a representative of the MAMB Board with an e-mail notifying him of the department's intent to raise fees on March 11, 2008. In addition, the department provided MAMB with a notice of the proposed rulemaking and opportunity to comment on the proposed rules at the hearing as well as by written comment. The MAMB has taken advantage of both those opportunities to comment on the proposed amendments to the rules. The proposed rulemaking notice, which was published on September 20, 2007, was separate from the proposed rulemaking notice published on April 24, 2008. The department did not propose a fee increase in the notice that was published on September 20, 2007. In fiscal year 2008, the division operated the mortgage broker and loan originator program at a loss of \$180,218. This revenue loss for this program loss was not yet apparent to the department in September of 2007 or at the time when the department provided MAMB with another rule draft in January of 2008.

Comment #3: Dave Christensen, Mountain Lake Mortgage Corporation, commented that the timing and amount of the proposed license renewal fee increases will put considerable burden on small mortgage brokers who are already struggling to survive in the current environment. He states that the increase in the entity fee from \$50 to \$500, unless you are the sole owner of a corporation, means that a small, family-owned or closely held corporation is charged the full fee. He encourages the department to allow small, family-owned or closely held corporations to be treated the same as solely owned entities.

Response #3: Section 32-9-117(1)(b), MCA, requires that an individual seeking licensure as a mortgage broker and who is the sole owner of an entity seeking licensure as a mortgage broker be charged a single application fee. From the regulatory perspective, an entity that is licensed separately from an individual is a separate applicant and must be investigated and licensed separately. When an entity applies for licensure, it must provide the documentation showing its separate existence as an entity as well as the names and addresses of the owners or managers of the entity. There is as much or more regulatory review and investigation that goes into the licensure of an entity as goes into licensure of an individual. Therefore, the entity should pay the same amount as the individual being licensed. However, in the case of a solely owned entity, the individual and the sole owner of the entity are one and the same, resulting in one investigation and requiring less regulatory time than an entity that is made of other individuals.

Comment #4: Cyndy Rigler, Charles Bott, and Kristi Blazer, lobbyist for the MAMB, opposed the testing at the end of continuing education courses, which must be passed with a 75% score as proposed in the amendments to ARM 2.59.1705. Ms. Blazer commented that other professions in Montana are not required to pass a test after continuing education courses; however, other states are adopting testing requirements for the mortgage broker industry.

Response #4: The department agrees and will remove the testing requirement after continuing education courses.

Comment #5: Cyndy Rigler and Charles Bott commented that New Rule VIII(1)(c) appears to prohibit the acceptance of any fees to be remitted to a third party.

Response #5: The subsection will be redrafted to read, "charging or accepting any fees in excess of fees that have been or will be remitted to third parties."

Comment #6: Brian Gorman commented that he found the language "sole owner of an entity" within ARM 2.59.1704 confusing and unfair to closely held, family corporations.

Response #6: The language "sole owner of an entity" comes from 32-9-117(1)(b), MCA. That section states: "An individual who is seeking licensure as a mortgage broker and who is the sole owner of an entity that is seeking licensure as a mortgage broker shall pay a single initial nonrefundable license application fee of \$500." The department, in proposing the rules, has complied with 32-9-117(2), MCA. The statute requires the department to charge a single fee to an individual who is seeking to renew an individual license and who is also sole owner of an entity that is seeking to renew its entity license. The department drafted the proposed rule to be consistent with the statutes. In the case of a closely held corporation, if the corporation is not solely owned by the individual seeking licensure or renewing its license as a mortgage broker, the entity is subject to a separate licensing or relicensing fee. This is because the entity must apply separately and the entity

application or renewal must be reviewed and investigated separately from the individual application or renewal.

Comment #7: Brian Gorman commented on ARM 2.59.1705(16) that, while it is of marginal concern to him personally, if he were an education provider, he would skip over Montana if the department was going to charge fees for both reviewing the class and for each hour and not refund any of the above fees if approval is denied.

Response #7: The department charges education providers the application fee of \$100 that is required every two years. If a licensed education provider wants to offer a class, it must submit the class materials for review and approval by the department. There is a \$50 fee per credit hour requested. The department does not refund the fees if approval is denied for a particular class because the department staff must commit their time to reviewing the materials whether the class is approved or denied. The department would lose money if its employees spent time reviewing a course that was not adequate and then refunded the fees to the provider of the unapproved course.

Comment #8: Brian Gorman commented that in the statement of reasonable necessity for the amendment to ARM 2.59.1705(2) this statement appears: "The department is concerned, based on the examinations that it conducts, that mortgage brokers and loan originators do not comprehend the training that they are receiving." Mr. Gorman commented that the department has no evidence to support this statement, which is insulting on its surface and would be an indication that the courses the department approved are not adequate. He said mortgage brokers could comprehend laws and administrative rules more easily if they were not constantly changing.

Response #8: In conducting examinations of mortgage brokers and loan originators, it has become clear that brokers and loan originators do not understand the Montana statutes and rules that govern them. Of particular concern to the department is that mortgage brokers and loan originators are not properly disclosing closing costs, fees, and yield spread premiums to borrowers as Montana law requires. The acceptance of fees that have not been properly disclosed frequently results in an order from the department to refund the undisclosed amounts to the borrowers. The department has proposed amendments to the rules in this rulemaking to try to address this situation. The department has proposed that it approve all continuing education providers and courses. The department has proposed these changes in an attempt to ensure that Montana mortgage brokers and loan originators know and understand Montana and federal law and comply with the laws.

Comment #9: Brian Gorman commented that ARM 2.59.1710, Records to be Maintained, is another example of creating law by rule and an example of something that they were assured would not be coming when they supported the passage of the mortgage broker licensing law, namely additional documents for the state. A grander example of administrative rule growth that micromanages the brokers' businesses and has nothing to do with helping consumers could not be thought of by

anybody other than a bureaucrat who has time to waste and does not understand that business people put their time to good use, not shuffling unnecessary paperwork. Mr. Gorman opposes the requirement for a spreadsheet but not the request for the spreadsheet because he currently keeps the spreadsheet. Steve Stiles commented that the spreadsheet is unnecessary because it contains the same information that the examiners physically look at when reviewing files. He commented that the spreadsheet is meaningless because the same information is in the files.

Response #9: The department has stated that it believes that most mortgage brokers presently maintain the information required to be on the spreadsheet in some form or other. The department does not require the information to be in any particular format and has stated that as long as the information can be generated by computer in any format, the licensee would be in compliance with the rule. The spreadsheet, or the availability of this information during an examination, will reduce examination time since the examiners use the information in the spreadsheet to identify which loan files to review. Not only do examiners use the information in the spreadsheet to determine which loan files to review, but also, and more importantly, which loan files not to review. The end result is a shorter examination time at less cost to the mortgage broker. Since this information is readily available to mortgage brokers, it is not unduly burdensome to require the mortgage broker to keep the information in some format. However, the department will remove the requirement for the following items in the spreadsheet: the age of the borrower(s), the loan number, the settlement date, the date the initial good faith estimate was mailed or hand delivered, the date the initial Truth in Lending disclosure was mailed or hand-delivered, and the loan-to-value ratio.

Comment #10: Brian Gorman commented on ARM 2.59.1710, stating that some borrowers simply will not sign, date, and return forms. Maybe the state should adopt a rule to fine the borrowers or force them to sign and date forms, but how much force is acceptable? Doug Lovely commented that it should not be a violation if the borrower refuses to sign and date a document.

Response #10: The existing rule requires that the borrower sign all disclosures required by state and federal law. The proposed amendment adds "and dated" and "and where applicable, signed and dated by the individual mortgage broker or loan originator." Mr. Gorman's comment addresses the existing rule rather than the proposed amendment to the rule, but if the forms are not signed by the borrower, the mortgage origination process should not progress until the forms are signed and returned.

Comment #11: Brian Gorman commented that on the statement of reasonable necessity for New Rule II he opposes the use of political rhetoric citing one-half of a proposed law as a rational reason to support changes and additions to the current administrative rules of the state of Montana.

Response #11: The department thanks Mr. Gorman for his comment. President Bush signed into law on July 30, 2008, the Housing and Economic Recovery Act, which includes the S.A.F.E. Mortgage Licensing Act (Act). The Act supports the changes and additions made within New Rule II, but the department is not adopting New Rule II since it has decided not to assume the role of being the sole prelicensing test administrator. The decision has been made in part because of the passage of the Act, which provides for a prelicensing test approved by the Nationwide Mortgage Licensing System and Registry. The department does not think it would be a good use of its time to develop its own test if in the future it may participate in the Nationwide Mortgage Licensing System and Registry.

Comment #12: Brian Gorman commented on New Rule VIII that brokers don't determine the borrower's equity in the dwelling and it is the lenders' job to determine if there is equity they want to lend against.

Response #12: The department concurs with both those statements, but they are not relevant to the proposed new rule. New Rule VIII states, "For purposes of 32-9-124, MCA, a scheme to defraud or mislead a borrower, lender, or any other person shall include but is not limited to: (a) misstating a borrower's income, assets, obligations, employment status, credit history, and financial resources, or the borrower's equity in the dwelling which secures repayment of the loan to the lender." The proposed new rule prohibits brokers from misstating the borrower's equity in the dwelling that secures repayment of the loan to the lender. But in reviewing this rule, it is clear that the "and" between credit history and financial resources should be an "or."

Comment #13: Doug Lovely commented that in ARM 2.59.1701(9) the definition of "restitution" is too broad and should not include fees paid to others.

Response #13: The definition was drafted as broadly as it was in order to include situations where a mortgage broker charges a fee that should be paid to a third party but increases the fee and pockets the difference. The department has encountered this practice during examinations.

Comment #14: Doug Lovely commented that New Rule VIII has some interesting definitions. He commented that as long as the broker or originator is not held liable for borrower misstatements, fine.

Response #14: The department thanks Mr. Lovely for his comments.

Comment #15: Jim Smith commented on ARM 2.59.1705, stating that eliminating courses that deal with programs, product requirements, appraisal issues, underwriting, fraudulent practices, and due diligence in meeting the needs to the housing industry is a mistake.

Response #15: The department has no jurisdiction over the appraisal process and will not accept continuing education courses that have to do with appraisal process.

Since mortgage broker and loan originators are not underwriters, underwriting courses are not relevant continuing education courses. The existing rule currently states that courses are acceptable if they discuss features of various loan products. That section of the existing rule is not being amended in this rulemaking.

Comment #16: Jim Smith commented that if the department is going to require a test with a 75% pass rate, then the department must specify what right the attendee has to retake the test if they fail and what the rights of the educators are if they continue to fail the tests. He commented that some states allow the attendee to retake the test once within two to three weeks of attending the course. If the attendee fails the test a second time or fails to retake the test within the time period, then the attendee has to retake the course in order to get credit.

Response #16: The department agrees with Mr. Smith and will remove the testing requirement after continuing education courses.

Comment #17: Primerica commented on ARM 2.59.1701(11), arguing that striking the phrase, "other work or education experience as approved by the department" from the "definition of work in a related field" is inappropriate for three reasons. First, the change is not legally required. Striking the language is in derogation of the broad statutory authority held by the department and contrary to the intent of the legislature. Second, the revisions contradict the stated purpose of the revisions. The general statement of intent is to broaden acceptable areas of experience for applicants but this revision removes the only exception that allows training opportunities. Third, the practical impact of the proposed amendment is to foreclose work opportunities for Montanans in favor of out-of-state people. Primerica suggests that the rule be redrafted as follows (with new matter underlined):

"Work in a related field" means:

(a) through (b)(v) remain the same.

(vi) as a residential real estate loan closing agent; or

(vii) for employees or exclusive agents of a mortgage broker that offers fully amortizing loan products and accepts no upfront fees, other work or education experience as approved by the department, on a case by case basis; or

(viii) as a state or federal regulator that examines compliance of residential mortgages of state or federally chartered financial institutions.

Response #17: The department deleted "other educational experience" from the definition of other "work in a related field" because allowing educational experience is outside of the authority granted to the department in 32-9-109, MCA. That section states, in relevant part, "[a]n individual applying for a license as a loan originator must have a minimum of 6 months of experience working in a related field. The department shall by rule establish what constitutes work in a related field." The statute contains mandatory language "must have a minimum of 6 months experience." A rule that allows "other educational experience as approved by the department" is clearly inconsistent with the statute. A rule is not valid or effective unless it is consistent and not in conflict with the statute pursuant to 2-4-305(6), MCA. The existing rule is invalid and the proposed amendment to the rule proposed

by Primerica would also be invalid. Therefore, the department is deleting the invalid section of the rule.

Comment #18: Primerica commented that requiring the age of the borrower on the spreadsheet could lead a disgruntled borrower to perceive discriminatory behavior and so the age requirement should be eliminated.

Response #18: The spreadsheet is not seen by borrowers so it is not clear to the department the manner in which a borrower could use that information to perceive discriminatory behavior. The federal Equal Credit Opportunity Act and federal Home Mortgage Disclosure Act both require that a creditor ask an applicant who is applying for credit primarily for the purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling, ethnicity, sex, marital status, and age for purposes of monitoring compliance with federal statutes that prohibit creditors from discriminating against applicants on those bases. So the information should already be in the possession of the mortgage broker who takes an application. Nevertheless, the department has agreed to remove the age requirement from the spreadsheet.

Comment #19: Primerica commented on ARM 2.59.1710(3), stating that it is structured in a manner that the loan originator takes the application from the applicant, then Primerica's affiliated federal lender generates all other documents and obtains additional information. Therefore, Primerica requests that the rule be redrafted to state: "To the extent such information is unavailable, the mortgage broker shall write 'not applicable'."

Response #19: The department does not believe such an amendment is necessary and fears it would lead to all mortgage brokers filling out the spreadsheet with N/A even if the information is available or known to the mortgage broker or loan originator.

4. The department has amended ARM 2.59.1701, 2.59.1702, 2.59.1703, and 2.59.1704 exactly as proposed and adopted New Rule I (2.59.1711), New Rule III (2.59.1712), New Rule IV (2.59.1713), New Rule V (2.59.1714), New Rule VI (2.59.1715), and New Rule VII (2.59.1716) exactly as proposed.

5. The department is not adopting New Rule II.

6. The department has amended ARM 2.59.1705, 2.59.1710, and adopted New Rule VIII (2.59.1717) with the following changes, stricken matter interlined, new matter underlined:

2.59.1705 LICENSING EXAMINATION AND CONTINUING EDUCATION PROVIDER REQUIREMENTS (1) remains as proposed.

(2) To receive approval of a licensing examination or continuing education course, the examination or course provider must file an application with the department, which includes, but is not limited to the following items:

(a) and (b) remain as proposed.

(c) a complete set of the examination or curriculum materials. Materials will be retained by the department. Electronic format is acceptable;

(d) and (e) remain as proposed.

(f) list of other states in which approval to provide similar education is held;

and

(g) a satisfactory timing method to properly monitor licensee's attendance and attention for the approved hours of the course; ~~and~~

~~(h) a comprehensive test approved by the department, to be taken at the end of the course. The licensee must pass the test with a minimum 75%.~~

(3) and (4) remain as proposed.

(5) Courses and licensing examinations must reflect the activities performed by applicants or licensees and must provide applicants or licensees with a basic knowledge of and competency in any of the following:

(a) through (g) remain as proposed.

(6) Appropriate subjects for licensing examinations may include:

(a) the Montana Mortgage Broker and Loan Originator Licensing Act;

(b) state and federal consumer protection acts;

(c) the federal Real Estate Settlement Procedures Act, Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Housing Act, Home Mortgage Disclosure Act, Community Reinvestment Act, and the regulations promulgated pursuant to these acts;

(d) trust account and recordkeeping requirements of the Montana Mortgage Broker and Loan Originator Licensing Act;

(e) real estate and appraisal law;

(f) arithmetical computation common to mortgage lending, including but not limited to:

(i) the computation of an annual percentage rate;

(ii) finance charges;

(iii) amount financed;

(iv) payment and amortization;

(v) credit evaluation; and

(vi) calculating debt-to-income; and

(g) ethics in the mortgage industry.

(6) remains as proposed, but is renumbered (7).

~~(7)~~ (8) The provider shall file an application with the department that includes a copy of examinations to be used, if any, in determining satisfactory comprehension of the contents of the course and the grading scale to be used. Any new or revised courses, examinations, or grading scales to be used shall be submitted to the department for approval at least 60 days prior to use. Course materials may be submitted in electronic format. The department will consider examinations and continuing education disseminated by written or electronic means, including by the Internet.

(8) through (12)(a) remain as proposed, but are renumbered (9) through (13)(a).

(b) during any six-month period, fewer than 50% of the provider's program students taking the examination for the first time achieve a passing score;

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

(13) through (19) remain as proposed, but are renumbered (14) through (20).

AUTH: 32-9-130, MCA

IMP: 32-9-110, 32-9-118, 32-9-130, MCA

2.59.1710 RECORDS TO BE MAINTAINED (1) through (3)(a) remain as proposed.

~~(b) the age of the borrower(s);~~

~~(c) the loan number;~~

(d) through (g) remain as proposed, but are renumbered (b) through (e).

~~(h) the settlement date;~~

~~(i) the date the good-faith estimate was mailed or hand delivered;~~

~~(j) the date the Truth in Lending statement was mailed or hand delivered;~~

(k) remains as proposed, but is renumbered (f).

~~(l) the loan-to-value ratio;~~

(m) through (p) remain as proposed, but are renumbered (g) through (j).

AUTH: 32-9-130, MCA

IMP: 32-9-121, 32-9-124, 32-9-125, MCA

NEW RULE VIII (2.59.1717) SCHEME TO DEFRAUD OR MISLEAD

(1) remains as proposed.

(a) misstating a borrower's income, assets, obligations, employment status, credit history, ~~and~~ or financial resources, or the borrower's equity in the dwelling which secures repayment of the loan to a lender;

(b) remains as proposed.

~~(c) acceptance of any fees, or charge in excess of the fees, that have been or will be remitted to a third party; and charging or accepting any fees in excess of fees that have been or will be remitted to third parties; and~~

(d) remains as proposed.

AUTH: 32-9-130, MCA

IMP: 32-9-124, MCA

7. The department has amended ARM 2.59.1705 to include the original references to the prelicensing test. The department has decided that it will continue to use approved education providers to administer the test. The department is not adopting New Rule II since it has decided not to assume the role of being the sole prelicensing test administrator. The decision has been made in part because of the passage of the S.A.F.E. Mortgage Licensing Act, which provides for a prelicensing test approved by the Nationwide Mortgage Licensing System and Registry. The department does not think it would be a good use of its time to develop its own test if

in the future it may participate in the Nationwide Mortgage Licensing System and Registry.

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 September 15, 2008.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
4.17.102 relating to the organic program)

TO: All Concerned Persons

1. On July 31, 2008, the Montana Department of Agriculture published MAR Notice No. 4-14-180 regarding the public hearing on the proposed amendment of the above-stated rule at page 1518 of the 2008 Montana Administrative Register, Issue Number 14.

2. The agency has amended ARM 4.17.102 exactly as proposed.

3. No comments or testimony were received.

DEPARTMENT OF AGRICULTURE

/s/ Ron de Yong
Ron de Yong, Director

/s/ Cort Jensen
Cort Jensen, Rule Reviewer

Certified to the Secretary of State, September 15, 2008.

BEFORE THE STATE AUDITOR AND COMMISSIONER OF SECURITIES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT,
6.2.124 regarding Judicial Review, ARM) TRANSFER, AMENDMENT AND
6.10.101 and 6.10.102 regarding) TRANSFER, AND ADOPTION
Securities Regulation, the transfer of)
ARM 6.10.104, 6.10.105, 6.10.108,)
6.10.110, 6.10.125, 6.10.132, 6.10.134,)
6.10.147, and 6.10.148, the amendment)
and transfer of ARM 6.10.103, 6.10.111,)
6.10.120, 6.10.121, 6.10.126, 6.10.127,)
6.10.130, 6.10.131, 6.10.135, 6.10.136,)
6.10.138, 6.10.140, 6.10.141, 6.10.142,)
6.10.143, 6.10.145, and 6.10.149)
regarding Securities Regulation, and the)
adoption of NEW RULES I through VI)
pertaining to Senior Specific)
Certifications and Designations, and)
Filing Requirements for Transactional)
Exemptions)

TO: All Concerned Persons

1. On August 14, 2008, the State Auditor and Commissioner of Securities published MAR Notice No. 6-180 regarding the public hearing on the proposed amendment, transfer, amendment and transfer, and adoption of the above-stated rules at page 1635 of the 2008 Montana Administrative Register, issue number 15.
2. On September 5, 2008, the State Auditor and Commissioner of Securities held a public hearing to consider the proposed amendment, transfer, amendment and transfer, and adoption of the above-stated rules.
3. The State Auditor and Commissioner of Securities has amended ARM 6.2.124, 6.10.101, and 6.10.102; transferred ARM 6.10.104 (6.10.202), 6.10.105 (6.10.203), 6.10.108 (6.10.205), 6.10.110 (6.10.206), 6.10.125 (6.10.302), 6.10.132 (6.10.403), 6.10.134 (6.10.306); 6.10.147 (6.10.208), and 6.10.148 (6.10.209); amended and transferred ARM 6.10.103 (6.10.201), 6.10.111 (6.10.207), 6.10.120 (6.10.301), 6.10.121 (6.10.501), 6.10.126 (6.10.401), 6.10.127 (6.10.402), 6.10.130 (6.10.303), 6.10.131 (6.10.305), 6.10.135 (6.10.502), 6.10.136 (6.10.503), 6.10.138 (6.10.504), 6.10.142 (6.10.508), 6.10.143 (6.10.510), 6.10.145 (6.10.511), and 6.10.149 (6.10.210); and has adopted New Rule I (ARM 6.10.601), New Rule II (ARM 6.10.602), New Rule III (ARM 6.10.604), New Rule IV (ARM 6.10.605), New Rule V (ARM 6.10.607), and New Rule VI (ARM 6.10.608), exactly as proposed.

ARM 6.10.140 (6.10.506) and 6.10.141 (6.10.507) are not being amended as proposed, but are being transferred as proposed.

4. No comments were heard at the hearing, and no written comments were received before the comment deadline.

/s/ Christina L. Goe
Christina L. Goe
Rule Reviewer

/s/ Janice S. VanRiper
Janice S. VanRiper
Deputy State Auditor

Certified to the Secretary of State September 15, 2008.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.55.907 relating to distance)
learning)

TO: All Concerned Persons

1. On July 31, 2008 the Board of Public Education published MAR Notice No. 10-57-247 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1525 of the 2008 Montana Administrative Register, Issue Number 14.

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

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

COMMENT #1: Mr. Darrell Rud, SAM, thanked the board and the Distance Learning Task Force for their willingness to listen to constructive criticism and make amendments to provide more flexibility in the rule.

RESPONSE #1: The Board of Public Education appreciates the support from Mr. Rud.

COMMENT #2: Mr. Bob Vogel, MTSBA, commented that the rule is more flexible as amended and appreciates the direction of the board to support the academic enhancement of Montana students.

RESPONSE #2: The Board of Public Education appreciates the support from Mr. Vogel.

COMMENT #3: Dr. Bruce Messinger, Superintendent of Helena Public Schools and Chair of the E-Learning Consortium, appreciates the flexibility of the rule as amended. He stated it is important for Montana students to have the opportunity to work with highly qualified educators well versed in their area of expertise. Distance learning is rapidly changing and he is pleased that the board is willing to review this rule as needed.

RESPONSE #3: The Board of Public Education appreciates the comments from Dr. Messinger.

COMMENT #4: Dr. Thomas Gibson, OCHE, stated that the delivery methods are changing and evolving and appreciates the Board of Public Education's review of the distance learning rules to meet the needs of the students.

RESPONSE #4: The Board of Public Education appreciates the comments from Dr. Gibson.

COMMENT #5: Mr. Bruce Wallace of Vision Net, came to the hearing to observe the direction of the Board of Public Education in connection with distance learning and to maintain an involvement and awareness of the board's position on this issue.

RESPONSE #5: The Board of Public Education appreciates the comments from Mr. Wallace.

/s/ Steve Meloy
Steve Meloy
Rule Reviewer

/s/ Patty Myers
Patty Myers, Chairperson
Board of Public Education

Certified to the Secretary of State September 15, 2008.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF ADOPTION AND
RULE I and amendment of ARM) AMENDMENT
10.57.102 and 10.57.201 relating to)
Class 8 licensure)

TO: All Concerned Persons

1. On July 31, 2008 the Board of Public Education published MAR Notice No. 10-57-246 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1521 of the 2008 Montana Administrative Register, Issue Number 14.

2. The board has amended the following rules as proposed: ARM 10.57.102 and 10.57.201.

3. The board has adopted the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (10.57.437) CLASS 8 DUAL CREDIT-ONLY
POSTSECONDARY FACULTY LICENSE (1) through (2)(b) remain as proposed.
(c) only when teaching dual credit courses within the role and scope of their duties assigned by the employing postsecondary institution.
(3) through (5) remain as proposed.
(6) This rule shall be applied beginning with the fall semester of 2009.

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

COMMENT #1: Dr. Thomas Gibson, OCHE, stated that higher education is supportive of New Rule I as written, but continues to have some concern about the rubric/matrix not being completed at the time of the proposed adoption of the rule. Other concerns addressed were in connection with training, fingerprinting, oath, and the time connected to this licensing process. Overall, higher education's spirit of serving K-12 students drives this support and they appreciate the opportunity to participate.

RESPONSE #1: The Board of Public Education appreciates Dr. Gibson's concern and is confident that the rubric and implementation of the rubric will be fair, understandable, easy to administer, and will honor the skills and proficiencies of all qualified postsecondary faculty.

COMMENT #2: Dr. Bruce Messinger, Superintendent of Helena Public Schools and Chair of the E-Learning Consortium, supports this rule for the students at the secondary level to provide opportunities to take dual-credit courses. Dr. Messinger did caution the Board of Public Education to be wary about the equity of opportunities for students.

RESPONSE #2: The Board of Public Education appreciates Dr. Messinger's concern and believes if all postsecondary faculty teaching dual-credit are licensed, there will be no adverse equity of opportunity issues.

COMMENT #3: Ms. Cathy Swift, OCHE, wanted to clarify the rules listed in New Rule I(3)(c) to be "as required by 20-4-104, MCA, ARM 10.57.201(4) and 10.57.201A."

RESPONSE #3: The Board of Public Education appreciates the review of citations by Ms. Swift and will endeavor to review drafts for accuracy before they are released to the public. The citations stated by Ms. Swift are correct and are the ones contained in the Notice of Proposed Adoption and Amendment published by the Secretary of State on July 31, 2008.

COMMENT #4: Mr. Darrell Rud, SAM, thanked the Board of Public Education and the Distance Learning Task Force for the work that may have seemed arduous at times, but felt the input from the School Administrators of Montana was appreciated and valued.

RESPONSE #4: The Board of Public Education appreciates the input from the School Administrators of Montana.

COMMENT #5: Mr. Dan Zorn, Assistant Superintendent of Kalispell Public Schools, submitted a written comment on July 24, 2008 expressing concern that teachers at postsecondary institutions, which do not include an accredited professional educator preparation program, would be excluded from eligibility for a Class 8 license.

RESPONSE #5: The Board of Public Education appreciates Mr. Zorn's concern, and asserts that an appropriate official from a Montana or NCATE accredited professional education preparation program will be part of the review and verification process for Class 8 applications. The board feels this will satisfy the requirements of New Rule I (ARM 10.57.437(3)(b)). Therefore any college faculty from any postsecondary institution would be eligible for a Class 8 dual-credit only postsecondary faculty license provided they meet the other requirements of ARM 10.57.437.

COMMENT #6: Mr. Dan Zorn, Assistant Superintendent of Kalispell Public Schools, submitted a written comment on August 25, 2008 expressing reservations regarding the fact that the rubric for qualifying Class 8 license recipients is not complete.

RESPONSE #6: The Board of Public Education appreciates Mr. Zorn's concern and is confident the rubric and implementation of the rubric will be fair, understandable, easy to administer, and will honor the skills and proficiencies of all qualified postsecondary faculty.

COMMENT #7: Mr. Bob Vogel, MTSBA Director of Governmental Relations, expressed MTSBA's appreciation to the Board of Public Education for its effort to bring stakeholders together to craft a rule that will allow for greater student opportunities through the promotion of dual-credit instruction.

RESPONSE #7: The Board of Public Education appreciates Mr. Vogel's comment on behalf of MTSBA.

/s/ Steve Meloy
Steve Meloy
Rule Reviewer

/s/ Patty Myers
Patty Myers, Chairperson
Board of Public Education

Certified to the Secretary of State September 15, 2008.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through V pertaining to)
confidentiality of youth records)

TO: All Concerned Persons

1. On July 17, 2008 the Department of Corrections published MAR Notice No. 20-9-40 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 1382 of the 2008 Montana Administrative Register, Issue Number 13.

2. The department has adopted the above-stated rules as proposed: New Rule I (20.9.801), New Rule II (20.9.802), New Rule III (20.9.803), New Rule IV (20.9.804), New Rule V (20.9.805).

3. No comments or testimony were received.

/s/ Colleen A. White
COLLEEN A. WHITE
Rule Reviewer

/s/ Mike Ferriter
MIKE FERRITER
Director
Department of Corrections

Certified to the Secretary of State September 15, 2008.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 23.6.106, pertaining to tow truck)
complaint resolution)

TO: All Concerned Persons

1. On July 31, 2008, the Department of Justice published MAR Notice No. 23-6-198, pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1531 of the 2008 Montana Administrative Register, Issue No. 14.

2. A public hearing was held on August 26, 2008.

Comment: One individual opposed the proposed rules as being unnecessary. In particular, he stated suspending tow truck operators from the state and local rotation systems for 30 days for failing to respond to a complaint within 20 days is harsh because he believes that not all tow truck operators receive copies of the complaint filed with the department.

Response: The proposed rules make certain that all tow truck operators who have complaints filed against them will receive copies of such complaints because the Office of Consumer Protection has an effective system in place to perform such a task. Since tow truck operators will receive copies of the complaints, a suspension from the rotation systems will only occur if the operator deliberately refuses or fails to respond to the department. The department believes that the sanction is a necessary incentive to ensure that all complaints are responded to and disposed of accordingly.

3. The department has amended ARM 23.6.106 as proposed.

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

/s/ J. Stuart Segrest
J. STUART SEGREST
Rule Reviewer

Certified to the Secretary of State on September 15, 2008.

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

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
24.171.401 fees, 24.171.604 emergency)
guide license, and 24.171.2301)
unprofessional conduct)

TO: All Concerned Persons

1. On June 12, 2008, the Board of Outfitters (board) published MAR Notice No. 24-171-26 regarding the amendment of the above-stated rules, at page 1116 of the 2008 Montana Administrative Register, issue no. 11.

2. On July 3, 2008, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments or testimony were received.

3. The board has amended ARM 24.171.401, 24.171.604, and 24.171.2301 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 September 15, 2008

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF ADOPTION,
Rules I and II, amendment of ARM)	AMENDMENT, AND REPEAL
44.5.111, 44.5.121, 44.6.105,)	
44.6.108, 44.6.109, 44.6.201, and)	
44.6.203, and repeal of 44.2.201)	
pertaining to business entity and)	
uniform commercial code (UCC) filings)	

TO: All Concerned Persons

1. On July 31, 2008, the Secretary of State published MAR Notice No. 44-2-148 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1562 of the 2008 Montana Administrative Register, Issue Number 14.
2. The department has adopted the above-stated rules as proposed: New Rules I (44.5.301) and II (44.6.302).
3. The department has amended and repealed the above-stated rules as proposed.
4. No comments or testimony were received.
5. The adoptions, amendments, and repeal will be effective October 1, 2008.

/s/ Janice Doggett
 Janice Doggett
 Rule Reviewer

/s/ Brad Johnson
 Brad Johnson
 Secretary of State

Dated this 15th day of September 2008.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

- | | |
|------------------|---|
| Known
Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2008. This table includes those rules adopted during the period July 1, 2008, through September 30, 2008, and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2008, 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 2007 and 2008 Montana Administrative Register.

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

GENERAL PROVISIONS, Title 1

- 1.3.101 and other rules - Secretary of State's Model Rules, p. 1003, 1593
- 1.3.211 and other rules - Attorney General's Model Rules, p. 988, 1700

ADMINISTRATION, Department of, Title 2

- I-IV Mortgage Lender Surety Bond - Branch Office Licensing - Supervision of Branch Offices and Loan Officers - Responsibility for Acts of Agents, p. 862, 1579
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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in August 2008 appear. Vacancies scheduled to appear from October 1, 2008, through December 31, 2008, 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 September 1, 2008.

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 AUGUST 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Veterans' Affairs (Military Affairs)			
Mr. Donald Kettner Glendive	Governor	reappointed	8/6/2008 8/1/2012
Qualifications (if required): veteran and resident of Region 5			
Mr. Matthew McCombs Helena	Governor	Lombardi	8/6/2008 8/1/2012
Qualifications (if required): representative of Senator Jon Tester			
Mr. Don Slavens Billings	Governor	reappointed	8/6/2008 8/1/2012
Qualifications (if required): representative of Senator Max Baucus			
Mr. Mike Waite Helena	Governor	reappointed	8/6/2008 8/1/2012
Qualifications (if required): representative of Congressman Dennis Rehberg			
Board of Veterinary Medicine (Labor and Industry)			
Dr. Jean Lindley Miles City	Governor	reappointed	8/6/2008 7/31/2013
Qualifications (if required): veterinarian			
Economic Development Advisory Council (Commerce)			
Ms. Kathie Bailey Lewistown	Governor	reappointed	8/6/2008 7/23/2011
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Economic Development Advisory Council (Commerce) cont.			
Ms. Sheila Hogan Butte	Governor	reappointed	8/6/2008 7/23/2011
Qualifications (if required):	public representative		
Ms. Estelle Tafoya Red Lodge	Governor	reappointed	8/6/2008 7/23/2011
Qualifications (if required):	public representative		
Ms. Linda Twitchell Wolf Point	Governor	reappointed	8/6/2008 7/23/2011
Qualifications (if required):	public representative		
Mental Disabilities Board of Visitors (Governor)			
Ms. Joan Nell Macfadden Great Falls	Governor	reappointed	8/19/2008 7/1/2010
Qualifications (if required):	experience with emotionally disturbed children		
Ms. Sandra Mihelish Helena	Governor	reappointed	8/19/2008 7/1/2010
Qualifications (if required):	experience with welfare of mentally ill individuals		
Mr. Graydon Davies Moll Polson	Governor	reappointed	8/19/2008 7/1/2010
Qualifications (if required):	experience with developmentally disabled adults		

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Mental Disabilities Board of Visitors (Governor) cont.			
Rep. Holly Raser Missoula	Governor	Duffy	8/19/2008 7/1/2009
Qualifications (if required): consumer of developmental disability services			
Private Alternative Adolescent Residential or Outdoor Programs Board (Labor and Industry)			
Ms. Mary Alexine Eureka	Governor	reappointed	8/6/2008 4/19/2011
Qualifications (if required): representing residential adolescent programs (medium size)			
Rep. Tim Callahan Great Falls	Governor	Brooker	8/6/2008 4/19/2011
Qualifications (if required): public member			
Ms. Penny James Trout Creek	Governor	Clark	8/6/2008 4/19/2011
Qualifications (if required): representing residential adolescent programs (small size)			
Ms. Darcie Kelly Helena	Governor	Bidegaray	8/6/2008 4/19/2011
Qualifications (if required): public member			
Mr. John Santa Kalispell	Governor	Manning	8/6/2008 4/19/2011
Qualifications (if required): representing residential adolescent programs (large size)			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2008

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State-Tribal Economic Development Commission (Commerce)			
Ms. Emorie Davis-Bird Browning	Governor	Kittson	8/6/2008 6/30/2010
Qualifications (if required): alternate representative of the Blackfeet Tribe			
Mr. Joseph Durglo Pablo	Governor	reappointed	8/6/2008 6/30/2011
Qualifications (if required): representative of the Confederated Salish & Kootenai Tribes			
Ms. Lesa Evers Helena	Governor	Lamb	8/6/2008 0/0/0
Qualifications (if required): representative of the Governor's Office			
Mr. Allen Fisher Lame Deer	Governor	reappointed	8/6/2008 6/30/2011
Qualifications (if required): alternate representative of the Northern Cheyenne Tribe			
Mr. Joe Fox Jr. Lame Deer	Governor	reappointed	8/6/2008 6/30/2011
Qualifications (if required): representative of the Northern Cheyenne Tribe			
Mr. Bud Moran Pablo	Governor	reappointed	8/6/2008 6/30/2011
Qualifications (if required): alternate representative of the Confederated Salish & Kootenai Tribes			
Mr. Richard Sangrey Box Elder	Governor	reappointed	8/6/2008 6/30/2011
Qualifications (if required): representative of the Chippewa Cree Tribe of the Rocky Boy's Reservation			

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Agriculture Land Valuation Advisory Council (Revenue)		
Mr. Melvin Goffena, Wilsall Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. Jim Johnson, Bozeman Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. Al Kington, Helena Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. John Lawyer, Plains Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. Jerry Nielsen, Bozeman Qualifications (if required): member of the Montana State University College of Agriculture staff	Governor	12/31/2008
Mr. Richard O'Brien, Great Falls Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Ms. Rhonda Pimley, Chester Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. Ernie Ratzburg, Ledger Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. John Schutter, Manhattan Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Agriculture Land Valuation Advisory Council (Revenue) cont.		
Ms. Helen (Jo) Shipman, Lewistown Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Ms. Kathy Sikorski, Baker Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Mr. Lon Withrow, Geraldine Qualifications (if required): knowledge in agriculture and agricultural economics	Governor	12/31/2008
Board of Barbers and Cosmetologists (Labor and Industry)		
Mr. Wendell Petersen, Missoula Qualifications (if required): cosmetologist	Governor	10/1/2008
Ms. Delores Lund, Plentywood Qualifications (if required): public representative	Governor	10/1/2008
Mr. Edward Dutton, Kalispell Qualifications (if required): barber	Governor	10/1/2008
Ms. Maxine Collins, Helena Qualifications (if required): manicurist	Governor	10/1/2008
Board of Occupational Therapy Practice (Labor and Industry)		
Ms. Sue Furey, Missoula Qualifications (if required): public representative	Governor	12/31/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Outfitters (Governor) Rep. Carol Gibson, Billings Qualifications (if required): sportsperson	Governor	10/1/2008
Mr. John R. Redman, Sidney Qualifications (if required): public representative	Governor	10/1/2008
Mr. Thomas Sather, Bozeman Qualifications (if required): sportsperson	Governor	10/1/2008
Mr. Tim Linehan, Troy Qualifications (if required): big game outfitter	Governor	10/1/2008
Building Codes Council (Labor and Industry) Director Joan Miles, Helena Qualifications (if required): Director of the Department of Public Health and Human Services	Governor	10/1/2008
Commissioner Carol Brooker, Plains Qualifications (if required): public member	Governor	10/1/2008
Mr. Burl French, Kalispell Qualifications (if required): representative of the Board of Electricians	Governor	10/1/2008
Mr. Paul Filicetti, Missoula Qualifications (if required): licensed architect	Governor	10/1/2008
Mr. Michael McCourt, Missoula Qualifications (if required): public member	Governor	10/1/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Building Codes Council (Labor and Industry) cont. Mr. Dave Broquist, Great Falls Qualifications (if required): professional engineer	Governor	10/1/2008
Mr. Scott Lemert, Livingston Qualifications (if required): representative of the Board of Plumbers	Governor	10/1/2008
Mr. Mick Wonnacott, Butte Qualifications (if required): representative of the building contractor industry	Governor	10/1/2008
Mr. Neil Poulsen, Bozeman Qualifications (if required): building inspector	Governor	10/1/2008
Mr. Mike Seaman, Kalispell Qualifications (if required): manufactured housing industry representative	Governor	10/1/2008
Mr. Tony Laslovich, Anaconda Qualifications (if required): home building industry representative	Governor	10/1/2008
Mr. Rodney N. Driver, Bigfork Qualifications (if required): elevator mechanic selected by the Department of Labor and Industry	Governor	10/1/2008
Mr. Allen Lorenz, Helena Qualifications (if required): state fire marshal	Governor	10/1/2008
Mr. Steven Meismer, Missoula Qualifications (if required): building inspector	Governor	10/1/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) Ms. Donna Dukart, Miles City Qualifications (if required): American Legion Auxiliary	Director	10/1/2008
Labor-Management Advisory Council on Workers' Compensation (Labor and Industry) Mr. Don Judge, Helena Qualifications (if required): representing injured workers	Director	12/1/2008
Mr. Bill Dahlgren, Missoula Qualifications (if required): representing employers	Director	12/1/2008
Lt. Governor John Bohlinger, Helena Qualifications (if required): none specified	Director	12/1/2008
Mr. Riley Johnson, Helena Qualifications (if required): representing employers	Director	12/1/2008
Mr. Jerry Keck, Helena Qualifications (if required): ex-officio	Director	12/1/2008
Ms. Connie Welsh, Helena Qualifications (if required): representing employers	Director	12/1/2008
Ms. Jacquie Helt, Missoula Qualifications (if required): representing injured workers	Director	12/1/2008
Mr. Doug Buman, Seattle Qualifications (if required): representing injured workers	Director	12/1/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Labor-Management Advisory Council on Workers' Compensation (Labor and Industry) cont. Mr. Dan Lee, Missoula Qualifications (if required): representing injured workers	Director	12/1/2008
Mr. Jason Miller, Helena Qualifications (if required): representing injured workers	Director	12/1/2008
Ms. Annette Hoffman, Billings Qualifications (if required): representing employers	Director	12/1/2008
Mr. Bob Worthington, Helena Qualifications (if required): representing employers	Director	12/1/2008
Montana Alfalfa Seed Committee (Agriculture) Mr. James Whitmer, Glendive Qualifications (if required): alfalfa seed grower	Governor	12/21/2008
Mr. John Mehling, Hardin Qualifications (if required): alfalfa seed grower	Governor	12/21/2008
Mr. Marvin Frank, Joliet Qualifications (if required): alfalfa seed grower	Governor	12/21/2008
Montana Council on Homelessness (Public Health and Human Services) Mr. Nicholas Peterson Vrooman, Helena Qualifications (if required): public representative	Governor	12/21/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Council on Homelessness (Public Health and Human Services) cont. Mr. Eric Sells, Missoula Qualifications (if required): public representative	Governor	12/21/2008
Mr. Thomas Huddleston, Helena Qualifications (if required): public representative	Governor	12/21/2008
Ms. Gloria O'Rourke, Anaconda Qualifications (if required): public representative	Governor	12/21/2008
Ms. Trish Flynn, Billings Qualifications (if required): public representative	Governor	12/21/2008
Mr. Doug Overman, Kalispell Qualifications (if required): public representative	Governor	12/21/2008
Ms. Mary Guokas, Helena Qualifications (if required): public representative	Governor	12/21/2008
Mr. Robert Buzzas, Bozeman Qualifications (if required): public representative	Governor	12/21/2008
Ms. Mary Berg, Butte Qualifications (if required): public representative	Governor	12/21/2008
Mr. Eric Berger, Great Falls Qualifications (if required): public representative	Governor	12/21/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Council on Homelessness (Public Health and Human Services) cont. Ms. Judy Stewart, Billings Qualifications (if required): public representative	Governor	12/21/2008
Mr. Lafe Haugen, Lame Deer Qualifications (if required): public representative	Governor	12/21/2008
Risk Management Advisory Council (Administration) Mr. Jeff Shada, Bozeman Qualifications (if required): public self-insured organizations	Director	11/1/2008
Mr. Allen Hulse, Helena Qualifications (if required): public self-insured organizations	Director	11/1/2008
Mr. Greg Jackson, Helena Qualifications (if required): public self-insured organizations	Director	11/1/2008
Ms. Tana Wilcox, Butte Qualifications (if required): private self-insured organizations	Director	11/1/2008
Ms. Jacquie Duhamel, Missoula Qualifications (if required): private self-insured organizations	Director	11/1/2008
Ms. Sheryl Olson, Helena Qualifications (if required): Director of the Department of Administration designee	Director	11/1/2008
Mr. Bill Price, Bozeman Qualifications (if required): insurance agent	Director	11/1/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Speech-Language Pathologists and Audiologists (Labor and Industry)		
Ms. Lynn Harris, Missoula Qualifications (if required): speech-language pathologist	Governor	12/31/2008
Ms. Tina Hoagland, Billings Qualifications (if required): audiologist	Governor	12/31/2008
State Employee Group Benefits Advisory Council (Administration)		
Sen. Mike Cooney, Helena Qualifications (if required): representing Legislature	Director	12/31/2008
Mr. Thomas Schneider, Helena Qualifications (if required): representing Labor Organization	Director	12/31/2008
Ms. Mary Dalton, Helena Qualifications (if required): representing State Employees/Executive Branch Agencies	Director	12/31/2008
Mr. Steve Barry, Helena Qualifications (if required): representing State Employees/Executive Branch Agencies	Director	12/31/2008
Mr. John McEwen, Helena Qualifications (if required): representing Retired State Employees	Director	12/31/2008
Mr. Richard Cooley, Helena Qualifications (if required): representing State Employees/Executive Branch Agencies	Director	12/31/2008
Mr. Monte Brown, Helena Qualifications (if required): representing State Employees/Executive Branch Agencies	Director	12/31/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Group Benefits Advisory Council (Administration) cont.		
Ms. Connie Welsh, Helena Qualifications (if required): Ex-Officio Member and Presiding Officer	Director	12/31/2008
Mr. Tom Bilodeau, Helena Qualifications (if required): representing Labor Organization	Director	12/31/2008
Ms. Christi Jacobsen, Helena Qualifications (if required): representing State Employees/ICCW	Director	12/31/2008
Ms. Kelly DaSilva, Helena Qualifications (if required): Legislative branch agency representative	Director	12/31/2008
Trauma Care Committee (Public Health and Human Services)		
Dr. J. Bradley Pickhardt, Missoula Qualifications (if required): Western Region Trauma Care Advisory Committee representative	Governor	11/2/2008
Ms. Carol Kussman, Helena Qualifications (if required): Central Region Trauma Care Advisory Committee representative	Governor	11/2/2008
Dr. Charles Swannack, Missoula Qualifications (if required): Montana Medical Association representative	Governor	11/2/2008
Mr. Jay Pottenger, Fort Benton Qualifications (if required): Montana Hospital Association representative	Governor	11/2/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice)		
Mr. Larry Curran, Butte Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Mr. John Hollenback, Gold Creek Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Ms. Sally Johnson, Missoula Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Ms. Barbara Evans, Missoula Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Ms. Kathy Hadley, Deer Lodge Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Director Jeff Hagener, Helena Qualifications (if required): Director of the Department of Fish, Wildlife and Parks	Governor	12/31/2008
Director Mary Sexton, Helena Qualifications (if required): Director of the Department of Natural Resources and Conservation	Governor	12/31/2008
Mr. James Dinsmore, Hall Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Director Richard Opper, Helena Qualifications (if required): Director of the Department of Environmental Quality	Governor	12/31/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice) cont.		
Mr. Dennis Daneke, Missoula Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Mr. Paul Babb, Butte Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Mr. Milo Manning, Anaconda Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Ms. Robbie Taylor, Butte Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Mr. James Yeoman, Anaconda Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Ms. Rebecca Guay, Anaconda Qualifications (if required): resident of Upper Clark Fork River Basin	Governor	12/31/2008
Vocational Rehabilitation Council (Public Health and Human Services)		
Ms. Arlene Templar, Pablo Qualifications (if required): Section 121 representative	Governor	10/1/2008
Ms. Maureen Kenneally, Butte Qualifications (if required): representative of the Workforce Investment Board	Governor	10/1/2008
Ms. Jacqueline Colombe, Basin Qualifications (if required): representative of the disabilities community	Governor	10/1/2008

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2008 through DECEMBER 31, 2008

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Vocational Rehabilitation Council (Public Health and Human Services) cont.		
Mr. Dan Burke, Missoula Qualifications (if required): representative of the disabilities community	Governor	10/1/2008
Ms. Michelle Williamson, Pablo Qualifications (if required): representative of the disabilities community	Governor	10/1/2008
Mr. Paul Pearson, Anaconda Qualifications (if required): representative of the disabilities community	Governor	10/1/2008
Ms. Sharla LaFountain, Lewistown Qualifications (if required): representative of the disabilities community	Governor	10/1/2008
Ms. Faith Dawson, Missoula Qualifications (if required): representative of the disabilities community	Governor	10/1/2008
Ms. Dalayna Faught, Missoula Qualifications (if required): vocational rehabilitation counselor	Governor	10/1/2008
Ms. Christina Mattlin, Billings Qualifications (if required): representative of the disabilities community	Governor	10/1/2008
Ms. Mavis Young Bear, Harlem Qualifications (if required): Section 121 representative	Governor	10/1/2008
Water and Wastewater Operators' Advisory Council (Environmental Quality)		
Mr. Grant Burroughs, Bozeman Qualifications (if required): wastewater plant operator with highest class certificate	Governor	10/16/2008