

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) AMENDED NOTICE AND
RULES I through XIII, pertaining to) EXTENSION OF COMMENT
approved construction techniques for) PERIOD ON PROPOSED
fire mitigation) ADOPTION

TO: All Concerned Persons

1. On April 29, 2010, the Department of Labor and Industry (department) published MAR notice no. 24-320-245 regarding the public hearing on the proposed adoption of the above-stated rules, at page 980 of the 2010 Montana Administrative Register, issue no. 8.

2. On May 24, 2010, a public hearing was held on the proposed adoption of the above-stated rules in Helena. Several comments were received by the previous June 1, 2010, deadline.

3. The department is extending the comment period because it has revised the statement of reasonable necessity for the proposed adoption of MAR notice no. 24-320-245. Sections 2-4-305(8)(b) and (c), MCA, require that an agency must use an amended proposal notice to correct any deficiencies in a statement of reasonable necessity, except for clerical corrections.

4. The statement of reasonable necessity is being amended as follows, new matter underlined, deleted matter interlined:

GENERAL STATEMENT OF REASONABLE NECESSITY: The 2007 Montana Legislature enacted Chapter 443, Laws of 2007 (Senate Bill 51), an act revising growth policy and subdivision laws and requiring subdivision regulations to identify areas unsuitable for development. The bill was signed by the Governor and became effective on May 8, 2007. The department determined it is reasonable and necessary to adopt New Rules I through XIII to implement the legislation which requires the department to identify appropriate construction techniques for mitigation of fire hazards.

As required by 76-3-501, MCA, the governing bodies of every county, city, and town must adopt and provide enforcement of subdivision regulations. In turn, 76-3-504, MCA, requires such local subdivision regulations to provide for the identification of areas that are unsuitable for subdivision development because of natural or human-caused hazards. The regulations must prohibit subdivision in these areas, unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures, including those identified by the department under the direction of Title 50, chapter 60, part 9, Fire Mitigation Construction Techniques. The proposed rules were developed after a series of public meetings conducted by the department across the state and included various governmental officials and representatives of the private sector.

As restated in the body of the proposed new rules for emphasis, the proposed New Rules implement the 2007 legislation, which requires the department to merely identify appropriate construction techniques, from which local government officials may select and enforce individually or in combination, to mitigate identified fire hazards. The rules should be considered best practices and stated construction techniques are not part of the state building code and are not enforceable by the department's Building Codes Bureau.

5. Concerned persons may submit their data, views, or arguments either orally or in writing. Written data, views, or arguments may be submitted to the Department of Labor and Industry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2050, or by e-mail to dcook@mt.gov, and must be received no later than 5:00 p.m., October 8, 2010.

/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 30, 2010