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**MONTANA
ADMINISTRATIVE
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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 6

The Montana Administrative Register (MAR), 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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are found at the back 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 Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE BOARD OF ALTERNATIVE HEALTH CARE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.4.301 FEES

TO: All Interested Persons:

1. On April 14, 1999, at 4:00 p.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.4.301 FEES (1) through (2)(b) will remain the same.

(c) naturopathic renewal ~~250~~ 275

(d) through (g) will remain the same.

(h) midwife examination ~~400~~ 500

(i) midwife renewal ~~250~~ 275

(j) through (n) will remain the same."

Auth: Sec. 37-26-201, 37-27-105, MCA; IMP, Sec. 37-26-201, 37-27-205, 37-27-210, MCA

REASON: The proposed amendment to (2)(c) will pass on to the license applicant the fee increase charged to the Board for the cost of providing the national written midwives' examination. The cost to the Board is being increased by \$100 as of February 1999. The increase to the license applicant will be \$100 from \$400 to \$500.

The proposed amendment to (2)(h) and (i) will raise the renewal fees for midwives and naturopaths in the amount of \$25 from \$250 to \$275. Increased administrative recharge costs from the Division in the amount of \$5,628 (increase amount) for each year of the biennium and the cost for the Oracle computer conversion (\$715) necessitate increasing the revenue base for this program to meet the expected expenditures. At the current level of revenue, the program is projected to have a balance of \$5,794 at the end of FY 2001. In August of FY 2002, the recharges taken will leave this program with a zero cash balance to operate on until the renewal period in April FY 2002.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of

Alternative Health Care, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5436; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Cheryl Brandt.

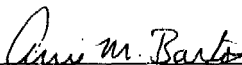
4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Alternative Health Care, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

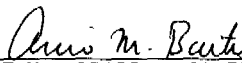
5. Melody Brown, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Alternative Health Care administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Alternative Health Care, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-5436.

BOARD OF ALTERNATIVE HEALTH CARE
MICHAEL BERGKAMP, ND, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF ATHLETICS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.8.2806 FEES

TO: All Interested Persons:

1. On April 14, 1999, at 9:30 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.8.2806 FEES

(1) Promoters/matchmakers	\$250 1500, plus bonding requirements
(2) Boxers/kickboxers	25 40
(3) Wrestlers	25 40
(4) Referees	25 50
(5) Managers/trainers	25 50
(6) Seconds	15 40
(7) Judges	15 50
(8) Timekeeper/knockdown judge	15 35
(9) Minimum kicking requirement officials"	15 35

Auth: Sec. 23-3-405, 37-1-134, MCA; IMP, Sec. 23-3-405, 23-3-501, 37-1-134, MCA

REASON: Costs of regulating athletic events are being increased due to increased costs of operation and overhead to the Board.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Cheryl Smith, Board of Athletics, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5433; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Cheryl Smith.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Athletics, 111 North Jackson, P.O. Box 200513, Helena, Montana

59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Athletics administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Athletics, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-5433.

BOARD OF ATHLETICS
GARY LANGLEY, CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF BARBERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.10.405 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 10:30 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

8.10.405 FEE SCHEDULE

(1) Examination		
(a) barber	\$ 75	100
(b) instructor	100	125
(2) Original application license fee		
(a) barber	30	50
(b) instructor	50	100
(c) shop	40	75
(d) barber school	75	200
(e) out-of-state application fee	150	
(3) Inspection fee for shops/schools	00	100
(4) License renewal fee		
(a) barber	25	45
(b) instructor	40	60
(c) shop	35	75
(d) barber school	45	200
(e) late renewal	50	75
(5) and (6) will remain the same.		
(7) <u>90-day Temporary practice permit</u>	20	
(8) Duplicate license	10	25
(9) Advance training program		
(a) yearly	50	100
(b) ten-day	25	50

(10) All fees are non-refundable. Any portion of the year is to be considered a full year. Fees will not be prorated.

(11) All barber, instructor, barbershop and school licenses will be renewed on an annual basis and will expire March 31 of each year.

Auth: Sec. Sec. 37-1-134, 37-30-203, MCA; IMP, Sec. 37-1-134, 37-30-303, 37-30-307, 37-30-310, 37-30-402, 37-30-404, 37-30-423, MCA

REASON: Increased administrative recharge costs from the Division for each year of the biennium and the cost for the

Oracle computer conversion necessitate increasing the revenue base for this program to meet the expected expenditures. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Jeannie Worsech, Board of Barbers, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-4288; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Jeannie Worsech.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Barbers, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Barbers administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Barbers, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4288.

BOARD OF BARBERS
MAX DEMARS, CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF CLINICAL LABORATORY SCIENCE PRACTITIONERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.13.303 FEES AND
) 8.13.304 RENEWAL

TO: All Interested Persons:

1. On April 14, 1999, at 8:00 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.13.303 FEES (1) will remain the same.

(2) The fees shall be as follows:

(a) original application fee:	
(i) clinical laboratory scientist	\$ 90 100
(ii) clinical laboratory specialist	90 100
(iii) clinical laboratory technician	90 100
(b) will remain the same.	
(c) renewal fee	30 45
(d) late renewal fee (in addition to renewal fee)	30 50
(e) licensure by reciprocity fee	75 100
(f) duplicate license fee	15 25
(g) reactivation of license fee	30 45
<u>(h) educational course approval</u>	<u>25"</u>

Auth: Sec. 37-34-201, MCA; IMP, Sec. 37-34-201, MCA

REASON: The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium. The Board of Clinical Laboratory Science Practitioners will also be contracting for one half-time investigator to check licenses. Partial funding of this contract will be provided by the above fee increases. The new fee for educational course approval is being proposed to partially fund the amount of time a board member must dedicate to review educational course offerings.

8.13.304 RENEWAL (1) will remain the same.

(2) Licenses will be renewed on an annual ~~biennial~~ basis every even-numbered year beginning with the May 1, ~~1998~~ 2000 renewal."

Auth: Sec. 37-34-201, MCA; IMP, Sec. 37-34-201, 37-34-305, MCA

REASON: The Board is proposing to renew on an annual basis instead of a biennial basis so the renewal fee won't be a burden to licensees.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Pam Bragg, Board of Clinical Laboratory Science Practitioners, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3561; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Pam Bragg.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Clinical Laboratory Science Practitioners, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Clinical Laboratory Science Practitioners administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Clinical Laboratory Science Practitioners, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3561.

BOARD OF CLINICAL LABORATORY
SCIENCE PRACTITIONERS
JOANNE SCHNEIDER, CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

In the matter of the proposed amendment of a rule pertaining to fees) NOTICE OF PROPOSED AMENDMENT
OF ARM 8.14.814 FEES - INITIAL,
RENEWAL, PENALTY AND REFUND
FEES
)
)

TO: All Interested Persons:

1. On April 24, 1999, the Board of Cosmetologists proposes to amend the above-stated rule.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

(14) Examination fees will be paid to the examination service contracted by the board. In the event the board does not contract the examination services, the fees will be paid to the board.

(15) through (19) will remain the same, but will be renumbered (16) through (20)."

Auth: Sec. 37-1-134, 37-31-203, 37-31-323, 37-32-201,
MCA; IMP, Sec. 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-
31-309, 37-31-311, 37-31-312, 37-31-321, 37-31-322, 37-32-301,
37-32-302, 37-32-304, 37-32-305, 37-32-306. MCA

REASON: The Board and contractor have already received notification from the national testing company that fees will increase July 1, 2000, for examinations administered by the contractor for the board. This fee is currently paid directly to the examination services contractor by the candidate. If the Board does not contract with an outside agency to administer the examination and the Board assumes that responsibility, the fees will be paid directly to the board, as shown in the amendment above, and the Board will forward the fee directly to the national testing service for the candidate.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Cosmetologists, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments

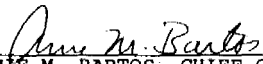
orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Cosmetologists, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

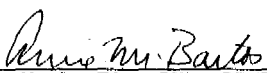
5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative Rule Review Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 35 based on the approximately 350 examination candidates in Montana.

6. Persons who wish to be informed of all Board of Cosmetologists administrative rulemaking proceedings, or other administrative proceedings, may be placed on a list of interested persons by advising the Board in writing at 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4288.

BOARD OF COSMETOLOGISTS
VERNA DUPUIS, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE STATE ELECTRICAL BOARD
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF ARM 8.18.407 FEE SCHEDULE
to fees)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 24, 1999, the State Electrical Board proposes to amend the above-stated rule.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.18.407 FEE SCHEDULE

- (1) will remain the same.
- (2) Application fee (non-refundable) to 20 120
include
~~(3) Original license fee~~
(a) will remain the same, but will be renumbered (3).
~~(b) Master~~ 100
~~(c) Journeyman~~ 100
~~(d) Residential~~ 100
(4) through (8) will remain the same."

Auth: Sec. 37-1-131, 37-1-134, 37-68-201, MCA; IMP, Sec. 37-1-134, 37-1-304, 37-1-305, 37-68-304, 37-68-307, 37-68-310, 37-68-311, 37-68-312, 37-68-313, MCA

REASON: This rule is being amended to incorporate the original license fee with the application fee. The amount applicants currently pay will not be changing in amount. The Board feels this amendment will make the rule more clear for applicants.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the State Electrical Board, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the State Electrical Board, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

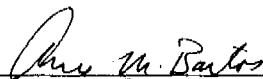
5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative Rule Review Committee of the legislature, from a governmental agency or

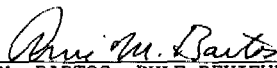
subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 30 based on the approximately 300 applications received per year in Montana.

6. Persons who wish to be informed of all State Electrical Board administrative rulemaking proceedings, or other administrative proceedings, may be placed on a list of interested persons by advising the Board in writing at 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4390.

STATE ELECTRICAL BOARD

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.20.402 FEES

TO: All Interested Persons:

1. On April 14, 1999, at 12:30 p.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.20.402. FEES (1) The fees shall be as follows:

(a) Application fee (includes initial written and practical examination) \$150 175

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

(e) Original license 100 125

(f) Renewal active license 125 200

(g) through (2) will remain the same."

Auth: Sec. 37-1-134, 37-16-202, MCA; IMP, Sec. 37-1-134, 37-16-202, 37-16-402, 37-16-405, 37-16-407, MCA

REASON: Increased administrative recharge costs from the Division for each year of the biennium and the cost for the Oracle computer conversion necessitate increasing the revenue base for this program to meet the expected expenditures. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Hearing Aid Dispensers, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5924; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Linda Grief.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of

Hearing Aid Dispensers, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Hearing Aid Dispensers administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Hearing Aid Dispensers, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-5924.

BOARD OF HEARING AID DISPENSERS
DUDLEY ANDERSON, CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF LANDSCAPE ARCHITECTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.24.409 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 1:00 p.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.24.409 FEE SCHEDULE (1) Fees shall be transmitted by money order or check payable to Montana state board of landscape architects. The board assumes no responsibility for loss in transit of such remittances. All fees are non-refundable.

(2) The fees for landscape architects are as follows:

(a) Application (regular examination)~~\$125~~ 150
fee not included)

(b) and (c) will remain the same.

(d) License renewal)~~125~~ 150

(e) Late fee)~~50~~ 75

(f) through (h) will remain the same."

Auth: Sec. 37-1-134, 37-66-202, MCA; IMP, Sec. 37-1-134, 37-66-202, 37-66-301, 37-66-305, 37-66-307, 38-66-308, MCA

REASON: Increased administrative recharge costs from the Division for each year of the biennium and the cost for the Oracle computer conversion necessitate increasing the revenue base for this program to meet the expected expenditures. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Landscape Architects, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5924; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Linda Grief.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Landscape Architects, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Landscape Architects administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Landscape Architects, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-5924.

BOARD OF LANDSCAPE ARCHITECTS
SHELLY ENGLER, CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.28.420 FEE SCHEDULE,
) 8.28.504 FEES, 8.28.1505
) FEES, 8.28.1701 FEES AND
) 8.28.1806 FEES

TO: All Interested Persons:

1. On April 14, 1999, at 11:30 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.28.420 FEE SCHEDULE (1) The following fees will be charged:

- | | |
|---|------------|
| (a) Application fee - reciprocity or endorsement | \$ 250 325 |
| (b) Temporary certificate fee | 250 325 |
| (c) will remain the same. | |
| (d) Examination fee | |
| (i) for USMLE Step 3 | 500 |
| (ii) SPEX | 300 |
| (e) (d) Renewal fee (active) | 150 200 |
| (f) (e) Renewal fee (inactive) | 60 100 |
| (g) (f) Renewal fee (inactive-retired) | 25 32.50 |
| (h) will remain the same, but will be renumbered (g). | |
| (i) (h) Verification fee | 15 20" |

Auth: Sec. 37-1-134, 37-1-319, 37-3-203, MCA; IMP, Sec. 37-1-134, 37-3-203, 37-3-304, 37-3-308, 37-3-309, 37-3-311, 37-3-313, MCA

"8.28.504 FEES (1) An applicant for licensure shall remit a license fee of \$65 with his or her application.

(2) The annual renewal fee to practice acupuncture will be \$25 50. An additional \$150 will be charged for late renewal.

(3) The board will charge a fee of \$15 20 for written verification of licensure."

Auth: Sec. 37-1-134, 37-13-201, 37-13-301, 37-13-302, 37-13-304, 37-13-305, MCA; IMP, Sec. 37-1-134, 37-3-203, 37-13-302, 37-13-304, 37-13-305, 37-13-306, MCA

"8.28.1505 FEES (1) The fee for an initial license, including the application for approval of an initial utilization plan is \$150 195.

- (2) The fee for annual renewal of a license is ~~\$50~~ 100.
If said renewal is late, there is an additional ~~\$50~~ 150 fee.
(3) The fee for a change in a utilization plan is ~~\$25~~ 40.
(4) The fee for a new utilization plan (new setting and new primary supervising physician) is ~~\$50~~ 75.
(5) will remain the same.
(6) The fee for verification of licensure is ~~\$15~~ 20.
(7) and (8) will remain the same."
Auth: Sec. 37-1-134, 37-20-201, MCA; IMP, Sec. 37-1-134, 37-20-203, 37-20-302, MCA

- "8.28.1701 FEES (1) The annual renewal fee for a podiatrist whether actively engaged or not, in the practice of podiatry in the state of Montana shall be ~~\$150~~ 200.
(2) The following fees will be charged:
(a) Endorsement or reciprocity \$250 325
(b) Examination 35
(c) will remain the same, but will be renumbered (b).
(d) ~~(c)~~ Verification of licensure 15 20"
Auth: Sec. 37-1-134, 37-6-106, MCA; IMP, Sec. 37-1-134, 37-3-203, 37-6-302, 37-6-303, MCA

- "8.28.1806 FEES (1) The board has adopted the following fee payment schedule:
(a) Initial fee \$ 45 58.50
(b) Renewal fee 25 50
(c) will remain the same.
(d) Verification of licensure 15 20"
Auth: Sec. 37-1-134, 37-25-201, MCA; IMP, Sec. 37-1-134, 37-3-203, 37-25-201, 37-25-302, 37-25-307, MCA

REASON: Increased administrative recharge costs from the Division for each year of the biennium and the cost for the Oracle computer conversion necessitate increasing the revenue base for this program to meet the expected expenditures. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium. The examination fees are being deleted as examination applicants pay their fees directly to the national testing service administering the examination and not to the board.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Patricia England, Board of Medical Examiners, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-4284; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Patricia England.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Medical Examiners, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. Patricia England, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Medical Examiners administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Medical Examiners, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4284.

BOARD OF MEDICAL EXAMINERS
LAWRENCE McEVOY, MD, PRESIDENT

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF FUNERAL SERVICE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.30.407 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 10:00 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.30.407 FEE SCHEDULE

(1) Morticians, crematory operator crematory technician application	\$ 75	150
(2) will remain the same.		
(3) Original mortuary license	45	200
(4) Intern license	30	100
(5) Annual renewals		
(a) will remain the same.		
(b) Mortician	60	125
(c) Inactive status	10	50
(d) Mortuary (includes inspection fee)	125	200
(e) and (f) will remain the same.		
(g) Late renewal penalty - <u>mortician, crematory operator and technician</u> (paid in addition to renewal fee)	50	150
(h) Late renewal penalty - mortuary and crematory license (paid in addition to renewal fee)	100	150
(6) and (7) will remain the same.		
(8) Re-inspection fee	75	200
(9) Crematory application fee (includes original license fee)	100	200
(10) will remain the same.		
(11) Crematory renewal - separate facility	125	200
(12) Crematory renewal - attached to mortuary	50	200
(13) will remain the same.		
<u>(14) Cemetery permit application</u>		200
<u>(15) Cemetery original license (five-year license)</u>		1,000
<u>(16) Cemetery initial inspection fee</u>		200
<u>(17) Cemetery permit renewal fee (five year, includes inspection fee)</u>		1,000

(18) Administrative fee (change of name/
address)"

25

Auth: Sec. 37-1-134, 37-19-202, 37-19-703, MCA; IMP, Sec. 37-1-134, 37-19-301, 37-19-304, 37-19-306, 37-19-402, 37-19-403, 37-19-702, 37-19-703, MCA

REASON: The application and renewal fees are being raised due to the increased costs of operation and overhead of the Board. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium. The reinspection fee is being increased to partially fund the cost of inspector travel to mortuaries, crematories or cemeteries not in compliance with Board statutes and rules.

The new fees are being proposed to fund the administrative costs of processing cemetery applications, inspection of new cemeteries and reinspection of existing cemeteries when compliance issues arise. The original license is in effect for a period of five years and for five-year renewal periods thereafter. All the fees are set commensurate with program area costs.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Cheryl Smith, Board of Funeral Services, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5433; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Cheryl Smith.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Funeral Service, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. Melody Brown, attorney, has been designated to preside over and conduct the hearing.

6. Persons who wish to be informed of all Board of Funeral Service administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Funeral Service, 111 North Jackson,

P.O. Box 200513, Helena, Montana 59620-0513 or by phone at
(406) 444-5433.

BOARD OF FUNERAL SERVICE
DAVID FULKERSON, CHAIRMAN

BY:

Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.34.414 EXAMINATIONS AND
) 8.34.418 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 9:00 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.34.414 EXAMINATIONS (1) and (2) will remain the same.

(3) In the event of failure, the individual may retake the examination within the period of one year, by paying ~~\$75.00~~ 210."

Auth: Sec. 37-1-131, 37-1-134, 37-9-201, 37-9-203, 37-9-304, MCA; IMP, Sec. 37-1-134, 37-9-201, 37-9-203, 37-9-301, 37-9-303, 37-9-304, MCA

REASON: This amendment is being proposed because the national testing service utilized by the Board for administering the examination is raising its cost per applicant in the above amount.

"8.34.418 FEE SCHEDULE (1) The examination and licensee fees shall be as follows:

(a) application fee \$ 30 60

(b) examination and license for the April examination 100 210

~~(c) examination and license for the October examination 120~~

~~(d) (c) inactive renewal fee 30 45~~

~~(e) (d) active renewal fee 60 20~~

~~(f) (e) temporary permit 40 50~~

~~(g) (f) reciprocity 85 100~~

(h) through (k) will remain the same, but will be renumbered (g) through (j).

(k) educational approval fee 25

(2) will remain the same."

Auth: Sec. 37-1-131, 37-1-134, 37-9-201, 37-9-203, 37-9-304, MCA; IMP, Sec. 37-1-134, 37-9-203, 37-9-304, MCA

REASON: The Board has been attempting to reduce its cash fund balance in compliance with a directive from the 1995 and 1997 legislatures and has been operating at a deficit. These

amendments are being proposed because the Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium. The fees are set commensurate with program area costs.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Pam Bragg, Board of Nursing Home Administrators, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3561; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Pam Bragg.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Nursing Home Administrators, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct the hearing.

6. Persons who wish to be informed of all Board of Nursing Home Administrators administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Nursing Home Administrators, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3561.

BOARD OF NURSING HOME
ADMINISTRATORS
D. KAY JENNINGS, CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) 8.40.404 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 11:30 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.40.404 FEE SCHEDULE

(1) through (13) will remain the same.

(14) Multistate Pharmacy Jurisprudence

Examination (MPJE) exam fee (NABP = \$85; 100
board = \$15)

(14) through (20) will remain the same, but will be renumbered (15) through (21)."

Auth: Sec. ~~37-1-134, 37-7-201, 50-32-103~~, MCA; IMP, Sec. 37-1-134, 37-7-201, 37-7-302, 37-7-303, 37-7-321, 37-7-703, MCA

REASON: The proposed amendment will add a fee for the Multistate Pharmacy Jurisprudence Exam (MPJE). The new fee is necessary as the Board will be using a new, computerized multistate jurisprudence exam beginning in 1999. The previous paper and pencil jurisprudence exam did not have as many costs associated with its administration. The new fee will accurately reflect the costs of the new MPJE exam.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Cami Robson, Board of Pharmacy, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-1698; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Cami Robson.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Pharmacy, 111 North Jackson, P.O. Box 200513, Helena, Montana

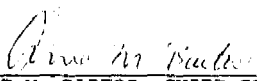
59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

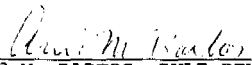
5. Melody Brown, attorney, has been designated to preside over and conduct the hearing.

6. Persons who wish to be informed of all Board of Pharmacy administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Pharmacy, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-1698.

BOARD OF PHARMACY
SHIRLEY BAUMGARTNER, PRESIDENT

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) 8.48.1105 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 11:00 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.48.1105 FEE SCHEDULE (1) and (2) will remain the same.

(3) The biennial renewal fee for registration as a professional engineer or professional land surveyor shall be ~~\$40~~ 60. For professional engineers-surveyors (ES), it shall be ~~\$60~~ 80. For partnership or corporation certificates of authorization it shall be \$15 25.

(4) The remainder of the fees shall be as follows:

(a) EIT application and test	\$ 40	<u>60</u>
(b) PE application and test (original)	120	<u>130</u>
(c) PE application and test for out-of-state EIT	140	<u>150</u>
(d) PE comity application	140	<u>250</u>
(e) will remain the same.		
(f) LS application and test	80	<u>100</u>
(g) LS comity and test	140	<u>250</u>
(h) ES comity and test	200	<u>250</u>
(i) Re-exam	50	<u>60</u>
(j) Partnership and corporation certificate of authorization original	40	<u>60</u>
(k) Emeritus application	15	<u>25</u>
(l) Reactivation fee, land surveyor and professional engineer"	40	<u>60</u>

Auth: Sec. 37-1-134, 37-67-202, MCA; IMP, Sec. 37-1-319, 37-67-303, 37-67-312, 37-67-313, 37-67-315, 37-67-320, 37-67-321, MCA

REASON: The Board is proposing these amendments to partially fund the new Compliance Officer/Investigator position and the new certification technician position. The board is also partially funding the new continuing education and records retention programs under its jurisdiction. In addition,

increased administrative recharge costs from the Division for each year of the biennium and the cost for the Oracle computer conversion necessitate increasing the revenue base for this program to meet the expected expenditures. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the entire program during the 2000-2001 biennium.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Mary Hainlin, Board of Professional Engineers and Land Surveyors, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-4285; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Mary Hainlin.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Professional Engineers and Land Surveyors, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Professional Engineers and Land Surveyors administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Professional Engineers and Land Surveyors, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4285.

BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
DAVID M. HUMMEL, CHAIRMAN

BY:

Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF PRIVATE SECURITY
PATROL OFFICERS AND INVESTIGATORS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.50.437 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 1:30 p.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.50.437 FEE SCHEDULE

- | | | |
|--|----------------|-----|
| (1) License application fees | | |
| (a) Contract security company | 100 | 250 |
| (b) Proprietary security organization | 100 | 250 |
| (c) Private investigator | 100 | 250 |
| (d) Qualifying agents and resident managers | 100 | 250 |
| (e) Security alarm installer | 100 | 250 |
| (f) Private investigator trainee | 100 | 250 |
| (2) through (2) (c) will remain the same. | | |
| (3) Licensee and employee renewals | | |
| (a) Licensee renewals | 50 | 125 |
| One-half fee for renewals for each additional license or multiple licenses | | |
| (b) Contract security employee | 25 | 30 |
| (c) Proprietary security employee | 25 | 30 |
| (d) Security alarm installer employee | 25 | 30 |
| (3) (e) through (8) will remain the same." | | |

Auth: Sec. 37-1-134, 37-60-202, MCA; IME, Sec. 25-1-1104, 37-1-134, 37-60-304, 37-60-312, MCA

REASON: The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium. Administration of the program includes, but is not limited to, the following: process applications, process and issue licenses, administer examinations, process and issue renewals, out-of-state licensure determination, process fingerprint cards, records management, administrative responsibilities/duties for the program and appointed board, continuing education.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Sandra Blanton-Donahue, Board of Private Security Patrol Officers and Investigators, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3728; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Sandra Blanton-Donahue.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Private Security Patrol Officers and Investigators, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Private Security Patrol Officers and Investigators administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Private Security Patrol Officers and Investigators, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3728.

BOARD OF PRIVATE SECURITY
PATROL OFFICERS AND INVESTIGATORS
GARY GRAY, CHAIRMAN

BY:

Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF PSYCHOLOGISTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.52.616 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 3:00 p.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.52.616 FEE SCHEDULE (1) The department will collect the following fees, none of which are refundable:

(a) will remain the same.

(b) Examination fee

275 375

(c) Renewal fee

150 200

(d) and (e) will remain the same.

Auth: Sec. 37-1-134, 37-17-202, MCA; IMP, Sec. 37-17-302, 37-17-303, 37-17-306, 37-17-307, MCA

REASON: The proposed amendment to (1)(b) will pass on to the license applicant the fee increase charged to the Board for the cost of providing the national written examination. The cost to the Board is being increased by \$100 as of April 1999. The increase to the license applicant will be \$100 from \$275 to \$375 as shown above.

The proposed amendment to (1)(c) will raise renewal fees in the amount of \$50, from \$150 to \$200. Increased administrative recharge costs from the Division in the amount of \$7,875 for each year of the biennium and the cost for the Oracle computer conversion (\$2,713) necessitate increasing the revenue base for this program to meet the expected expenditures. At current level of revenue, the program is projected to have a negative cash balance at the end of FY 2000.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Psychologists, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5436; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons

with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Cheryl Brandt.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Psychologists, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. Melody Brown, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Psychologists administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Psychologists, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-5436.

BOARD OF PSYCHOLOGISTS
JAMES P. MURPHEY, Ph.D., CHAIRMAN

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining) OF 8.54.410 FEE SCHEDULE
to fees and statement by permit) AND 8.54.903 STATEMENT BY
holders) PERMIT HOLDERS
)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 24, 1999, the Board of Public Accountants proposes to amend the above-stated rules.
2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.54.410 FEE SCHEDULE (1) through (10) will remain the same.

(11) Fees for PMP reviews:

<u>(a) audits</u>	<u>\$450</u>
<u>(b) reviews</u>	<u>225</u>
<u>(c) compilations with disclosures</u>	<u>225</u>
<u>(d) compilations without disclosures</u>	<u>115"</u>

Auth: Sec. 37-1-134, 37-50-203, MCA; IMP, Sec. 37-1-134, 37-50-204, 37-50-314, 37-50-317, MCA

REASON: Subsection (11)(a) through (d) are being proposed as a result of a study conducted by the Board. Based upon the 1997 Profession Monitoring Program costs, it was determined that firms participating in the Profession Monitoring Program, in lieu of peer or quality review, should be charged a fee commensurate with Board costs of administering the Program. The fees for report submission are based on the complexity and number of hours required to accomplish the review.

8.54.903 STATEMENT BY PERMIT HOLDERS (1) will remain the same.

(2) Permit holders shall be required to file a report with the board as set out in ARM 8.54.904, along with the required fee set forth in ARM 8.54.410, if they:

(2)(a) through (4) will remain the same."

Auth: Sec. 37-50-203, MCA; IMP, Sec. 37-50-203, MCA

REASON: The Board is proposing this amendment to clarify to the licensees that a fee is to be submitted along with the report submission to cover the costs of the PMP identified in the reason for the amendment of ARM 8.54.410 above.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the

Board of Public Accountants, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

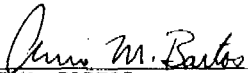
4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Public Accountants, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

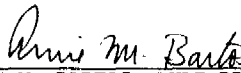
5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative Rule Review Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 330 based on the 3291 licensees in Montana.

6. Persons who wish to be informed of all Board of Public Accountants administrative rulemaking proceedings, or other administrative proceedings, may be placed on a list of interested persons by advising the Board of Public Accountants in writing at 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3739.

BOARD OF PUBLIC ACCOUNTANTS
CURTIS AMMONDSON, CPA, CHAIRMAN

BY:


ANNIE M. BARTOS
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) 8.57.412 FEES

TO: All Interested Persons:

1. On April 14, 1999, at 8:30 a.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.57.412 FEES (1) The following fees will apply to all license/certificate holders. Fees are not refundable or transferable.

(a) original license/certificate application and renewal	\$150 400
(b) address change/change of business	10 15
(c) will remain the same.	
(d) course approval per course payable by course provider	25 50
(e) course renewal approval per course	10 25
(f) upgrade/downgrade fee	75 150
(g) will remain the same.	
(h) administrative/copying fee	20 40
(i) late renewal fee	100 150
(j) inactive license/certification fee	15 50
<u>(k) reciprocity</u>	300
<u>(l) license/certification renewal fee</u>	200
<u>(m) examination fee</u>	50"

Auth: Sec. 37-1-131, 37-54-105, MCA; IMP, Sec. 37-1-131, 37-54-105, 37-54-112, 37-54-201, 37-54-210, 37-54-211, 37-54-302, 37-54-310, 37-54-406, MCA

REASON: The Board has been attempting to reduce its cash fund balance in compliance with a directive from the 1995 and 1997 legislatures and has been operating at a deficit. The Board's overhead charges have increased and a full-time investigator was hired. In addition, the board will be administering the national examination because of unsuccessful attempts to receive bids from contractors to administer the examination. The Board's current fee schedule does not generate enough revenue to establish a cash balance sufficient to administer the program during the 2000-2001 biennium. The proposed new fees and fee increases will partially fund the investigator position and the examination process, and provide sufficient

revenue to administer the program through the 2000-2001 biennium.

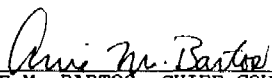
3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Pam Bragg, Board of Real Estate Appraisers, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3561; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Pam Bragg.

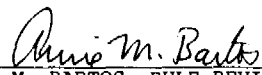
4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Real Estate Appraisers, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Real Estate Appraisers administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Real Estate Appraisers, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3561.

BOARD OF REAL ESTATE APPRAISERS
A. FARRELL ROSE, CHAIRMAN

BY: 
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF
to fees) ARM 8.64.402 FEE SCHEDULE

TO: All Interested Persons:

1. On April 14, 1999, at 3:30 p.m., a public hearing will be held in the conference room of the Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.64.402 FEE SCHEDULE

(1) Veterinarians

(a) Annual renewal of certificate of registration \$ 25 35

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

Auth: Sec. 37-1-134, 37-18-202, MCA; IMP, Sec. 37-1-134, 37-1-304, 37-1-305, 37-18-302, 37-18-307, MCA

REASON: The proposed amendment will increase the renewal fee from \$25 to \$35. Increased administrative recharge costs from the Division in the amount of \$7,717 (additional amount) for each year of the biennium and the cost for the Oracle computer conversion (\$12,631) necessitate increasing the revenue base for this program to meet the expected expenditures.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Veterinary Medicine, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-5436; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Cheryl Brandt.


4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Veterinary Medicine, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., April 22, 1999.

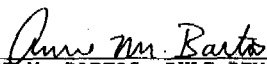
5. Melody Brown, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Veterinary Medicine administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Veterinary Medicine, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-5436.

BOARD OF VETERINARY MEDICINE
DON SMITH, D.V.M., CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE WEIGHTS AND MEASURES BUREAU
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF A RULE PERTAINING TO THE
to the Weights and Measures) WEIGHTS AND MEASURES BUREAU
Bureau)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On February 25, 1999, the Weights and Measures Bureau published a notice at page 325 of the Montana Administrative Register, Issue No. 4, of the proposed amendment of the above-captioned rule. This notice of the proposed bureau action is to clarify the statement of reasonable necessity. On April 24, 1999, the Weights and Measures Bureau proposes to amend a rule pertaining to the Weights and Measures Bureau.

2. The Bureau is proposing to amend ARM 8.77.103. This amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.77.103. NIST HANDBOOK 44 - SPECIFICATIONS, TOLERANCES AND USER OTHER TECHNICAL REQUIREMENTS FOR WEIGHING AND MEASURING DEVICES (1) The bureau of weights and measures with the advice and counsel of the NIST hereby adopts the specifications, tolerances and ~~regulations~~ requirements for commercial weighing and measuring devices published in NIST Handbook 44 - 1999~~2~~ Edition, as the specifications, tolerances and ~~regulations~~ requirements for commercial weighing and measuring devices for the state of Montana.

(a) will remain the same."

Auth: Sec. 30-12-202, MCA; IMP, Sec. 30-12-202, MCA

REASON: Handbook 44, as stated in its title, details the specifications and tolerances which weighing and measuring devices must conform to. As with any other document which deals with constantly evolving technology, it must be periodically reviewed and updated in order to remain current. The National Conference on Weights and Measures, whose membership is comprised of both state and local weights and measures officials and industry representatives, is the entity under which several committees work to approve and adopt changes to the handbook and promote uniformity in the application of specifications, tolerances, and requirements contained in the book. The National Conference promulgated the revised requirements for commercial weighing and measuring devices, so that the best and most efficient technology would be utilized by entities involved in the field of weights and measures. Utilization of these more efficient and technologically advanced specifications and tolerances will be a benefit to Montana commerce. Further, by adopting the changes made to the 1999 edition, Montana's Weights and

Measures will be able to continue to provide testing and inspecting procedures that are consistent with national standards.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Weights and Measures Bureau, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200512, Helena, Montana 59620-0512, no later than 5:00 p.m., April 24, 1999.

4. If a person who is directly affected by the proposed amendment wishes to present their data, views or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit the request along with any comments they have to the Weights and Measures Bureau, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200512, Helena, Montana 59620-0512, or by facsimile (406) 444-4305, to be received no later than 5:00 p.m., April 23, 1999.

5. Persons who wish to be informed of all Weights and Measures administrative rule-making hearings or other administrative hearings may be placed on a list of interested persons by advising the Bureau in writing to the Weights and Measures Bureau, Department of Commerce, 1424 Ninth Avenue, P.O. Box 200512, Helena, Montana 59620-0512.

6. If the Bureau receives requests for a public hearing on the proposed amendment from either 10 percent or 25 whichever is less, of those persons who are directly affected by the proposed amendment, from the Administrative Rule Review Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 15 based on the number of registered service agencies that do installations and repairs on weighing and measuring devices.

WEIGHTS AND MEASURE BUREAU
JACK KANE, BUREAU CHIEF

BY: Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE TRAVEL PROMOTION AND DEVELOPMENT DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF A
to the Tourism Advisory Council) RULE PERTAINING TO THE
) TOURISM ADVISORY COUNCIL

TO: All Interested Persons:

1. On February 25, 1999, the Travel Promotion and Development Division published a notice of public hearing on April 6, 1999, at page 327 of the Montana Administrative Register, Issue No. 4, of the proposed amendment of the above-captioned rule. This notice is to clarify the statement of reasonable necessity and to reschedule the public hearing originally planned for April 6.

On April 26, 1999, at 10:30 a.m., a public hearing will be held in the Upstairs Conference Room at the Department of Commerce, 1424 Ninth Avenue, Helena, Montana, to consider the proposed amendment of a rule pertaining to the Tourism Advisory Council.

2. The proposed amendment to ARM 8.119.101 will read as follows: (new matter underlined, deleted matter interlined)

"8.119.101 TOURISM ADVISORY COUNCIL (1) will remain the same.

(2) The tourism advisory council hereby incorporates by reference the guide entitled "Regulations and Procedures for Regional/CVB Tourism Organizations, February 1998~~2~~," setting forth the regulations and procedures pertaining to the distribution of accommodation tax revenue. The guide is available for public inspection during normal business hours at the Montana Travel Promotion and Development Division, Department of Commerce, 1424 - Ninth Avenue, Helena, Montana 59620. Copies of the guide are available on request.

(3) Distribution of funds to regional nonprofit tourism corporations and to nonprofit convention and visitors' bureaus is contingent upon compliance with the "Regulations and Procedures for Regional/CVB Tourism Organizations, February 1998~~2~~."

Auth: Sec. 2-15-1816, MCA; IMP, Sec. 2-15-1816, MCA

REASON: The Tourism Advisory Council amended regulations and procedures by changing the convention/event subsidies. The proposed rule would allow money to be allocated to fund various conventions or events which would not take place in Montana were it not for the subsidies. Some organizations or groups will not hold their conventions in a location which does not assist in paying for some of the costs associated with the convention. This regulation would allow Tourism Regions and Convention Visitor Bureau's (CVB) to help secure conventions in

their locales by offering to subsidize some the costs of the convention. The economic impact to the community from these conventions would be highly beneficial. Each CVB is limited to allocating only 5% of its budget to such subsidies, thereby ensuring the CVB's financial stability. The council is proposing to adopt these regulations and procedures in the 1999 guidelines. This will provide consumers with the updated guidelines.

3. Interested persons may submit their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Montana Travel Promotion and Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620, no later than 5:00 p.m., April 26, 1999.

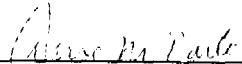
4. The Division will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., April 19, 1999, to advise us of the nature of the accommodation that you need. Please contact Anna Marie Moe, Montana Travel Promotion and Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620; telephone (406) 444-2669; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1800. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Anna Marie Moe at the above-stated address.

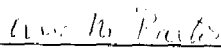
5. Persons who wish to be informed of all Montana Travel Promotion and Development Division administrative rule-making hearings or other administrative hearings may be placed on a list of interested persons by advising the Division at the rule-making hearing or in writing to the Montana Travel Promotion and Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620.

6. Peter B. Ohman, Legal Counsel, will preside over and conduct the hearing.

TRAVEL PROMOTION AND DEVELOPMENT
DIVISION
MATTHEW COHN, DIRECTOR

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

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

In the matter of the amendment)	NOTICE OF PROPOSED
of ARM 12.9.801 creating game)	AMENDMENT
damage hunt rosters)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons.

1. On April 26, 1999, The Fish, Wildlife and Parks Commission (commission) proposes to amend ARM 12.9.801 by establishing a game damage hunt roster.

2. The proposed rule amendment provides as follows:

12.9.801 DAMAGE HUNTS (1) Damage hunts are carried out according to the following policies and procedures:

(a) In January, the department requests the commission to tentatively approve a specified number of antlerless deer, antlerless elk and doe/fawn antelope licenses for potential game damage occurring between August 15 and February 28 15.

(b) If a special damage season is determined by the regional supervisor to be necessary prior to before, during, or after the general hunting season, the supervisor must the following conditions apply:

(i) The supervisor must obtain approval of the commissioner in whose district the special game damage season is proposed prior to implementing the season. If the commissioner is not available, then approval will be requested from the chairman of the commission or, in his absence, any other commissioner.

(ii) A random list of applicants on file for that district in special licensing will be requested. The regional supervisor will request the district's list of special license applicants. The list will include all those special license applications processed to date and on the computer file. The regional supervisor and staff will randomly select names of individuals on this list, and these individuals will be given an opportunity to use a game damage permit.

(iii) If an a special license applicant list is not available for the district, the regional applicant list damage hunt roster for that species will be used. The damage hunt roster will be a list of individuals who have applied to be listed on the roster. Hunters selected by the region to participate in the special damage season will not may be allowed to hunt with the special damage license/permit during, before, or after the general season, if unsuccessful during the early damage hunt. These hunters will be in addition to the general season permit quota set by the commission.

(iv) After the August special license drawing, successful applicants will may be used for game damage hunts before, during, or after the general season and will may not always be holding licenses issued in addition to the general season permit

quota ~~set by the commission.~~

~~(c) Current license/permit holders successful in the general season drawings will be used for damage seasons conducted during the general hunting season. They will not be in addition to the general season permit quota.~~

~~(d) (c) Deer and antelope. At the option of the regional supervisor, The regional supervisor may opt to award damage permits to unsuccessful deer and antelope special license applicants by a first come, first served method, using a district or local drawing or the damage hunt roster. The list of unsuccessful special license applicants for the district or local drawing/first come, first served method will be utilized for damage seasons, to be conducted after the general hunting season. These hunters will be in addition to the general season permit quota. Licenses will be available from the local license dealer for all deer damage seasons in which A-4 or B-8 licenses are sold.~~

~~(e) (d) Elk. A The damage hunt roster of hunters to participate in elk damage season conducted before, after, and during, the general hunting season will be developed according to the following priority:~~

~~(i) First, holders of A-7 elk licenses, valid in that portion of the district, who did not fill their A-7 elk license during the period when it was valid;~~

~~(ii) second, unsuccessful applicants for A-7 elk licenses in that portion of the districts;~~

~~(iii) third, unsuccessful applicants for a permit in the district;~~

~~(iv) fourth, unsuccessful applicants for permits in districts immediately adjacent to the district or unsuccessful applicants for permits in the region; and finally, holders of permits, valid in the district, who did not fill their permit during the general season. the list of applicants from the damage hunt roster for that district.~~

~~(e) If an applicant list is not available for that species elk, a local drawing or a first come, first served method of distribution will be used.~~

~~(2) Eligible licenses. Unless stated otherwise, participants in a damage hunt must possess a valid unused license and damage hunt permit for the following species:~~

~~(a) remains the same.~~

~~(b) For elk, the hunter may use valid unused class AAA, A-5, senior, disabled, or youth or B-10 licenses. The holder of a class A-7 elk license may use the damage hunt permit only in the district in which the A-7 elk license is valid.~~

~~(i) (c) a person who is contacted by the department for purpose of a damage hunt may waive the opportunity to participate, but may not be considered again until all other interested persons have been contacted, and.~~

~~(ii) any person who receives an elk permit in the initial drawing may not receive a second permit in the same license year.~~

~~(3) through (5) remain the same.~~

AUTH: 87-1-225, MCA

IMP: 87-1-225, MCA

3. **Rationale:** The proposed revision to the damage hunt rule is reasonably necessary to respond to game damage complaints in a timely manner and to issue game damage permits to hunters fairly and equitably. Currently, the commission authorizes game damage hunting permits in a particular hunting district after the regional supervisor has determined that the hunts are necessary. Applicants who have been unsuccessful in drawing permits in that hunting district are randomly selected, and these applicants are offered the game damage hunt permits. If these applicants elect not to use the permits, the regional staff must then contact unsuccessful drawing applicants in adjacent districts and offer these applicants the game damage permits.

This method is not effective for several reasons. First, during years of low animal populations very few antlerless permits are issued in the drawings. This results in few, if any, hunters to select from in some districts. Secondly, hunters in adjacent districts often do not want the game damage permits because they are unfamiliar with the district and do not feel comfortable hunting there. Thirdly, when hunters from adjacent districts do use the game damage permits, they are often not as effective as hunters who are familiar with the district, so the game damage problem is not remedied. Also, hunters applying for certain hunting districts have specific areas that they want to hunt and are unwilling to hunt the area the department requests them to hunt. Finally, while the current rule allows for local drawings on a "first come, first served" basis, this method takes time, and hunters are needed quickly to respond to prevent further game damage. A game damage hunt roster organized by districts will allow the regional staff to quickly locate effective hunters who will assist in remedying the game damage problems.

4. Interested persons may present their data, views or arguments concerning the proposed amendment in writing no later than April 23, 1999, to Glenn Erickson, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701.

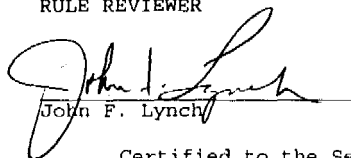
5. If a person who is directly affected by the proposed amendment wishes to express his or her views, data and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to Glenn Erickson, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana 59620-0701, no later than April 23, 1999.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the administrative rule review committee of the legislature; from a governmental agency or subdivision; or from any association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register and mailed to all interested persons.

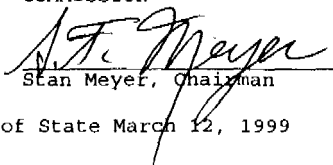
Ten percent of those persons directly affected has been determined to be in excess of 21,000 persons based on the total number of resident hunting licenses sold in 1997.

7. The Department of Fish, Wildlife and Parks maintains a list of persons interested in both department and commission rulemaking proceedings. Any person wishing to be on the list must make a written request to the department, providing name, address and description of the subject or subjects of interest. Direct the request to Montana Fish, Wildlife and Parks, Legal Unit, PO Box 200701, Helena, MT 59620-0701.

RULE REVIEWER


John F. Lynch

FISH, WILDLIFE AND PARKS
COMMISSION


Stan Meyer, Chairman

Certified to the Secretary of State March 12, 1999

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	
of rules 17.30.602, 17.30.622)	
through 17.30.629, 17.30.702,	)	NOTICE OF PUBLIC
and 17.30.1001 pertaining to	)	HEARING
the Montana surface water	)	ON PROPOSED
quality standards, the	)	AMENDMENT
nondegradation rules, and the)	
groundwater pollution control)	
system rules	)	(Water Quality)

TO: All Interested Persons

1. On April 15, 1999, at 1:30 p.m., or as soon thereafter as the matter may be heard, the Board will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-captioned rules.

The Board will make reasonable accommodations for persons with disabilities who wish to participate in this hearing. If you need an accommodation, contact the Board no later than 5 p.m., April 2, 1999, to advise us of the nature of the accommodation you need. Please contact the Board at P.O. Box 200901, Helena, Montana, 59620-0901; phone (406) 444-2544; fax (406) 444-4386.

2. The rules proposed to be amended appear below. Matter to be added is underlined. Matter to be deleted is interlined.

17.30.602 DEFINITIONS In this subchapter the following terms have the meanings indicated below and are supplemental to the definitions given in 75-5-103, MCA:

(1) through (29) Remain the same.

(30) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, nutrient, and ~~other~~ harmful parameters in water. Copies of Circular WQB-7 may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901.

(31) Remains the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.622 A-1 CLASSIFICATION STANDARDS (1) through (3) Remain the same.

(4) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition).

which establishes limits for toxic, carcinogenic, bioconcentrating, nutrient, and ~~other~~ harmful parameters in water; and

(4) (b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.623 B-1 CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3) (b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.624 B-2 CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3) (b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.625 B-3 CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3) (b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.626 C-1 CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3) (b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.627 C-2 CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3)(b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.628 I CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3)(b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.629 C-3 CLASSIFICATION STANDARDS (1) and (2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(3)(b) and (c) Remain the same.

AUTH: 75-5-201 and 75-5-301, MCA; IMP: 75-5-301, MCA

17.30.702 DEFINITIONS Unless the context clearly states otherwise, the following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter (Note: 75-5-103, MCA, includes definitions for "degradation", "existing uses", "high quality waters", and "parameter."):

(1) through (23) Remain the same.

(24)(a) The board hereby adopts and incorporates by reference:

(i) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and

(24)(a)(ii) through (b) Remain the same.

AUTH: 75-5-301 and 75-5-303, MCA; IMP: 75-5-303, MCA

17.30.1001 DEFINITIONS For the purpose of this subchapter, the following definitions, in addition to those in

75-5-103, MCA, will apply:

(1) through (6) Remain the same.

(7) "Montana ground water quality standards" means the standards for ground water quality set forth in ARM ~~17.30.1003~~ 17.30.1006.

(8) through (14) Remain the same.

(15) "WQB-7" means department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~November 1998~~ March 1999 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water. AUTH: 75-5-201 and 75-5-401, MCA; IMP: 75-5-301 and 75-5-401, MCA

3. The Board is proposing the amendment of 17.30.602, 17.30.622 through 17.30.629, 17.30.702, and 17.30.1001 to incorporate by reference revisions to Montana's numeric water quality standards listed in department Circular WQB-7 (November 1998 edition), regarding dioxin. The standard for dioxin in the current edition of WQB-7 refers to 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (2,3,7,8-TCDD). However, 2,3,7,8-TCDD converts, or "breaks down" into other dioxin-like compounds in the environment. Other chlorinated dibenzo-p-dioxins (CDDs) and chlorinated dibenzofurans (CDFs) are usually also present with 2,3,7,8-TCDD, and a significant portion of the harmful effects of dioxins may result from these other CDDs and CDFs, which are among the most powerful human carcinogens known. The proposed amendments are necessary to protect against these harmful effects.

The United States Environmental Protection Agency (EPA) has addressed this problem through the development of "Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-dioxins and -Dibenzofurans (CDDs and CDFs) and 1989 Update", EPA/625/3-89/016, March 1989. The Board is proposing to adopt the dioxin measurement method specified in EPA's procedures in place of the current standard listed in WQB-7. The numeric standard would not be changed but the standard would apply to the total CDDs and CDFs present by using the "Toxicity Equivalence Factors" and process given in the EPA publication. The Board is not proposing to adopt a more stringent measurement method than the method specified in the EPA publication because 75-5-203, MCA, prohibits adoption of standards that are more stringent than comparable federal regulations or guidelines unless the Board has made certain findings after a public hearing and public comment. The Board has not made these findings.

For more detailed information regarding the specific proposed changes to the standards, a copy of Department Circular WQB-7 (March 1999 edition) may be obtained from the Department upon request. The March 1999 edition of WQB-7 indicates each proposed change to the November 1998 edition by interlining of the material to be removed and underlining of the material to be

added.

The Board is also proposing to amend ARM 17.30.602(30) and 17.30.622(4)(a) by deleting the word "other" from the phrase "toxic, carcinogenic, bioconcentrating, nutrient, and other harmful parameters in water." "Harmful" is a distinct category of pollutants under WQB-7, and the word "other" should not appear in this context. These amendments are necessary to correct the rules and to provide consistency with other water quality rules in which this list of pollutant categories appears. These amendments are not intended to change the meaning of the rules.

4. Interested persons may submit their data, views or arguments concerning the proposed rules either in writing or orally at the hearing. Written data, views or arguments may also be submitted to the Board of Environmental Review, P.O. Box 200901, Helena, Montana 59620-0901, no later than April 23, 1999. To be guaranteed consideration, the comments must be postmarked on or before that date.

5. James B. Wheelis, Attorney for the Board, shall preside over and conduct the hearing.

BOARD OF ENVIRONMENTAL REVIEW

by: Joe Gerbase
JOE GERBASE, Chairperson

Reviewed by:

David Rusoff
David Rusoff, Rule Reviewer

Certified to the Secretary of State March 12, 1999.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the)	
adoption of NEW RULE I	)	NOTICE OF PUBLIC HEARING
pertaining to temporary	)	ON PROPOSED ADOPTION
water quality standards	)	OF NEW RULE
for Daisy Creek, the)	
Stillwater River and	)	(WATER QUALITY)
Fisher Creek)	

TO: All Interested Persons

1. On April 22, 1999, at 9 a.m. or as soon thereafter as the matter may be heard, the Board will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed adoption of the above-captioned rule.

The Board will make reasonable accommodations for persons with disabilities who wish to participate in this hearing. If you need an accommodation, contact the Board no later than 5 p.m., April 12, 1999, to advise us of the nature of the accommodation you need. Please contact the Board at P.O. Box 200901, Helena, Montana, 59620-0901; phone (406) 444-2544; fax (406) 444-4386.

2. The rule as proposed in response to a petition for temporary standards submitted by Crown Butte Mines, Inc., appears as follows:

RULE 1 TEMPORARY STANDARDS FOR NEW WORLD MINING DISTRICT

(1) The standards for the parameters listed in this rule temporarily modify the specific standards for those parameters provided in ARM 17.30.623 for each of the water bodies listed below, until the temporary standards expire or are terminated by the board. The standards for parameters not listed in this rule are the specific standards listed in ARM 17.30.623. The existing uses of the water bodies listed below must be maintained during the period that these temporary standards are in effect. No increase from existing conditions for any of the parameters that have been temporarily modified (no decrease for pH) is allowed at any point in the affected stream segments. The numerical standards for specific parameters listed below apply only at the downstream end of the stream segment. The requirements of ARM 17.30.623 apply to the waters listed in this rule except where those requirements conflict with the temporary standards listed below.

(2) The temporary standards for these stream segments are effective [on the date this rule goes into effect].

(a) Temporary water quality standards for Daisy Creek, from its headwaters to its confluence with the Stillwater River in the Yellowstone River Drainage, are as follows. No increase from existing conditions (no decrease for pH) is allowed at any

point in Daisy Creek for any of the following parameters. These standards are in effect until [15 years from the effective date of this rule]. Metals standards are in terms of micrograms per liter ($\mu\text{g}/\text{liter}$) total recoverable concentrations and pH standards are in standard units (su).

<u>Parameter</u>	<u>In Daisy Creek at its confluence with the Stillwater River, the following standards shall not be exceeded more than 3% of the time.</u> <u>$\mu\text{g}/\text{liter}$</u>
Aluminum	9,510.
Cadmium	4.
Copper	3,530.
Iron	6,830.
Manganese	1,710.
Zinc	540.
pH	must be maintained above 4.6 su.

(b) Temporary water quality standards for a headwater portion of the Stillwater River, a tributary of the Yellowstone River, from Daisy Creek to the Absaroka-Beartooth wilderness boundary, are as follows. No increase from existing conditions (no decrease for pH) is allowed at any point in this reach of the Stillwater River for any of the following parameters. These standards are in effect until [15 years from the effective date of this rule]. Metals standards are in terms of micrograms per liter ($\mu\text{g}/\text{liter}$) total recoverable concentrations and pH standards are in standard units (su).

<u>Parameter</u>	<u>In the Stillwater River at the Absaroka-Beartooth wilderness boundary, the following standards shall not be exceeded more than 3% of the time.</u> <u>$\mu\text{g}/\text{liter}$</u>
Aluminum	670.
Copper	200.
Iron	1,320.
Lead	13.
Manganese	86.
Zinc	49.
pH	must be maintained above 5.5 su.

(c) Temporary water quality standards for Fisher Creek, from its headwaters to its confluence with Lady of the Lake Creek, the headwaters of the Clark's Fork of the Yellowstone River, are as follows. No increase from existing conditions (no decrease for pH) is allowed at any point in Fisher Creek for any of the following parameters. These standards are in effect until [15 years from the effective date of this rule]. Metals

standards are in terms of micrograms per liter ($\mu\text{g}/\text{liter}$) total recoverable concentrations and pH standards are in standard units (su).

Parameter In Fisher Creek at its confluence with the Stillwater River, the following standards shall not be exceeded more than 3% of the time.

	<u>$\mu\text{g}/\text{liter}$</u>
Aluminum	470.
Copper	110.
Iron	750.
Lead	2.
Manganese	82.
Zinc	44.

pH must be maintained above 5.7 su.

AUTH: 75-5-201, 75-5-312, MCA; IMP: 75-5-312, MCA

3. The Board is proposing this rule in response to a petition submitted by Crown Butte Mines, Inc., (CBMI) under 75-5-312, MCA, for the adoption of temporary standards for certain portions of Daisy Creek, Fisher Creek and the Stillwater River in the New World Mining District north of Cooke City, Montana. The rule is necessary to temporarily modify the surface water quality standards for these water bodies so that improvements to water quality may be achieved by implementation of the plan submitted by CBMI for these stream segments.

For several years prior to 1996, CBMI applied for permits to develop a mine on its properties in the New World Mining District. This was a highly controversial proposal due to the proximity to Yellowstone National Park and the Absaroka-Beartooth Wilderness. A federal district court found CBMI liable for water pollution resulting from historic mining on these properties. CBMI and associated firms, the United States, several environmental groups and the state of Montana eventually entered into a settlement agreement. By this agreement, the United States agreed to purchase CBMI's mining properties in the New World Mining District and CBMI agreed not to develop the mine. CBMI also agreed to provide \$22,500,000 to be used by the United States Forest Service to clean up historic mine wastes at the site and to abate water pollution. CBMI also agreed to petition for temporary water quality standards for affected streams in the district. This settlement agreement was approved by the federal district court and entered as a consent decree on August 7, 1998. On January 22, 1999, the Board of Environmental Review accepted CBMI's petition and directed the Department of Environmental Quality to prepare this notice in cooperation with the United States Forest Service and CBMI. The temporary standards in this rule notice are the standards requested by CBMI in its petition as modified by the Department

of Environmental Quality in cooperation with the U.S. Forest Service. The proposed temporary standards are intended to protect the existing water quality in these streams.

Historic unreclaimed mining disturbances at the headwaters of the Stillwater River, Daisy Creek and Fisher Creek continue to contaminate these streams. Mining activity began in this area over 100 years ago and these disturbances were created prior to enactment of Montana's current mine reclamation laws and prior to modern reclamation science. Although the streams are classified as B-1, at this time they do not meet B-1 water quality standards and are not capable of supporting most of the beneficial uses designated for the B-1 class. For example, these stream segments are not capable of supporting the growth and propagation of salmonid fishes and associated aquatic life and are not drinkable.

The discharges from the historic mining disturbances that contaminate these streams violate the Montana Water Quality Act and the federal Clean Water Act. Pursuant to the settlement agreement and consent decree, the U.S. Forest Service is now in possession of these properties and may be legally responsible for water quality violations. Adoption of the proposed temporary standards would temporarily eliminate legal liability for violation of water quality standards and permit the U.S. Forest Service and others to undertake actions to eliminate or reduce the sources of contamination by reclaiming the historic mining disturbances.

Under 75-5-312, MCA, a plan to identify and eliminate water quality limiting factors to the extent achievable is required for establishment of temporary water quality standards. Under the consent decree, the U.S. Forest Service is obligated to select and implement appropriate actions to abate water pollution in the district in consultation with the Department. The adoption of temporary standards allows the Board to determine the water quality standards that will apply during the cleanup work and to ensure that the cleanup progresses according to the schedule set out in the implementation plan that accompanies CBMI's petition. Adoption of temporary standards would provide a mechanism for the U.S. Forest Service and the state of Montana to work together cooperatively to develop and implement a plan to restore and abate mining disturbances in this area.

Establishment of temporary standards for the specified period of 15 years would allow time to implement actions to restore these sites and abate the sources of water pollution. These actions may take many years to implement and become effective due to limitations at this remote, high-elevation site such as short construction and growing seasons and difficult access and logistics (i.e. long distances for transporting workers, equipment and supplies). The implementation plan provides for completion of cleanup work in 8 years. Temporary

standards are proposed for a term of 15 years for three reasons: (1) to allow additional time for completion of the work if necessary; (2) to allow time for the work to take effect and for water quality to show improvement; and (3) to allow time to petition for site-specific standards or reclassification if it appears that B-1 standards can not be attained for all parameters. If values for a modified parameter improve to support all designated uses for the B-1 classification before the end of 15 years, the law requires the Board to terminate the temporary standard for that parameter (75-5-312(8), MCA). The maximum duration of temporary standards allowed by law is 20 years (75-5-312, MCA).

The standards proposed are intended to protect the existing water quality in these three stream segments. The proposed standard consists of two parts. First, a narrative standard applying to the entire stream segment prohibits any increase in concentrations of pollutants (decrease for pH) over existing conditions. Second, a set of numerical criteria is applicable as standards at the downstream end of the stream segment. These numerical standards are based on data collected near the downstream end of the stream segment and consist of the existing mean values for those parameters plus two standard deviations. The parameters selected are those which currently exceed Montana's B-1 water quality standards. The proposed standards make allowance for some exceedances of these criteria provided that the exceedances do not occur more than 3% of the time. The proposed temporary standards are sufficient to protect existing water quality at the downstream end of the stream segment and below.

An alternate approach for numerical temporary water quality standards for these three stream segments would be to establish multiple points of application along each stream segment using established sampling points. Each point of application would have its corresponding set of values for the various parameters. These values would be based upon the available data sets for these points. The existing water quality in these stream segments improves downstream of the sources of contamination. A significant increase in a parameter at the upstream end of a segment may not be detectable at the downstream end of the segment due to dilution. Therefore, this multi-point approach may provide a more accurate and reliable method of determining whether or not the existing water quality in the stream segment has been worsened.

Development of temporary standards using the multi-point approach described above would require additional analysis of data in order to select appropriate points and sets of values. However, for cleanup work to commence during the 1999 construction season, it is necessary to have temporary water quality standards in effect by June 1999. Development of multi-point standards before commencement of the rulemaking

process would likely delay the rulemaking process to the extent that it may not be possible to have temporary standards in effect by June 1999. Therefore, it was determined to proceed with rulemaking with the temporary water quality standards essentially as proposed by CBMI, but with some modification by the Department.

Another possible alternative to establishment of temporary water quality standards would be to reclassify these stream segments from the current B-1 classification to class I as provided in ARM 17.30.628. The I classification applies to certain impaired stream segments (e.g. portions of Silver Bow Creek and Prickly Pear Creek) and recognizes that these waters do not currently support all beneficial uses. The goal for class I waters is to attain the same beneficial uses as class B-1 waters. Class I standards allow for water quality standards to become more stringent as water quality improves, but do not necessarily require action to eliminate the sources of contamination as will be required if temporary water quality standards are established for these stream segments.

Instead, reclassification from class B-1 to class I would result in eliminating many of the designated uses for these streams. Under the federal Clean Water Act, this would require a "use attainability analysis" to demonstrate that those designated uses cannot be achieved. Because technical experts in the Department of Environmental Quality and the U.S. Forest Service believe there is a reasonable possibility that these stream segments could be rehabilitated to meet B-1 standards without treatment, it is doubtful that such a demonstration could be made. For all these reasons, reclassification to class I likely would not be acceptable either to the United States Environmental Protection Agency, which administers the federal Clean Water Act, or to the people of Montana.

4. Interested persons may submit their data, views or arguments concerning the proposed rule either in writing or orally at the hearing. Written data, views or arguments may also be submitted to Debbie G. Allen, Paralegal, Department of Environmental Quality, P.O. Box 200901, Helena, Montana, 59620-0901, no later than April 22, 1999. To be guaranteed consideration, the comments must be postmarked on or before that date.

5. James B. Wheelis, Attorney for the Board, has been appointed to preside over and conduct the hearing.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

David Rusoff

Joe Gerbase

David Rusoff, Rule Reviewer

JOE GERBASE, Chairperson

Certified to the Secretary of State March 12, 1999.

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

In the matter of the	)	NOTICE OF PROPOSED
amendment of rules 16.30.801,	)	AMENDMENT
16.30.803 and 16.30.804)	
pertaining to control of)	
transmission of infectious)	
diseases to emergency medical	)	NO PUBLIC HEARING
service providers	)	CONTEMPLATED

TO: All Interested Persons

1. On April 24, 1999, the Department of Public Health and Human Services proposes to amend the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you request an accommodation, contact the department no later than 5:00 p.m. on April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

16.30.801 TRANSMITTABLE INFECTIOUS DISEASES (1) The following infectious diseases are designated as having the potential of being transmitted to emergency services providers through an exposure described in ARM 16.30.802:

(a) human immunodeficiency virus infection (AIDS or HIV infection);

(b) hepatitis B;

(c) hepatitis C;

(d) hepatitis D;

(e) communicable pulmonary tuberculosis;

(f) meningococcal meningitis; and

~~(g) diphtheria;~~

~~(h) plague;~~

~~(i) hemorrhagic fevers (Lassa, Marburg, Ebola, Crimean-Congo, and other viruses yet to be identified); and~~

~~(j) rabies.~~

(g) any disease attributed to a specific bacterial, parasitic, or other agent recognized by "The Control of Communicable Diseases Manual" as transmittable person to person by any of the exposures listed in ARM 16.30.802.

(2) remains the same.

(3) For the purpose of (1)(g) above, the department hereby adopts and incorporates by reference the "The Control of Communicable Diseases Manual" published by American Public Health Association, 16th edition, 1995, which contains a list of transmission and control measures for communicable diseases. A copy of the manual may be obtained from the American Public Health Association, 1015 15th Street NW, Washington, DC 20005.

AUTH: Sec. 50-16-701 and 50-16-705, MCA

IMP: Sec. 50-16-701 and 50-16-705, MCA

16.30.803 EXPOSURE FORM (1) through (2)(i) remain the same.

(3) A copy of the required form is available from the department's Department of Public Health and Human Services, Health Policy and Services Division, Emergency Medical Services Bureau and Injury Prevention Section, Eggeyell Building 1400 Broadway, Capitol Station P.O. Box 202951, Helena, Montana 59620-2951; telephone: 406-444-3895.

(4) and (5) remain the same.

AUTH: Sec. 50-16-705, MCA

IMP: Sec. 50-16-702 and 50-16-705, MCA

16.30.804 RECOMMENDED MEDICAL PRECAUTIONS AND TREATMENT

(1) At a minimum, a health care facility that notifies the designated officer of the emergency services provider who attended a patient prior to or during transport or who transported a patient who has been diagnosed as having one of the infectious diseases listed in ARM 16.30.801 must recommend that the exposed emergency services provider take the medical precautions and treatment:

(a) specified in "The Control of Communicable Diseases in Man Manual", An Official Report of published by the American Public Health Association, 15th 16th Edition, 1990 1995; and

(1)(b) and (2) remain the same.

(3) The department hereby adopts and incorporates by reference "The Control of Communicable Diseases in Man Manual", An Official Report of published by the American Public Health Association, 15th 16th Edition, 1990 1995, which lists and specifies control measures for communicable diseases. A copy of "The Control of Communicable Diseases in Man Manual" may be obtained from the American Public Health Association, 1015 15th Street NW, Washington, DC 20005.

AUTH: Sec. 50-16-705, MCA

IMP: Sec. 50-16-703 and 50-16-705, MCA

3. This notice replaces the previous notice, MAR No. 37-108, issue number 17, published September 10, 1998.

The amendments to the above rules are necessary to conform

their language to changes in the underlying statutory language and the need to update referenced written standards. The changes to ARM 16.30.801 parallel the changes made by the 1993 Legislature (Chapter 476, 1993 Laws of Montana) to the definition in 50-16-701, MCA, of infectious disease. The 1993 amendment requires the definition of infectious disease to include any disease transmittable through an exposure, itself defined in 50-16-701, MCA, and more specifically delineated by rule in ARM 16.30.802. Since the list of diseases possibly transmitted by such exposure is extensive and the possibility of some of them being missed if the department attempted to list them all in the rule, it is necessary to adopt the alternative of using the Control of Communicable Diseases Manual of the American Public Health Association, the acknowledged communicable diseases reference used in public health, as the means of determining which diseases are infectious diseases.

The amendments proposed to ARM 16.30.803 are necessary to reflect changes in the name and address of the department's Emergency Medical Services and Injury Prevention Section.

In ARM 16.30.804, the incorporated standards of the American Public Health Association have been updated and the name of the document containing them changed to conform to its current title. The proposed amendments will incorporate the updated standards and are necessary to ensure that the most up-to-date nationally recognized public health standards are required for use in Montana.

4. Interested persons may submit their data, views or arguments concerning the proposed action in writing to Kathy Munson, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951, no later than April 22, 1999. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

5. If a person who is directly affected by the proposed action wishes to express data, views and arguments at a public hearing, that person must make a written request for a public hearing and submit such request, along with any written comments to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than April 22, 1999.

6. If the Department of Public Health and Human Services receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of those who are directly affected by the proposed action, from the Administrative Rule Review Committee of the legislature, from a

governmental agency or subdivision, or from an association having no less than 25 members who are directly affected, a hearing will be held at a later date and a notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be in excess of 25 based on the number of individuals affected by rules covering the control of transmission of infectious diseases to emergency medical service providers.

Dawn Silva
Rule Reviewer

Laurie Plummer
Director, Public Health and
Human Services

Certified to the Secretary of State March 12, 1999.

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

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of Rules I and II, the	)	ON PROPOSED ADOPTION,
transfer and amendment of	)	TRANSFER, AMENDMENT AND
rules 20.11.108, 20.11.109,	)	REPEAL
20.11.110, 20.11.112,)	
20.11.113, 20.11.115,)	
20.11.116, 20.11.117 and)	
20.11.118 and the repeal of)	
rules 20.11.114 and 20.11.119)	
pertaining to state facility)	
reimbursement)	

TO: All Interested Persons

1. On April 14, 1999, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption, transfer, amendment and repeal of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you request an accommodation, contact the department no later than 5:00 p.m. on April 5, 1999, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

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

RULE I INCOME (1) Income means economic benefit received by a resident or financially responsible person from any source, and includes, but is not limited to:

(a) gross wages, salaries, tips, commissions, bonuses and other earnings;

(b) draws or advances against future earnings;

(c) allowances, flat rate payments or per diem compensation for employment expenses;

(d) net receipts from nonfarm self-employment (receipts from a nonfarm business, profession, or occupation, after deductions for reasonable operating expenses);

(e) net receipts from farm self-employment, whether an owner, tenant, or sharecropper (receipts from a farm or ranch, after deductions for reasonable operating expenses);

(f) net rental income (receipts from rental property after deductions for reasonable operating expenses);

(g) periodic payments from social security, unemployment compensation insurance, union strike funds, workers compensation, veterans benefits, public assistance (including, but not limited to, Aid to Families with Dependent Children or Temporary Assistance for Needy Families, Supplemental Security Income, and non-Federally-funded General Assistance or General Relief) and other government payments or benefits, disability benefits and training stipends;

(h) alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household;

(i) private pensions, government employee pensions (including military retirement pay), railroad retirement, and regular insurance, trust or annuity payments;

(j) college or university scholarships, grants, fellowships, and assistantships;

(k) dividends, interest, net royalties;

(l) distributions from estates or trusts, net gambling and lottery winnings; capital gains; proceeds from the sale of personal or real property (house, automobile, etc.), tax refunds, Federal Earned Income Credit, government subsidies or grants, gifts, one-time insurance payments, recoveries for injury or loss; and

(m) the value of non-cash benefits (including but not limited to in-kind compensation, personal use of a business vehicle, housing, food, utilities and payment of personal expenses or obligations).

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-405, MCA

RULE II. FIXED EXPENSES

(1) Fixed expenses shall be limited to reasonable and necessary living and mandatory expenses over which the resident or responsible person has little or no control, and which have been incurred or committed to prior to admission. These expenses may include, but are not limited to:

(a) housing expenses such as:

(i) rent payment;

(ii) lease payment;

(iii) mortgage;

(iv) property taxes;

(v) property insurance;

(vi) mortgage insurance;

(vii) heat;

(viii) electricity;

(ix) water and sewer;

(x) waste disposal;

(xi) phone; and

(xii) special improvement districts (SID's) and rural

improvement districts (RID's);
 (b) transportation expenses such as:
 (i) vehicle payment;
 (ii) vehicle lease;
 (iii) vehicle insurance;
 (iv) license;
 (v) vehicle maintenance;
 (vi) fuel; and
 (vii) public transportation;
 (c) medical expenses such as:
 (i) actual medically related cost after subtracting
insurance reimbursement; and
 (ii) medical and nursing home insurance premiums;
 (d) food expense;
 (e) clothing;
 (f) union dues;
 (g) lodge dues which include life insurance;
 (h) court ordered debt or payment (child support, alimony,
etc.);
 (i) taxes such as:
 (i) federal;
 (ii) state;
 (iii) social security;
 (j) mandatory retirement;
 (k) voluntary retirement up to social security
contribution;
 (l) life insurance;
 (m) burial contract committed to prior to, or during the
inpatient stay;
 (n) child/adult day care;
 (o) education; and
 (p) employment expenses.

AUTH: Sec. 53-1-403, MCA
IMP: Sec. 53-1-405, MCA

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

20.11.108 [37.2.701] DEFINITIONS ~~(1) "Personal needs"~~
~~means toiletries, newspapers, tobacco, or other personal comfort~~
~~items not normally supplied by an institution.~~

~~(2) "Income" means wages, salary, net income from self-~~
~~employment, social security, veterans pension, railroad~~
~~pensions, dividends, interest on savings or bonds income from~~
~~estates or trusts, inheritances, net rental income or royalties,~~
~~pensions or annuities, unemployment compensation, alimony and~~
~~child support.~~

~~(3) "Liquid assets" means stocks, bonds, certificate of~~
~~deposit, etc., which can be converted to cash.~~

~~(4) "Fixed expenses" means those expenses over which an~~

~~individual or family has little or no control, limited to the following:~~

- ~~(a) housing~~
- ~~(i) rent payment~~
- ~~(ii) lease payment~~
- ~~(iii) mortgage~~
- ~~(iv) property taxes~~
- ~~(v) property insurance~~
- ~~(vi) mortgage insurance~~
- ~~(vii) heat~~
- ~~(viii) electricity~~
- ~~(ix) water and sewer~~
- ~~(x) waste disposal~~
- ~~(xi) phone~~
- ~~(xii) STD's~~
- ~~(b) transportation~~
- ~~(i) vehicle payment~~
- ~~(ii) vehicle lease~~
- ~~(iii) vehicle insurance~~
- ~~(iv) license~~
- ~~(v) vehicle maintenance~~
- ~~(vi) gasoline, diesel~~
- ~~(vii) public transportation~~
- ~~(c) medical~~

~~(i) actual medically related cost less insurance reimbursement~~

- ~~(ii) medical insurance premiums~~
- ~~(d) food~~
- ~~(e) clothing~~
- ~~(f) union dues~~
- ~~(g) lodge dues which include life insurance~~
- ~~(h) court ordered debt or payment,~~
- ~~(i) taxes~~
- ~~(i) federal~~
- ~~(ii) state~~
- ~~(iii) social security~~
- ~~(j) mandatory retirement~~
- ~~(k) voluntary retirement up to SS contribution~~
- ~~(l) life insurance~~

~~(5) "Discretionary income" is determined by subtracting fixed expenses from the total income and/or adjusted gross income from the most recent IRS tax return plus depreciation and voluntary retirement plans which are deducted from the gross income on the tax return.~~

~~(6) "Responsible person" means a spouse of resident, the natural or adoptive, parents of a resident under 18 years of age, or a guardian or conservator to the extent of the guardian's or conservator's responsibility for the financial affairs of the person who is a resident under applicable Montana law establishing the duties and limitations of guardianship or conservatorship's.~~

~~(7) "Director" means the director of the department of~~

institutions.

(8) "Department" means the department of institutions.

(1) "Department" means the department of public health and human services.

(2) "Discretionary income" is determined by subtracting fixed expenses from the total gross income or adjusted gross income from the most recent IRS tax return plus depreciation and voluntary retirement contributions which are deducted from the gross income on the tax return.

(3) "Financially responsible person" means a spouse of a resident, the natural or adoptive parents of a resident under 18 years of age, or a guardian or conservator to the extent of the guardian's or conservator's responsibility for the financial affairs of the person who is a resident under applicable Montana law establishing the duties and limitations of guardianship or conservatorships.

(4) "Fixed expenses" means the amount determined by the department under [Rule II].

(5) "Income" means the amount determined by the department under [Rule I].

(6) "Liquid assets" means stocks, bonds, certificates of deposit, etc., which can be readily converted to cash.

(7) "Personal needs" means the reasonable cost of toiletries, newspapers, or other personal comfort items not normally supplied by an institution. Department will use the standards for medicaid guidelines as a minimum. The standards for medicaid guidelines are published in the Department Medical Assistance Guidelines Manual (see MA 904-1 and 904-3). A copy of these can be obtained from Department of Public Health and Human Services, Operations and Technology Division, Fiscal Bureau, 111 North Sanders, P.O. Box 6429, Helena, Montana 59604-6429.

(8) "Real property" means land, and permanent attachments thereto including trees, buildings and infrastructure.

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-401, MCA

20.11.109 [37.2.706] PROCEDURE TO OBTAIN FINANCIAL INFORMATION FOR ABILITY TO PAY DETERMINATION (1) Upon admission or commitment to one of the institutions listed in Section 53-1-402, MCA, a representative of the department shall contact the resident or his next of kin or financially responsible person(s) to obtain a financial statement, information and documentation for use in assessing the resident's or financially responsible person's ability to pay the resident's cost of care. The statement form will be approved by the department.

(2) The department shall allow the resident or financially responsible person 30 days from the date of the request or date of mailing to respond. If the resident or financially responsible person is contacted by mail, the department shall

allow an additional 3 days for the response.

~~(2) The financial statement may not be required when the following conditions can be documented:~~

~~(a) The resident is recipient of SSI benefits.~~

~~(b) The resident is currently eligible for Medicaid.~~

~~(3) If the resident or financially responsible person fails to give adequate does not provide or cooperate with the department in obtaining the requested financial information and documentation within 30 days, the department shall assess the full cost of care and shall use the following procedure to obtain the financial information: may determine ability to pay, up to the full cost of care based on the information gathered by the department under 53-1-406, MCA.~~

~~(a) A personal representative of the department will contact the resident or responsible person(s) and will explain what information is needed and why it is necessary.~~

~~(b) If the financial information is still not received, the department will send a letter to the resident or responsible person(s) requesting the needed information within 10 working days.~~

~~(c) If after 10 working days the above information still has not been received, a demand letter may be made on the resident or responsible person(s) by the department's legal counsel requesting the information and explaining that if the information is not received within 15 working days, a subpoena will be issued by the department, or as provided for in ARM 20.11.110, the account will be referred to the department of revenue for collection.~~

~~(d) If after 15 working days, the legal counsel has not received the necessary information as provided for within (c) above, he will request that the director issue a subpoena. If it appears to the satisfaction of the director that there is reasonable cause for the subpoena to be issued, he shall issue the subpoena under his signature and with the seal of the department through the sheriff of the county where the resident or responsible person(s) resides at the time the subpoena is issued. The subpoena shall direct the individual who is named on it to appear at a designated place and time with the necessary documents, papers, records, etc., as listed on the subpoena.~~

~~(i) The director shall appoint a person to act as a hearings officer to appear at the time set forth on the subpoena for appearance. The hearings officer shall be empowered to administer an oath, take testimony which shall be transcribed, ask questions, examine documents, and request copies of any documents.~~

~~(ii) If the patient or responsible person refuses to appear pursuant to the subpoena or refuses at the hearing to cooperate with the hearings officer, the hearings officer shall submit a written report to the director.~~

~~(iii) Within five working days after receipt of the report, the director may petition the district court to order a~~

~~hearing to show cause why the subpoena was not obeyed.~~

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-406, MCA

20.11.110 [37.2.707] ASSESSMENT OF CHARGES MONTHLY PAYMENT AMOUNT

(1) The charge assessed against each resident or financially responsible person shall be the lower of:

(a) the full cost of care, as determined by recorded charges, less any payments received from other sources, except that payments received from a managed care organization administering a mental health managed care program under contract with the department shall not reduce the charge;

(b) the amount of the adjusted ability to pay determination; or

(c) the maximum parental liability, for parents of a long-term residents shall be based on data reported periodically by the United States Department of Agriculture (U.S.D.A.) Center for Nutrition Policy and Promotion. The liability shall commence on the 121st day of care. The current maximum parental liability amount is available upon request from the Department of Public Health and Human Services, Operations and Technology Division, Fiscal Bureau, 111 North Sanders, P.O. Box 6429, Helena, Montana 59604-6429.

(2) The department may accept a monthly payment that is less than the assessed charges, with the balance accumulating as a liability of the resident or financially responsible person under the following circumstances:

(a) pending the sale of liquid assets or real property available to pay the cost of care;

(b) pending the anticipated receipt of income; or

(c) when a resident whose care treatment plans provide for discharge and economic independence within 1 year, and additional funds are needed for:

(i) savings to furnish and initiate an independent living arrangement for the resident upon release from the facility. Under this provision, funds shall not be conserved beyond the point that the resident would no longer meet the asset eligibility limits for SSI or Medicaid; or

(ii) purchase of clothing and other reasonable personal expenses the client will need to enter an independent living arrangement.

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-405, MCA

20.11.112 [37.2.705] ABILITY TO PAY DETERMINATION

(1) Upon receipt of sufficient financial information and documentation, the department ~~shall~~ may determine the fixed expenses of the resident or financially responsible person ~~as defined in ARM 20.11.108 (4).~~ The following shall apply to food, clothing and ~~travel~~ transportation expenses:

(a) allowances for food and clothing needs shall be published by the department based on estimates provided data reported periodically by the U.S.D.A. Center for Nutrition Policy and Promotion for a liberal family budget. A copy of the allowances for food and clothing are available upon request from the Department of Public Health and Human Services, Operations and Technology Division, Fiscal Bureau, 111 North Sanders, P.O. Box 6429, Helena, Montana 59604-6429; and

(b) transportation expenses shall be the allowed for the actual cost of operating one vehicle per family, unless a second vehicle is essential to the production of income. If no vehicle is owned, the actual cost of public transportation shall be allowed.

(2) Ability to pay shall be determined by using the method below: dividing

(a) the resident or financially responsible person's discretionary income as defined in ARM 20.11.108(5) shall be divided by the number of persons dependent upon that income, including the resident or financially responsible person. The quotient shall be the resident's share of discretionary income or the ability to pay.

(3) The ability to pay as determined by (2) (a) shall be reduced by a the monthly personal needs allowance as defined in ARM 20.11.108 for the resident as determined by the department. If the department learns that the personal needs allowance is not being used for the resident's benefit, the department may discontinue the allowance may be discontinued.

(4) Excess liquid assets evaluation.

(a) long term residents' liquid assets which exceed eligibility standards for medicaid shall be viewed as available to meet maintenance costs, and shall be added to the ability to pay considered available to pay the cost of care unless protected as follows:

(a) (i) as protected by law, an order of the court, or the Medicaid Spousal Impoverishment Program.

(ii) as may be protected in full or in part by a written agreement approved by the department upon presentation in writing by the resident or responsible person(s) of any specific and viable future plans or uses for which the excess liquid assets are intended. Such documentation shall include the extent to which the funds need to be protected for purposes of preventing further dependency of the resident or responsible person(s) upon the public and/or of enhancing development of the resident into a normal and self supporting member of society.

(b) short term residents' liquid assets in excess of levels as published by the department shall be added to the ability to pay, unless protected as provided for in ARM 20.11.112 (4) above.

(5) The department shall determine ability to pay based on the real property of a resident or the resident's spouse as follows:

(a) if the real property has been listed or advertised for

sale, or is not occupied as the home of the resident, the resident's spouse, or a dependent child or parent of the resident or the resident's spouse, it shall be considered as provided in 53-1-405, MCA; or

(b) upon the sale of real property, the proceeds shall be considered available to pay the cost of care and shall be added to the ability to pay unless the property sale proceeds will be used to purchase a home within 18 months or are used for primary residence living expenses.

(5) (6) The department shall review its determination of ability to pay for each long term resident or responsible person(s) at least once each year. The department shall review each determination of ability to pay as follows:

(a) annually, as provided in 53-1-408, MCA; or

(b) upon the request of a resident or financially responsible person providing documentation of a changed circumstance that would substantially affect the previous determination;

(c) the determination shall be effective upon completion of the review, unless the department finds one of the conditions in 53-1-408, MCA applies. Refunds of any overpayment resulting from an assessment retroactively reduced because of a new determination of ability to pay shall be made according to 53-1-405, MCA.

AUTH: Sec. 53-1-403 and 53-1-405, MCA

IMP: Sec. 53-1-405, MCA

20.11.113 [37.2.710] THIRD PARTY RESOURCES (1) Applicable medicare, medicaid, or private personal insurance or similar health care benefits shall will be considered as a resource of the resident. When the insurance company, as third party payer, makes direct payment to the insured resident or their responsible party, such payment will be payable to the state of Montana up to the amount actually billed by the department.

(2) Upon verification of the receipt of third party payments made directly to a resident or financially responsible person, the department may enforce the automatic assignment of rights provided in 53-1-414, MCA.

AUTH: Sec. 53-1-403 and 53-1-405, MCA

IMP: Sec. 53-1-405 and 53-1-414, MCA

20.11.115 [37.2.720] APPEALS PROCEDURE (1) A resident or financially responsible person aggrieved by an ability to pay determination may request a hearing as provided in ARM 46.2.201, 46.2.202, 46.2.205 through 46.2.212, 46.2.214 and 46.12.509A.

(1) If the resident or responsible person(s) disagrees with the department's determination of ability to pay, that person may at any time request a redetermination of the ability to pay. The request shall be in writing, and shall state the reasons for disagreement as well as any additional facts

relevant to the request. The department may request a conference with the resident or responsible person(s). Within 30 days of receiving the request for redetermination, or within 30 days of the conference, if a conference is held, the department shall submit its written redetermination to the resident or responsible person(s).

(2) If the resident or responsible person(s) is dissatisfied with the department's redetermination, he may appeal to the director, 1539 11th Avenue, Helena, Montana 59620. This appeal must be in writing, and be filed within 30 days after the aggrieved party has received the department's written redetermination. At the time the appeal is filed, the aggrieved party must state in writing his reasons for the appeal and the intended relief that he wishes to receive. At any time during these procedures, the aggrieved party may be represented by counsel at his own expense. Any appeal should be based solely upon the existing record. If a resident or responsible person desires to introduce new evidence, the appeal would return to the "redetermination" stage.

(3) Upon receipt of the notice of appeal, the director will ask the person responsible for the redetermination and the aggrieved party if they wish to request discovery. If either party requests discovery, the director will designate a period of time in which discovery is to be completed. Discovery means the use of written interrogatories and/or depositions, production of documents, etc. All means of discovery, if agreed to by the parties to the appeal, will be pursuant to the Montana Rules of Civil Procedure concerning discovery. At the conclusion of discovery, the matter will be deemed at issue and the director will decide whether a hearings examiner will be appointed. If the director appoints a hearings examiner, a date will be set for the hearing and if need be name a hearings examiner from the attorney general's legal assistance staff. At the time set for the hearing, the hearings examiner will conduct the hearing in accordance with the Montana Rules of Evidence, if agreed to by the parties to the appeal. The hearing will be adequately transcribed. At the conclusion of the hearing, the director or the hearings examiner may request proposed findings of fact and conclusions of law and supporting memorandums will be set by the hearings examiner. When all matters have been submitted to the hearings examiner, he will write his proposed findings of fact and conclusions of law and submit them to the director for adoption, or the director may proceed to hear and decide the matter on its own merits. If an appeal results in the reduction of the assessment, a retroactive adjustment shall be made no further than 30 days prior to the filing of the appeal.

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-407 and 53-1-408, MCA

20.11.116 [37.2.713] REFUNDS AND RETROACTIVE ASSESSMENTS

(1) If in the process of reviewing a resident's or responsible person's ability to pay, the department determines that information has been misrepresented on a previous financial statement, which if honestly represented would have resulted in a higher ability to pay determination, a retroactive assessment adjustment of the monthly payment amount based on the adjusted increased ability to pay will be made.

(2) If a new determination results in a retroactive reduction of a prior ability to pay determination monthly payment amount, and a refund or reduction of the liability exists the account has been paid in full for that time period, a refund request or credit will be initiated, complete with a corrected statement sent to the party made.

(3) If a billing error occurs resulting in receipts which exceed the cost of care or if combined payments from more than one payer are received which exceed the cost of care, a refund request will be initiated with the appropriate party or intermediary listed as designated recipient.

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-408, MCA

20.11.117 [37.2.711] RECORDING MAINTENANCE OF CHARGES

RECORDS (1) The department shall maintain records of services provided to residents, and shall prepare a monthly itemized statement for each resident receiving chargeable services. Charges shall be recorded for each service and for each day the resident is at the institution at midnight. No per diem charge shall be recorded for the day the resident leaves, unless the resident both enters and leaves dies or is admitted and discharged from the institution during the same day.

AUTH: Sec. 53-1-403, MCA

IMP: Sec. 53-1-403 and 53-1-405, MCA

20.11.118 [37.2.712] PROCEDURE FOR FAILURE TO PAY

(1) Accounts which are delinquent will shall be identified by the department at 60, 90 and 120 day intervals. At The department may notify a resident or financially responsible person whose account is delinquent 90 days, letters may be prepared which state the of its intent to use the department of revenue administration debt collection service for debt collection unless payment is received in 30 days.

(2) If no response or payment is received at before the 120th days, another letter will be sent the department may issue a second notice stating that action has been taken, and requesting that all correspondence and/or payment be directed to the department of revenue administration.

(3) If a resident or financially responsible person dies owing a delinquent account, the department may notify the heirs, devisees, personal representative or attorney of its claim against any estate.

AUTH: Sec. 53-1-403 and 53-1-404, MCA
IMP: Sec. 53-1-411, MCA

3. The rules 20.11.114 and 20.11.119 as proposed to be repealed are on pages 20-158 through 20-160 of the Administrative Rules of Montana.

AUTH: Sec. 53-1-403, MCA
IMP: Sec. 53-1-405, 53-1-406 and 53-1-408, MCA

4. The transfer of these rules is necessary because this program was transferred from the Department of Corrections to the Department of Public Health and Human Services by the 1995 legislature by Chapter 546, Laws of Montana 1995. In order to implement that legislation, the rules are transferred to the Department of Public Health and Human Services ARM Title 37, Chapter 2, subchapter 7.

The rules have not been amended since September, 1984 and have become seriously outdated. In addition, the 1997 legislature, through Chapter 190, 1997 Laws of Montana amended the laws under which resident care is provided in state institutions by the Department. The Department has reviewed the existing rules and is repealing unnecessary rules and has rewritten the remaining rules to make the requirements and provisions easier for the average person to understand and to include the amendments required by the statutory changes made by the legislature. These changes are intended to make the rules conform with the applicable statutes and to clarify ambiguous and inconsistent terms. They are not intended to change the method of determining ability to pay.

These rules cover the methodology under which the Department may establish and obtain reimbursement for services and care provided to residents in the Montana State Hospital, Montana Developmental Center, Montana Veterans' Home, Eastern Montana Veterans' Home, Montana Mental Health Nursing Care Center, Eastmont Human Services Center and Montana Chemical Dependency Treatment Center.

Under 53-1-405 and 53-1-406, MCA, the Department is required to thoroughly investigate a resident or the resident's financially responsible person's ability to pay and set a monthly payment amount. Rule I sets forth what type of resources can be considered income for the purpose of setting a monthly payment amount for the resident. Rule II outlines the types of fixed expenses that may be considered, such as housing, utilities, insurance, child support, etc. in determining the resident's or financially responsible person's ability to pay. The Department must take into consideration these expenses when determining the resident's monthly payment amount. This information already existed in ARM 20.11.108, the definitions rule. The Department

elected to move the information from the definitions into a rule of its own as it is an explanation of what qualifies as income or expenses, not a definition.

ARM 20.11.108 (37.2.701) defines various terms used throughout the reimbursement rules. They have been updated to reflect the changes made in the other rules to reflect required statutory changes.

ARM 20.11.109 (37.2.706) provides the procedure which the Department must follow in order to obtain the financial information needed to reach a determination of the resident or the resident's financially responsible person's ability to pay for care. The Department is required to utilize this procedure by 53-1-405 and 53-1-406, MCA, therefore no options were considered.

ARM 20.11.110 (37.2.707) outlines the monthly payment amount which the Department will assess to each resident, depending on the results of the ability to pay determination the Department conducts under ARM 20.11.112 (37.2.705), and defines when the Department may accept a monthly payment amount that is less than the assessed charges. As this is required of the Department under 53-1-405, MCA, no options were considered.

ARM 20.11.112 (37.2.705) maintains the methodology under which the Department will determine the ability of the resident or the resident's financially responsible person to pay for care. The Department is required to use this methodology by the legislature through 53-1-405, MCA, therefore, no options were considered.

53-1-405, MCA requires the Department to take into consideration any third party resources the resident may be able to rely on for payment of the cost of care from such sources as medicaid, medicare, insurance or other health benefits. In addition, 53-1-414, MCA specifies that on the provision of services to a resident, the resident or the resident's financially responsible person is considered to have assigned any third party resources to the Department. Consequently ARM 20.11.113 (37.2.710) provides that any such benefits count as a resource and also provides for an assignment of any such benefits directly to the Department towards the cost of resident care as required by these statutes. Since this provision is mandated by statute, no options were considered.

53-1-407, MCA requires that the Department provide an opportunity for the resident or the resident's financially responsible person to appeal a determination of their ability to pay. This provision is met by ARM 20.11.115 (37.2.717). This rule provides the opportunity to appeal a decision through the Department's standard appeal procedures. The Department did not

consider any options as this is a mandatory requirement under the statute.

The Department will keep a record of all charges for services provided to the resident and will provide an itemized list of the charges every month as required under 53-1-405, MCA. ARM 20.11.117 (37.2.711) meets this requirement. The Department did not consider any options as this is a mandatory requirement under the statute. The Department is following the industry standard of charging for the day of admission, but not the day of discharge unless the resident dies in the facility. Language was added to the rule to clarify that the Department does charge for the day of discharge when the resident dies or is admitted and discharged on the same day.

ARM 20.11.118 (37.2.712) provides the procedure under which the Department is to proceed in cases of failure to pay for a resident's cost of care as required by 53-1-411 and 53-1-412, MCA. As this methodology is required by law, no other options were considered. Language was added to this rule to clarify the Department's practice to file a claim against an estate if a resident dies and has a delinquent account.

ARM 20.11.114 is being repealed as its provisions were consolidated into ARM 20.11.110 (37.2.707) and 20.11.112 (37.2.705) and is therefore no longer needed.

ARM 20.11.116 (37.2.713) is reworded to clarify that the ability to pay determination can result in a retroactive adjustment of payment amount. There were no substantive changes to the rule.

ARM 20.11.119 is being repealed as the Department is still using the forms, but there was no need to list and adopt them through a rule. Therefore this rule is no longer needed.

5. Interested 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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than April 22, 1999. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dana Silva
Rule Reviewer

Laurie Flanagan
Director, Public Health and
Human Services

Certified to the Secretary of State March 12, 1999.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 4.12.1428 relating to)
the assessment fees on all produce.)

TO: All Interested Persons

1. On November 5, 1998, the Department of Agriculture published a notice of proposed amendment of ARM 4.12.1428 relating to the assessment fees on all produce at page 2934 of the 1998 Montana Administrative Register, Issue No. 21.

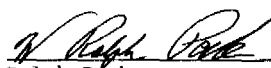
2. The department has amended the rule exactly as proposed.

3. The department has thoroughly considered the comment received. The comment and department's response is as follows:

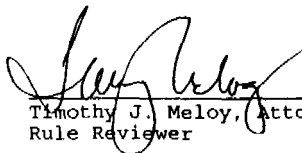
COMMENT NO. 1: One written comment, opposing the fee increase as unnecessary, was received.

RESPONSE: The department noted the objection but felt the increase was justified.

DEPARTMENT OF AGRICULTURE



Ralph Peck
DIRECTOR



Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State March 12, 1999.

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

In the matter of the) NOTICE OF AMENDMENT
amendment of rules 6.6.801,)
6.6.803 through 6.6.806)
pertaining to annuity)
disclosure.)

TO: All Interested Persons

1. On January 14, 1999, the State Auditor's office published a notice of public hearing to consider the proposed amendments of the above-stated rules at page 16, 1999 Montana Administrative Register, issue number 1. The hearing was held on February 8, 1999, in Helena, Montana.

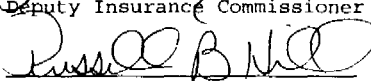
2. The Department has amended rules 6.6.801, 6.6.803 through 6.6.806 exactly as proposed.

3. These rules shall become effective July 1, 1999, and shall apply to policies sold on or after the effective date.

4. No comments or testimony were received.

MARK O'KEEFE, State Auditor
and Commissioner of Insurance

By: 
Frank Cote
Deputy Insurance Commissioner

By: 
Russell B. Hill
Rules Reviewer

Certified to the Secretary of State this 8th day of March,
1999.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of Rule 6.6.8301,)
concerning updating)
references to the NCCI)
Basic Manual for Workers)
Compensation and Employers)
Liability Insurance, 1996)
ed.)

TO: All Interested Persons

1. On December 3, 1998, the state auditor and commissioner of insurance of the state of Montana published notice of proposed amendment of Rule 6.6.8301, concerning updating references to the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 ed. The notice was published at page 3174 of the 1998 Montana Administrative Register, issue number 23.

2. The Montana Classification Review Committee proposed:

a. The eligibility criteria for Code 5606-Contractor-Executive Supervisor or Construction Superintendent. The proposal deleted the requirement for an owner, officer, supervisor or construction superintendent to exercise supervisory control through a job foreman in order to qualify for assignment.

b. The erection of a new State Special Classification for retail bakeries. The new code applies to bakeries that are principally retail, based on gross receipts, and includes bagel, cookie and donut shops, and satellite stores.

c. A change to the current classification treatment of silk screen printing operations. The change classifies a business that performs silk screen printing, regardless of the material printed on, to Code 4299-Printing. This change does not apply to silk screen printing in conjunction with the manufacturing of a product.

d. A State Special classification for parking lot striping and the painting of other similar surfaces. Such painting operations will be re-classified from Code 5474-Painting NOC to Code 5221-Parking Lot Striping.

e. The addition of clarifying language to assist in the proper assignment of Codes 4583-Fertilizer Mfg. & Drivers, 8215-Hay, Grain or Feed Dealer and Local Managers,

Drivers and 0050-Farm Machinery Operation-By Contractor-& Drivers. The codes remain unchanged.

3. The agency has amended Rule 6.6.8301 exactly as proposed.

4. No comments or requests for hearing were received.

CLASSIFICATION REVIEW COMMITTEE

By: Christy Weikart
Christy Weikart
Chairperson

By: Russell B. Hill
Russell B. Hill
Rules Reviewer

Certified to the Secretary of State on this 12th day of March, 1999.

BEFORE THE BOARD OF OPTOMETRY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF RULES
of rules pertaining to continu-) PERTAINING TO THE PRACTICE
ing education requirements and) OF OPTOMETRY
new licensees)

TO: All Interested Persons:

1. On December 3, 1998, the Board of Optometry published a notice of proposed amendment of rules pertaining to the practice of optometry at page 3180, 1998 Montana Administrative Register, issue number 23.

2. The Board has amended ARM 8.36.702 exactly as proposed and has amended ARM 8.36.601 as proposed, but with the following changes:

"8.36.601 REQUIREMENTS (1) through (2) will remain the same as proposed.

(3) Twelve hours of credit for approved continuing education correspondence courses or approved internet courses will be allowed ~~annually~~ biennially.

(4) and (5) will remain the same as proposed."

3. The Board noted that the word "annually" should have been stricken in the original notice and amended to "biennially" to streamline the renewal process.

4. The Board has thoroughly considered all comments and testimony received. Those comments, and the Board's responses thereto, are as follows:

ARM 8.36.601 REQUIREMENTS

COMMENT NO. 1: One comment was received wherein commentor voiced concern about whether courses offered on the Internet would meet current Board standards.

RESPONSE: The current rule requires that continuing education be obtained through courses sponsored by colleges of optometry, state associations and other entities offering continuing education approved by the Board. The rule currently requires that courses be approved by the Board and that requirement will continue. The Board will continue to review CE through the audit process. Licensees should seek approval of courses through the Board office if questions arise concerning whether Internet courses meet Board approval.

COMMENT NO. 2: One comment was received in support of the proposed amendment.

RESPONSE: The Board acknowledged receipt of the comment.

ARM 8.36.702 NEW LICENSEES

COMMENT NO. 3: One commentor stated that he felt that the certificate issued by the Board of Medical Examiners appears more professional to the public entering his office and did not want the Board to adopt the proposed amendment to this rule.

RESPONSE: The Boards of Medical Examiners and Optometry do not feel the Board of Medical Examiners should be granting a certificate to an optometrist. Both Boards feel the certificate of licensure should be issued by the Board of Optometry and the Board has amended the rule as proposed.

BOARD OF OPTOMETRY
CHARLIENE STAFFANSON, PRESIDENT

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, March 12, 1999.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION OF NEW
new rules I through III setting) RULES (18.9.701 THROUGH
policy for waiver and suspension) 18.9.703)
of motor fuel penalties)

TO: All Interested Persons.

1. On October 8, 1998, the Department of Transportation published notice of the proposed adoption of new rules I through III setting policy for waiver and suspension of motor fuel penalties at page 2666 of the 1998 Montana Administrative Register, issue number 19.

2. A public hearing was held on November 6, 1998, where testimony was presented in support of the new rules and two written comments were entered into the record. One of the written comments to the proposed new rules was received prior to the hearing from Grover Shelts of the Phillips Petroleum Company and resulted in an amendment to proposed rule I. Ronna Alexander of the Montana Petroleum Marketers Association testified that 65 licensed distributors support the new rules with the following amendments. The Department has adopted new rule I (18.9.701) as proposed with the following amendments:

RULE I (18.9.701) WAIVER OF MOTOR FUEL PENALTIES

(1) and (2) same as proposed.

(3) The department has the discretion to waive the late pay penalty on an amended or adjusted return if it is determined that the underpayment was not within the control of the distributor.

(4) The administrator may delegate the authority to waive penalties to an employee within the department.

~~(3)~~ (5) Interest on any motor fuel taxes that are paid late will not be waived or suspended.

Comment: Grover Shelts of the Phillips Petroleum Company submitted a written comment stating his concern that common errors not within the control of suppliers would cause a late penalty to be applied. William B. Gray of Sinclair wrote a comment in favor of the amended language in subsection (3) above.

Response: The Department agreed to language suggested by Mr. Shelts and supported by Mr. Gray and Ms. Alexander and has amended the rule by adding the language in subsection (3) above. In addition, the Department has added subsection (4) above to allow the administrator to delegate the authority to waive penalties to a Department employee.

3. No comments were received concerning new rules II (18.9.702) and III (18.9.703) and they have been adopted as proposed.

MONTANA DEPARTMENT OF TRANSPORTATION

By: Marvin Dye

MARVIN DYE, Director

Lyle Manley

Lyle Manley, Rule Reviewer

Certified to the Secretary of State March 12, 1999.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of)	NOTICE OF ADOPTION OF NEW
new rules I through V setting)	RULES (18.10.502 THROUGH
forth procedures for Dealers of)	18.10.506)
Compressed Natural Gas (CNG) and)	
Liquefied Petroleum Gas (LPG))	

TO: All Interested Persons.

1. On October 8, 1998, the Department of Transportation published notice of the proposed adoption of new rules I through V concerning procedures for dealers of compressed natural gas (CNG) and liquefied petroleum gas (LPG) at page 2671 of the 1998 Montana Administrative Register, issue number 19.

2. A public hearing was held on November 6, 1998, where testimony was presented in support of the new rules and two written comments were entered into the record. One of the written comments to the proposed new rules was received prior to the hearing from Greg B. Taylor, of Ben Taylor, Inc., Shelby, Montana. In response to the comments submitted by Mr. Taylor, the Department has adopted new rule I (18.10.502) as proposed with the following amendment to subsection (3):

RULE I (18.10.502) CNG AND LPG DEALER LICENSE

(1) and (2) same as proposed.

(3) Every CNG or LPG dealer who distributes fuel at more than one location ~~in this state must apply for and needs only obtain a CNG or LPG dealer one license for each all~~ locations. The license must be obtained prior to distributing fuel at ~~that any~~ location, and The original license or copy of the original must be conspicuously displayed at the each location for which it is issued distributes CNG or LPG fuel.

(4) same as proposed.

Comment: Greg B. Taylor of Ben Taylor, Inc., submitted a written comment questioning why a separate license was needed for each location if all the paperwork, billing and tax preparation is done at one central location and is stored at that location.

Response: The Department agreed with Mr. Taylor that a separate license not be required for each location and amended the rule as above.

3. No comments were received concerning new rules II (18.10.503), III (18.10.504) and V (18.10.506) and they have been adopted as proposed.

4. New rule IV (18.10.505) has been adopted with the following amendment after receipt of a telephone call from a representative of the Montana Power Company:

RULE IV (18.10.505) DEALER INVOICES (1) An original invoice must be issued at the time of each fuel disbursement into the supply tank of a motor vehicle. Each invoice must include a consecutive number, date of sale, and total number of gallons sold.

(2) A cardtrol and keylock statement with the date of sale and total number of gallons sold will be accepted as an original invoice.

Comment: A representative from the Montana Power Company called the Department on November 5, 1998, and expressed concerns about issuing an original invoice at the time the fuel is disbursed into the supply tank. She stated that the company has cardtrols and keylocks that are not attended. Only a statement goes to these users at the end of the month showing date, gallons and amount owed.

Response: The Department addressed this concern by adding the language in subsection (2).

MONTANA DEPARTMENT OF TRANSPORTATION

By: Marvin Dye

MARVIN DYE, Director

Lyle Manley

Lyle Manley, Rule Reviewer

Certified to the Secretary of State March 12, 1999.

BEFORE THE DEPARTMENT
OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the Matter of the Emergency)	NOTICE OF AMENDMENT
Amendment and Adoption of)	OF ADOPTED EMERGENCY
Emergency Rules Pertaining to)	RULE
Slamming)	

TO: All Interested Persons

1. On February 25, 1999, the Department of Public Service Regulation published notice of emergency amendment and adoption of rules pertaining to slamming at page 362 of the 1999 Montana Administrative Register, Issue number 4. The emergency rules are effective March 11, 1999. The emergency rules contained an error at Rule III(3).

2. The Department of Public Service Regulation is adopting the rule as proposed except for the following change:

RULE III. SOLICITATION AND IMPOSITION OF PREFERRED CARRIER FREEZES

(1) through (2)(c)(iii) remain the same.

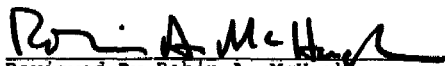
(3) ~~Written authorization is required to impose a preferred carrier freeze.~~ A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this rule is invalid and may not be used to impose a preferred carrier freeze.

(3)(a) through (3)(b)(iv) remain the same.

AUTH: 69-3-822 and 69-3-1304, MCA; IMP: 69-3-102, 69-3-201 and 69-3-1303, MCA.

3. The amended emergency rule will be effective March 11, 1999.


Dave Fisher, Chairman


Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE MARCH 8, 1999.

BEFORE THE BOARD OF PLUMBERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the petition for) DECLARATORY RULING
declaratory ruling on the)
applicability of 37-69-101,)
37-69-102 and 37-69-301, MCA)
work associated with water main)
replacement and building service)
lines connected thereto)

1. On November 5, 1998, the Board of Plumbers, (Board) published a Notice of petition for Declaratory Ruling in the above-entitled matter at page 2975, 1998 Montana Administrative Register, issue number 21.

2. On December 9 and 10, 1998, the Board presided over a hearing in this matter to consider written and oral testimony from interested individuals. On December 10, 1998, the Board made a motion to issue this declaratory ruling.

Issue

3. Petitioner requested a ruling on whether cities and towns in Montana are complying with state law while replacing water mains and connecting building service lines:

- a. specifically whether work being performed within the 20 feet building foundations lines are being performed by licensed plumbers;
 - b. whether the water service lines are considered part of a plumbing system;
 - c. whether the cities and towns are exempt under 37-69-102(d), MCA;
 - d. whether a license is required under 37-69-301?
4. Pre-hearing motions were made by the City of Billings, CurbBox Specialists, and the Laborer's Union, Local 98 challenging the board's jurisdiction to conduct a hearing, that service was not properly made upon the interested parties, that the board is biased thus unable to make this decision, that the Petitioner did not have standing to request the declaratory ruling, that a justiciable controversy is not present and requesting that the public hearing on the petition be dismissed.

Summary of Comments

5. The Board received four written comments as well as testimony supported by demonstrative and written evidence during the hearing held on December 9-10, 1998.

6. One commentor noted the health and safety problems associated with unlicensed persons making the connections within the twenty (20) feet from the foundation. This commentor suggested the implementation of different classes of journeyman and master plumbers.

7. One commentor suggested water services that are part of a contractor owned, installed, and/or maintained temporary water system and are not installed and maintained by a water district or water user association must be installed and maintained by a licensed plumber when the services are installed either within the boundaries of the private property or within twenty feet from any foundation wall of the premises, whichever distance is shorter as measured from the foundation wall. This commentor further suggested that contractors and their employees are not cities, towns, water districts, or water user associations and do not qualify for exemption from licensure. This commentor also suggested that Mont. Code Ann. §37-69-301 clearly requires that all work performed in cities and towns require licensed plumbers.

8. The City of Laurel commented that they would like to see the law changed to include the replacement of water and sewer mains in Mont. Code Ann. §37-69-102(1)(d). The commentor also states that if cities and towns are required to hire licensed plumbers for these jobs, the cost of projects will increase.

9. The board received a comment from the City of Bozeman stating the belief that the City of Bozeman is in compliance with the letter and spirit of the statutes.

10. The board received oral comments from 36 presenters. Five presenters, including the Petitioner, submitted written evidence in addition to oral comments.

11. Written motions to dismiss the hearing on the petition for declaratory ruling were submitted by the City of Billings, CurbBox Specialists, and the Laborer's Union, Local 98.

Analysis

12. Mont. Code Ann. §2-15-1875 creates the Montana Board of Plumbers, sets forth the composition of the board, the term served, and that the board is allocated to the Department of Commerce for administrative purposes pursuant to Mont. Code Ann. §2-15-121.

13. Mont. Code Ann. §2-15-121 defines "allocation for administrative purposes" to include the exercise of quasi-judicial, quasi-legislative, licensing, and policymaking functions.

14. Mont. Code Ann. §2-15-102(9) defines "quasi-judicial function" as "an adjudicatory function exercised by an agency, involving the exercise of judgment and discretion in making determinations in controversies. The term includes but is not limited to the functions of interpreting, applying, and enforcing existing rules and laws; granting or denying privileges, rights, or benefits; issuing, suspending or revoking licenses, permits, and certificates; determining rights and interests of adverse parties; evaluating and passing facts; awarding compensation; fixing prices; ordering action or abatement of action; adopting procedural rules; holding hearings; and any other act necessary to the performance of a

quasi-judicial function."

15. Mont. Code Ann. §2-15-102(10) defines "quasi-legislative function" as "making or having the power to make rules or set rates and all other acts connected with or essential to the proper exercise of a quasi-legislative function."

16. Mont. Code Ann. §37-69-101(7) (a) defines "plumbing system" as "all potable water supply and distribution pipes, plumbing fixtures and traps, drainage and vent pipes, and building drains, including their respective joints and connections, devices, receptacles, and appurtenances within the property lines of any premises, up to 20 feet beyond the building foundation line, and includes potable water piping, water heaters, and vents for the premises."

17. Mont. Code Ann. §37-69-101(7) (b) states that a "plumbing system" does "not include water services installed and maintained by water districts or water user associations in which water service is installed by any qualified person appointed or hired by the administrative authority of the water system."

18. Mont. Code Ann. §37-69-102(d) provides licensure exemption for "cities, town, water districts, and water user associations extending their own water and sewer mains."

19. Mont. Code Ann. §37-69-301 provides that "any person working at the field of plumbing in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state, either as a master plumber or as a journeyman plumber, or who while working at the field of plumbing shall connect plumbing to or disconnect plumbing from a public water supply or public sewer system shall first secure a state license as hereinafter provided."

20. Mont. Code Ann. §37-69-101(8) defines a "public sewer system" as "any common sewer carrying liquid wastes from two or more dwellings or any other facility that serves the public."

21. Mont. Code Ann. §37-69-101(9) defines "public water supply" as "any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that services 10 or more families or 25 or more persons on a regular and continuous basis."

22. 44 Op. Att'y Gen. No. 12, June, 1991 specifically held that "the City of Billings may not allow public utility contractors to install water and wastewater service lines which extend from the public water or sewer main to a point within the boundaries of the private property or within 20 feet from any foundation wall of the private residence, unless public utility contractors also have a plumber's license issued by the state."

23. Evidence in the form of photographs were received from Petitioner, Mike Tehle, and commentor, Mike Lange, indicating plumbing system installations within the 20 feet of the foundation line were made by CurbBox Specialists.

24. CurbBox Specialists representative, Spencer Stone, testified that his company did the work and did not hire licensed plumbers to make the installations represented in the

photographs.

25. CurbBox Specialists representative, Spencer Stone, and William O'Connor, attorney for the Laborer's Union, Local 98 admitted that unlicensed laborers were making the plumbing installations which are required by law to be made by licensed plumbers.

26. City of Butte representative from the Water Utility Division, David Shultz, admitted under oath during his testimony, that the City of Butte does not hire licensed plumbers to make plumbing installations while working on water mains. The rationale presented by Mr. Shultz for failing to comply with the law was the additional cost of hiring licensed plumbers makes the replacement projects prohibitive.

27. City of Billings representative from Public Utilities Department, Joe Steiner, admitted during testimony that the pictures taken by Mr. Tehle and Mr. Lange accurately depicted installations characterized by the City of Billings as "temporary, privately-owned water systems." The connections to make those installations were made by CurbBox Specialists.

28. The City of Billings maintains that the pipes used by CurbBox Specialists are owned by CurbBox Specialists, thus privately-owned, and that the system is a temporary system, not meant to be permanent, thereby placing this work in an exempted category. CurbBox Specialists could not cite an exemption for which this work qualified.

Conclusion

29. After consideration of the comments presented in this matter and the testimony and exhibits submitted by the Petitioner and other interested persons, the Board makes the following declaratory ruling.

30. Pre-hearing motions made by the City of Billings, CurbBox Specialists, and the Laborers Union, Local 98 were disposed of as follows:

a. The board has jurisdiction over licensure issues throughout the state of Montana pursuant to Mont. Code Ann. §2-15-1875, 37-1-303, 37-1-307, 37-69-301;

b. Service was properly made upon all interested parties as required by Mont. Code Ann. 2-4-501;

c. The Board determined it is unbiased and able to make a good faith effort to determine if cities and towns in Montana are in compliance with licensure laws as the cities and town work on mains and require installations within 20 feet of private property lines, despite its enforcement efforts against one city in the state;

d. Petitioner is a licensed plumber, living in the City of Billings, is subject to the jurisdiction of the board, and has standing to petition the board for declaratory ruling;

e. A justiciable controversy is not required in a declaratory ruling pursuant to Mont. Code Ann. §2-4-501.

31. The Board determined, in the case of the City of Billings and CurbBox Specialists, that the City of Billings charged consumers for the water that ran through the pipes

owned by CurbBox, that the water came from a public water supply and runs through a public water system, thus is a public water supply pursuant to Mont. Code Ann. §37-69-101(9). Despite arguments made to the contrary, the water was serving 10 or more families or 25 persons on a regular and continuous basis thus meeting the definition of a public water supply.

32. The board also determined the temporary or permanent status of the public water system is not relevant. The temporary or permanent nature of plumbing systems is not referenced anywhere in the plumbing licensure statutes. The board determined that a distinction was not made by the legislature because the intent was that a licensed plumber would make all connections to and from a public water supply regardless of the system's temporary or permanent status.

33. The board determined that water service lines are component parts of a water supply system, regardless of ownership of the pipes carrying the water.

34. The board received a comment that recommended that the board, while discussing public water supply systems, also address public sewer systems. The board determined that because they were asked to address this issue so that it did not become an issue in the future, public sewer systems, regardless of who owns the pipes the sewage runs through, or whether the system is temporary or permanent, a licensed plumber is required by law to make connections to the public sewer supply.

35. Testimony received from the City of Billings, the City of Butte, and CurbBox Specialists constitute an admission from those parties that work requiring a licensed plumber was performed by unlicensed personnel. This work was performed within twenty (20) feet of building foundation lines. This work was performed on residential and commercial buildings within the City of Billings. Evidence presented indicates that the persons making the plumbing installations at residences and commercial establishments throughout the City of Billings did not possess the level of competency assured when work is performed by licensed individuals.

36. The board determined that cities and towns are not exempt from licensure requirements within the twenty (20) feet of building foundations in any situation. The exemption applicable to cities and towns found in Mont. Code Ann. §37-69-102(d) refers to those situations when a city, town, water district or water user association is extending their own water and sewer mains. The situation in question is when cities or towns repair or replace water mains and in doing so, must connect water users to a temporary system while the repair or replacement is occurring.


37. The board determined that a license is required when plumbing work occurs within twenty (20) feet of the building foundation. Plumbing installations depicted by photographs admitted into evidence indicate a plumbing installation that is more than the simple connection claimed by the City of Billings. The connections depicted clearly indicate more than a connection of a hose to an outside faucet. The photographs

depict installations for a local clinic, the local high school, the local dairy, all commercial establishments in which the safety of the public is of the highest concern.

DATED this 3 day of March, 1999.

BOARD OF PLUMBERS

BY:


DUANE STEINMETZ
CHAIRMAN

**NOTICE OF FUNCTIONS 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.

Business and Labor Interim Committee:

- ▶ Department of Agriculture;
- ▶ Department of Commerce;
- ▶ Department of Labor and Industry;
- ▶ Department of Livestock;
- ▶ Department of Public Service Regulation; and
- ▶ Office of the State Auditor and Insurance Commissioner.

Education 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, Justice, and Indian Affairs Interim Committee:

- ▶ Department of Corrections; and
- ▶ Department of Justice.

Revenue and Taxation Interim Committee:

- ▶ Department of Revenue; and
- ▶ Department of Transportation.

State Administration, Public Retirement Systems, and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

Montana Administrative Register (MAR) 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 | 1. Consult ARM topical index. |
| Subject | Update the rule by checking the accumulative |
| Matter | 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 which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 1998. This table includes those rules adopted during the period January 1, 1999 through March 31, 1999 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 1998, 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 1998 and 1999 Montana Administrative Registers.

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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 February 1999, appear. Vacancies scheduled to appear from April 1, 1999, through June 30, 1999, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of March 3, 1999.

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

BOARD AND COUNCIL APPOINTEES FROM FEBRUARY, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Professional Engineers and Land Surveyors (Commerce)			
Ms. Paulette Ferguson	Governor	Shockley	2/2/1999
Missoula			7/1/1999
Qualifications (if required): public member			
Board of Public Assistance (Public Health and Human Services)			
Mr. John Larson	Governor	Becker	2/1/1999
Clancy			1/1/2003
Qualifications (if required): public member			
Board of Public Education (Education)			
Mr. Randal Morris	Governor	Anderson	2/11/1999
Butte			2/1/2006
Qualifications (if required): representative of District 2 and an Independent			
Board of Regents of Higher Education (Commissioner of Higher Education)			
Ms. Lynn Morrison-Hamilton	Governor	reappointed	2/1/1999
Havre			2/1/2006
Qualifications (if required): representative of District 3 and a Democrat			
Missouri River Basin Advisory Council (Natural Resources and Conservation)			
Ms. Diane Brandt	Governor	not listed	2/24/1999
Glasgow			2/24/2001
Qualifications (if required): public member			
Mr. Don Pfau			
Lewistown	Governor	not listed	2/24/1999
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM FEBRUARY, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Missouri River Basin Advisory Council (Natural Resources and Conservation) cont.			
Mr. Bud Clinch	Governor	not listed	2/24/1999
Helena			2/24/2001
Qualifications (if required): Director of the Department of Natural Resources and Conservation			
Mr. Jim Rector	Governor	not listed	2/24/1999
Glasgow			2/24/2001
Qualifications (if required): public member			
Mr. Ron Miller	Governor	not listed	2/24/1999
Glasgow			2/24/2001
Qualifications (if required): public member			
Mr. Steve Page	Governor	not listed	2/24/1999
Glasgow			2/24/2001
Qualifications (if required): public member			
Mr. Tom Huntley	Governor	not listed	2/24/1999
Sidney			2/24/2001
Qualifications (if required): public member			
Mr. John Foster	Governor	not listed	2/24/1999
Lewistown			2/24/2001
Qualifications (if required): public member			
Mr. Boone A. Whitmer	Governor	not listed	2/24/1999
Wolf Point			2/24/2001
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM FEBRUARY, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeded</u>	<u>Appointment/End Date</u>
Missouri River Basin Advisory Council (Natural Resources and Conservation) cont.			
Mr. Buzz Mattelin	Governor	not listed	2/24/1999
Brockton			2/24/2001
Qualifications (if required):	public member		
Peace Officers Standards and Training Council (Justice)			
Mr. John Ramsey	Governor	Bivins	2/9/1999
Heiena			2/13/2000
Qualifications (if required):	representative of the Department of Fish, Wildlife and Parks		
Vocational Rehabilitation Advisory Council (Public Health and Human Services)			
Ms. Kris Kleinschmidt	Director	Copping	2/5/1999
Great Falls			2/5/2001
Qualifications (if required):	none specified		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Athletics (Commerce) Mr. John Kinna, Bozeman Qualifications (if required): public member	Governor	4/25/1999
Board of Clinical Laboratory Science Practitioners (Commerce) Ms. JoAnn Schneider, Clancy Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/1999
Ms. Eileen Flynn, Townsend Qualifications (if required): public member	Governor	4/16/1999
Board of County Printing (Commerce) Mr. Verle Rademacher, White Sulphur Springs Qualifications (if required): member of the printing industry	Governor	4/1/1999
Ms. Nancy Clark, Ryegate Qualifications (if required): public member	Governor	4/1/1999
Ms. Fern Hart, Missoula Qualifications (if required): county commissioner	Governor	4/1/1999
Mr. Roy Aafedt, Great Falls Qualifications (if required): county commissioner	Governor	4/1/1999
Mr. Curtis Starr, Malta Qualifications (if required): member of the printing industry	Governor	4/1/1999
Board of Directors of the State Compensation Mutual Fund (State Compensation Insurance Fund) Ms. Lorretta Lynde, Helena Qualifications (if required): public member	Governor	4/28/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Hail Insurance (Agriculture) Ms. Rebecca McCabe, Ekalaka Qualifications (if required): public member	Governor	4/18/1999
Board of Nursing Home Administrators (Commerce) Ms. Arline Rabenberg, Wolf Point Qualifications (if required): public member of age 55	Governor	5/28/1999
Board of Optometry (Commerce) Ms. Charlene Staffanson, Deer Lodge Qualifications (if required): public member	Governor	4/3/1999
Board of Plumbers (Commerce) Mr. Robert Nault, Havre Qualifications (if required): master plumber	Governor	5/4/1999
Mr. Donald Kent, Bozeman Qualifications (if required): journeyman plumber	Governor	5/4/1999
Mr. Elmer Lazure, Helena Qualifications (if required): public member	Governor	5/4/1999
Mr. Terry Campbell, Helena Qualifications (if required): representing the Department of Environmental Quality	Governor	5/4/1999
Ms. Jo Hawkins, Helena Qualifications (if required): public member	Governor	5/4/1999
Mr. Richard Knatterud, Helena Qualifications (if required): sanitary engineer	Governor	5/4/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Plumbers (Commerce) cont. Mr. Greg Butts, Helena Qualifications (if required): sanitary engineer	Governor	5/4/1999
Board of Real Estate Appraisers (Commerce) Mr. Roger Jacobson, Kalispell Qualifications (if required): real estate appraiser	Governor	5/1/1999
Board of Realty Regulation (Commerce) Mr. John Beagle, Sidney Qualifications (if required): realtor and an Independent	Governor	5/9/1999
Ms. Shelly Noe, Absarokee Qualifications (if required): public member and a Republican	Governor	5/9/1999
Board of Regents of Higher Education (Education) Ms. Kimberly Cunningham, Billings Qualifications (if required): student representative	Governor	6/1/1999
Board of Science and Technology Development (Commerce) Mr. Dolph Harris, Sidney Qualifications (if required): representing the private sector	Governor	6/30/1999
Mr. Loren Smith, Great Falls Qualifications (if required): representing the private sector and expertise in applied technology	Governor	6/30/1999
Mr. Will Brooke, Bozeman Qualifications (if required): representing the private sector and an attorney	Governor	6/30/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Science and Technology Development (Commerce) cont.		
Ms. Susan Riplett, Billings	Governor	6/30/1999
Qualifications (if required): representing private business and finance		
Mr. Doug Lair, Big Timber	Governor	6/30/1999
Qualifications (if required): representing the private sector		
Mr. Haven Holsapple, Hamilton	Governor	6/30/1999
Qualifications (if required): representing early stage financing of private businesses		
Mr. Monte Giese, Great Falls	Governor	6/30/1999
Qualifications (if required): representing early stage financing of private businesses		
Board of Veterans' Affairs (Military Affairs)		
Mr. Johnny Buck, Glendive	Governor	5/18/1999
Qualifications (if required): veteran		
Building Codes Advisory Council (Commerce)		
Mr. Richard Grover, Missoula	Director	6/1/1999
Qualifications (if required): Board of Plumbers		
Mr. Robert Ross, Kalispell	Director	6/1/1999
Qualifications (if required): home builder		
Ms. Linda Cockhill, Helena	Director	6/1/1999
Qualifications (if required): public member		
Mr. Bruce Suenram, Helena	Director	6/1/1999
Qualifications (if required): state fire marshal		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Building Codes Advisory Council (Commerce) cont. Mr. Robert C. McKenna, Helena Qualifications (if required): engineer	Director	6/1/1999
Mr. Robert J. Karhu, Helena Qualifications (if required): architect	Director	6/1/1999
Mr. Evan Peacock, Helena Qualifications (if required): building contractor	Director	6/1/1999
Mr. Mike Skinner, Helena Qualifications (if required): mobile homes	Director	6/1/1999
Ms. Kim Palmieri, Billings Qualifications (if required): municipal building officials	Director	6/1/1999
Mr. Joe F. Wolfe, Helena Qualifications (if required): State Electrical Board	Director	6/1/1999
Executive Board of Montana College of Mineral Science and Technology (Education) Ms. Constance B. Lord, Philipsburg Qualifications (if required): public member	Governor	4/15/1999
Executive Board of Montana State University (Education) Mr. Jim Sites, Billings Qualifications (if required): public member	Governor	4/15/1999
Mr. Todd Murphy, Clancy Qualifications (if required): public member	Governor	4/15/1999
Executive Board of Northern Montana College (Education) Mr. David G. Rice, Havre Qualifications (if required): public member	Governor	4/15/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Executive Board of University of Montana (Education) Colonel Sam A. Roberts, Missoula Qualifications (if required): public member	Governor	4/15/1999
Executive Board of Western Montana College (Education) Mr. Kelly Flynn, Townsend Qualifications (if required): public member	Governor	4/15/1999
Flathead Basin Commission (Governor) Ms. Marilyn Wood, Kalispell Qualifications (if required): public member	Governor	6/30/1999
Mr. Paul Smiley, Columbia Falls Qualifications (if required): public member	Governor	6/30/1999
Mr. Gary Wicks, Polson Qualifications (if required): public member	Governor	6/30/1999
Gambling Study Commission (Legislative Services) Ms. Phoebe Williams, Deer Lodge Qualifications (if required): business owner with no economic interest in the gambling industry	Governor	6/30/1999
Ms. Barbara Nemecek, Billings Qualifications (if required): doctorate in social science pertinent to socioeconomic analysis	Governor	6/30/1999
Professor Rodney Brod, Missoula Qualifications (if required): representative of Sociology Department of the University of Montana	Governor	6/30/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Gambling Study Commission (Legislative Services) cont. Professor Shannon Taylor, Bozeman Qualifications (if required): representative of the School of Business at Montana State University	Governor Governor	6/30/1999 6/30/1999
Dr. Robert Caldwell, Helena Qualifications (if required): mental health professional		
Health Care Advisory Council (Public Health and Human Services) Ms. Laurie Ekanger, Helena Qualifications (if required): representing the Executive Branch	Governor Governor	6/30/1999 6/30/1999
Ms. Kathleen Richardson, Havre Qualifications (if required): representing Region 2	Governor	6/30/1999
Mr. Max Agather, Kalispell Qualifications (if required): representing Region 5	Governor	6/30/1999
Dr. Lawrence R. Palazzo, Glasgow Qualifications (if required): representing Region 1	Governor	6/30/1999
Ms. Joan Taylor, Helena Qualifications (if required): representing Region 4	Governor	6/30/1999
Ms. Kristianne Wilson, Billings Qualifications (if required): representing Region 3	Governor	6/30/1999
Microbusiness Advisory Council (Commerce) Mr. Richard C. King, Havre Qualifications (if required): experience in revolving loan fund	Governor	6/30/1999
Mr. Duane Kurokawa, Wolf Point Qualifications (if required): banker	Governor	6/30/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Microbusiness Advisory Council (Commerce) cont.		
Mr. Stephen Mehring, Great Falls	Governor	6/30/1999
Qualifications (if required): experience in revolving loan fund		
Mr. Jim Hollenback, West Superior	Governor	6/30/1999
Qualifications (if required): microbusiness owner		
Mr. Mark Dahl, Butte	Governor	6/30/1999
Qualifications (if required): banker		
Ms. Billie Lee, Ronan	Governor	6/30/1999
Qualifications (if required): representing small cities		
Ms. Candace Eide, Glendive	Governor	6/30/1999
Qualifications (if required): representing low income groups		
Montana Consensus Council (Governor)		
Sen. Greg Jergeson, Chinook	Governor	6/30/1999
Qualifications (if required): public member		
Governor Marc Racicot, Helena	Governor	6/30/1999
Qualifications (if required): none specified		
Mr. Mike Zimmerman, Butte	Governor	6/30/1999
Qualifications (if required): none specified		
Ms. Janet Ellis, Helena	Governor	6/30/1999
Qualifications (if required): none specified		
Mr. Donald Snow, Missoula	Governor	6/30/1999
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Consensus Council (Governor) cont.		
Ms. Monica Switzer, Richey	Governor	6/30/1999
Qualifications (if required): none specified		
Rep. Karl Ohs, Harrison	Governor	6/30/1999
Qualifications (if required): public member		
Ms. Elaine Forest, Helena	Governor	6/30/1999
Qualifications (if required): Native American		
Mr. Bruce Vincent, Libby	Governor	6/30/1999
Qualifications (if required): public member		
Mr. Robbie Garrett, Dillon	Governor	6/30/1999
Qualifications (if required): public member		
Ms. Anne Hedges, Helena	Governor	6/30/1999
Qualifications (if required): public member		
Montana Library Services Advisory Council (State Library)		
Mr. Bill Cochran, Billings	Governor	6/20/1999
Qualifications (if required): representing the Montana Library Association		
Rep. Linda McCulloch, Missoula	Governor	6/20/1999
Qualifications (if required): representing the Montana Legislature		
Mr. Wes Plann, Terry	Governor	6/20/1999
Qualifications (if required): representing library users from Eastern Montana		
Ms. Gloria Wahl, Lewistown	Governor	6/20/1999
Qualifications (if required): representing library users from Central Montana		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Library Services Advisory Council (State Library) cont.		
Ms. Lois Fitzpatrick, Helena	Governor	6/20/1999
Qualifications (if required): representing academic libraries		
Ms. Peggy Bloom, Missoula	Governor	6/20/1999
Qualifications (if required): representing library users from Western Montana		
Ms. Delores Drennen, Miles City	Governor	6/20/1999
Qualifications (if required): representing public libraries		
Ms. Lynn Donovan, Sidney	Governor	6/20/1999
Qualifications (if required): representing school libraries		
Mr. Duran DuBoise, Butte	Governor	6/20/1999
Qualifications (if required): representing persons unable to use traditional library services		
Montana Research and Development Task Force (Commerce)		
Mr. Edwin H. Jasmin, Bigfork	Governor	6/30/1999
Qualifications (if required): public member		
Mr. Ken Thuerbach, Victor	Governor	6/30/1999
Qualifications (if required): public member		
Rep. Ernest Bergsagel, Malta	Governor	6/30/1999
Qualifications (if required): public member		
Sen. Mignon Waterman, Helena	Governor	6/30/1999
Qualifications (if required): public member		
Mr. Richard A. Crofts, Helena	Governor	6/30/1999
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Research and Development Task Force (Commerce) cont.		
Mr. Ralph Hutcherson, Bozeman	Governor	6/30/1999
Qualifications (if required): public member		
Dr. Tom McCoy, Bozeman	Governor	6/30/1999
Qualifications (if required): public member		
Mr. Chuck Merja, Sun River	Governor	6/30/1999
Qualifications (if required): public member		
Dr. Lloyd Chestnut, Missoula	Governor	6/30/1999
Qualifications (if required): public member		
Mr. Rob Ryan, Hamilton	Governor	6/30/1999
Qualifications (if required): public member		
Mr. Chris Busch, Ronan	Governor	6/30/1999
Qualifications (if required): public member		
Montana State Veterans Cemetery Advisory Council (Military Affairs)		
Mr. James W. Duffy, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Mr. Mickey Nelson, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Ms. Alma Dickey, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Ms. Irma Paul, Helena	Director	5/1/1999
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana State Veterans Cemetery Advisory Council (Military Affairs) cont. Ms. Rose Marie Storey, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Herb Ballou, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. George Paul, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Jim Heffernan, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Ruddy Reilly, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Ray Read, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. M. Herbert Goodwin, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Robert C. McKenna, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. James F. Jacobsen, Helena Qualifications (if required): none specified	Director	5/1/1999
Mr. Edward Mosier, Missoula Qualifications (if required): none specified	Director	5/1/1999
Mr. Al Kirkeby, Helena Qualifications (if required): none specified	Director	5/1/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana State Veterans Cemetery Advisory Council (Military Affairs) cont.		
Mr. Hugh "Tony" Cummings, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Major Steve Martinka, Helena	Director	5/1/1999
Qualifications (if required): none specified		
Noxious Weed Advisory Council (Agriculture)		
Rep. Bob Gilbert, Sidney	Director	6/30/1999
Qualifications (if required): Montana Weed Control Association		
Rep. Robert Thoft, Stevensville	Director	6/30/1999
Qualifications (if required): biological research and control		
Mr. Jim Squires, Glendive	Director	6/30/1999
Qualifications (if required): agriculture crop production		
Ms. Linda Ellison, Bozeman	Director	6/30/1999
Qualifications (if required): sportsman/wildlife group		
Mr. Charles M. Jarecki, Polson	Director	6/30/1999
Qualifications (if required): at-large member		
Mr. W. Ralph Peck, Helena	Director	6/30/1999
Qualifications (if required): Director of Department of Agriculture		
Mr. Bob Ullom, Billings	Director	6/30/1999
Qualifications (if required): herbicide dealer and applicator		
Ms. Nancy Thuesen, Reserve	Director	6/30/1999
Qualifications (if required): consumer group		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Noxious Weed Advisory Council (Agriculture) cont. Mr. Steve Roth, Big Sandy Qualifications (if required): livestock production	Director	6/30/1999
Petroleum Tank Release Compensation Board (Environmental Quality) Mr. Terry Phillips, Helena Qualifications (if required): representative of the State Fire Prevention and Investigation Program	Governor	6/30/1999
Postsecondary Education Policy and Budget Committee (Legislative Fiscal Analyst) Ms. Kris Copenhaver-Landon, Billings Qualifications (if required): student representative	Governor	6/30/1999
Mr. Erik Hanson, Helena Qualifications (if required): representative of the Executive Branch	Governor	6/30/1999
Private Land-Public Wildlife Advisory Council (Fish, Wildlife and Parks) Mr. Verle Rademacher, White Sulphur Springs Qualifications (if required): media representative	Governor	6/30/1999
Mr. Lonnie McCurdie, Conrad Qualifications (if required): sportsman	Governor	6/30/1999
Rep. Emily Swanson, Bozeman Qualifications (if required): legislator	Governor	6/30/1999
Ms. Darlyne Dascher, Fort Peck Qualifications (if required): landowner	Governor	6/30/1999
Ms. Jean Kelly, Kalispell Qualifications (if required): sports person	Governor	6/30/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Private Land-Public Wildlife Advisory Council (Fish, Wildlife and Parks) cont.		
Mr. Tony Carroccia, Big Timber	Governor	6/30/1999
Qualifications (if required): landowner		
Mr. Steve Roth, Big Sandy	Governor	6/30/1999
Qualifications (if required): landowner		
Mr. Dave Cole, Helena	Governor	6/30/1999
Qualifications (if required): hunter		
Sen. John Hertel, Moore	Governor	6/30/1999
Qualifications (if required): legislator		
Mr. Tom Houghton, Melstone	Governor	6/30/1999
Qualifications (if required): landowner		
Mr. Cecil Noble, Kalispell	Governor	6/30/1999
Qualifications (if required): outfitter		
Mr. Lee Gustafson, Billings	Governor	6/30/1999
Qualifications (if required): hunter		
Mr. Ray Marxer, Dillon	Governor	6/30/1999
Qualifications (if required): ranch manager		
Mr. John Wilkinson, Miles City	Governor	6/30/1999
Qualifications (if required): outfitter		
Public Employees' Retirement Board (Administration)		
Ms. Jean Thompson, Billings	Governor	4/1/1999
Qualifications (if required): active member of Public Employees' Retirement System		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Reserved Water Rights Compact Commission (Natural Resources and Conservation)		
Mr. Gene Etchart, Glasgow	Governor	6/1/1999
Qualifications (if required): public member		
Mr. Jack Salmond, Choteau	Governor	6/1/1999
Qualifications (if required): public member		
Rep. Robert Thoft, Stevensville	Governor	6/1/1999
Qualifications (if required): public member		
Mr. Chris D. Tweeten, Helena	Attorney General	5/1/1999
Qualifications (if required): none specified		
Ms. Tara Depuy, Livingston	Governor	6/1/1999
Qualifications (if required): public member		
State Compensation Mutual Insurance Fund (Administration)		
Ms. Laurie Shadoan, Bozeman	Governor	4/28/1999
Qualifications (if required): representative of private enterprise		
Mr. Tom Horn, Cohagen	Governor	4/28/1999
Qualifications (if required): representing state fund policyholders		
Mr. Dale Mahlum, Bigfork	Governor	4/28/1999
Qualifications (if required): representing private enterprise		
State Library Commission (State Library)		
Mr. Harold G. Stearns, Helena	Governor	5/22/1999
Qualifications (if required): public member		
Ms. Dorothy Laird, Whitefish	Governor	5/22/1999
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Vocational Rehabilitation Advisory Council (Public Health and Human Services)		
Mr. Bill Jones, Great Falls	Director	4/15/1999
Qualifications (if required): none specified		
Mr. Scotty MacLeod, Billings		
Qualifications (if required): none specified	Director	4/15/1999
Ms. JoAnn Null, Great Falls		
Qualifications (if required): none specified	Director	4/28/1999
Youth Justice Advisory Council (Justice)		
Ms. Valerie Weber-Rasch, Billings	Governor	6/10/1999
Qualifications (if required): representative of a public agency concerned with detention services		
Ms. Donna Maddux, Whitefish		
Qualifications (if required): representative of the education community	Governor	6/10/1999
Miss Rachaelle Williams, Billings		
Qualifications (if required): youth representative	Governor	6/10/1999
Youth Justice Council (Justice)		
Mr. Craig Anderson, Glendive	Governor	6/10/1999
Qualifications (if required): representing probation services		
Ms. Gail Gray, Helena		
Qualifications (if required): representing educational services	Governor	6/10/1999
Mr. Rick Day, Helena		
Qualifications (if required): representing correctional services	Governor	6/10/1999
Rep. Ernest Bergsagel, Malta		
Qualifications (if required): representing the Montana legislature	Governor	6/10/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Youth Justice Council (Justice) cont. Ms. Sally K. Stansberry, Missoula Qualifications (if required): represents private non-profit organization concerned with delinquency	Governor	6/10/1999
Judge Gary Acevedo, Pablo Qualifications (if required): representing the judiciary and Native American concerns	Governor	6/10/1999
Mr. Allen Horsfall, Jr., Hamilton Qualifications (if required): representing a public agency concerned with detention services	Governor	6/10/1999
Ms. Jani McCall, Billings Qualifications (if required): representing non-profit organizations concerned with mental health	Governor	6/10/1999
Judge Marc George Buyske, Shelby Qualifications (if required): representing the judiciary	Governor	6/10/1999
Captain Kevin Clader, Missoula Qualifications (if required): representing law enforcement	Governor	6/10/1999
Mr. Steven Nelsen, Bozeman Qualifications (if required): represents private non-profit organizations concerned with delinquency	Governor	6/10/1999
Ms. Ellin Nessel, Bozeman Qualifications (if required): representing non-profit organizations concerned with youth development	Governor	6/10/1999
Ms. Peggy Beltrone, Great Falls Qualifications (if required): representative of local government	Governor	6/10/1999

VACANCIES ON BOARDS AND COUNCILS -- APRIL 1, 1999 through JUNE 30, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Youth Justice Council (Justice) cont.		
Mr. Chuck Hunter, Helena	Governor	6/10/1999
Qualifications (if required): representing a public agency concerned with delinquency prevention		
Ms. Tara Young, Laurel	Governor	6/10/1999
Qualifications (if required): youth representative		
Mr. Joseph Fekete, Essex	Governor	6/10/1999
Qualifications (if required): youth representative		