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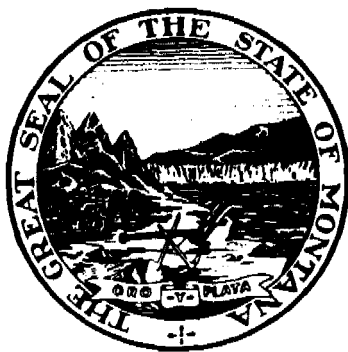
AUG 29 1991

OF MONTANA

**MONTANA
ADMINISTRATIVE
REGISTER**

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AUG 29 1991

MONTANA ADMINISTRATIVE REGISTER OF MONTANA

ISSUE NO. 16

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted.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 inserted at the back of each register.

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
adoption of new rules pertain-) PROPOSED ADOPTION OF NEW RULES
to real estate appraisers) PERTAINING TO REAL ESTATE
APPRAISERS

TO: All Interested Persons:

1. On September 23, 1991, at 10:00, a.m., at the Scott Hart Auditorium, a public hearing will be held to consider the proposed adoption of rules pertaining to the practice of real estate appraisers.

2. The proposed new rules will read as follows:

"I. BOARD ORGANIZATION (1) The board of real estate appraisers hereby adopts and incorporates by reference the organizational rules of the department of commerce as listed in chapter 1 of this title."

Auth: Ch. 409, L. 1991; IMP, Sec. 2-4-201, MCA

"II. PROCEDURAL RULES (1) The board of real estate appraisers hereby adopts and incorporates by reference the procedural rules of the department of commerce as listed in chapter 2 of this title."

Auth: Ch. 409, L. 1991; IMP, Sec. 2-4-201, MCA

"III. PUBLIC PARTICIPATION (1) The board of real estate appraisers hereby adopts and incorporates by reference the public participation rules of the department of commerce as listed in chapter 2 of this title."

Auth: Ch. 409, L. 1991; IMP, Sec. 2-3-103, MCA

"IV. DEFINITIONS (1) "Applicant" means any individual making a current application for examination, licensure or certification.

(2) "Year of experience" means 1000 hours of appraisal experience. Maximum experience awarded for a calendar year is 1000 hours.

(3) "Appraisal activity" means activity which consists of:

(a) fee and staff appraisals;

(b) ad valorem tax appraisals, where such experience involved appraisals of individual properties and effective use of the appraisal process can be demonstrated;

(c) review appraisals, provided a separate review appraisal report was prepared or the reviewer inspected the subject property and verified the appraisal processes employed, the comparable sales used and signed as a reviewer;

(d) analysis assignment;

(e) real estate counseling, provided a written report was issued;

(f) highest and best use analysis, provided as a written report;

- (g) feasibility study/analysis, provided as a written report;
- (h) teaching of appraisal courses or seminars;
- (i) acceptable components of mass appraisal including highest and best use analyses, model specifications, and model calibrations, but not other components by themselves;
- (j) a market analysis typically performed by a licensed real estate broker or salesperson if the analysis is prepared in conformity with Standards Rules 1 and 2 of Uniform Standards of Professional Appraisal Practice (USPAP) and it can be demonstrated that the real estate licensee uses techniques similar to those used in the appraisal process;
- (k) letters of opinion of value will be awarded experience credit when the analysis is prepared in conformity with Standards 1 and 2 of USPAP and it can be demonstrated that the preparer used techniques similar to those utilized in the appraisal process; or
- (l) such other experience as the board may accept upon petition by applicant on forms prescribed by the board.
- (4) "Review appraiser" means one who has signed an appraisal report as review appraiser or who has written a review of an appraisal completed by another party.
- (5) "Classroom hour" means fifty minutes out of each sixty minute segment. This definition should not be interpreted as permitting providers to decrease the prescribed number of classroom hours."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"V. NARRATIVE APPRAISAL REPORT (1) Narrative appraisal reports will consist of the following as minimum requirements:

- (a) property adequately described and personally inspected;
- (b) highest and best use addressed;
- (c) physical, functional and economic issues affecting value conclusion(s) discussed;
- (d) state the purpose, function, date of value, date of report, property rights appraised, record owner, definition of value;
- (e) use of three recognized valuation methodologies (e.g., cost approach, income approach and sales comparison approach) with the appraisal process to be described and the reasons for not using one or more of these techniques;
- (f) present an estimate of land value or the reason why it was not shown;
- (g) present a final reconciliation of value;
- (h) assumptions and limiting conditions particular to prospective and retrospective dates of value and particular limitations; and
- (i) certification and signature of appraiser."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"VI. EXAMINATION (1) The board may appoint a national, regional or local testing entity to process and conduct a preliminary review of applications for examination and make recommendations to the board. That testing entity must meet minimum standards established by the appraisal qualifications

board and comply with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act.

(2) Applicants for examination must make application on forms approved by the board and accompanied by the required fee.

(3) In addition to all other requirements, applications for and successful completion of the examination are prerequisites for application for licensure or certification.

(4) A passing score on an examination shall be valid for one year from the examination date.

(5) Approval of an application for examination shall not constitute approval of an application for licensure or certification.

(6) Violation of the following rules may result in disqualification from taking the examination, a finding of lack of good repute, and a determination of unsuccessful completion of the examination may result from violation of the following:

(a) examinees may not refer to any notes, books, or memoranda during the course of the examination;

(b) all rough work and calculations must be done on the examination booklet. Silent, cordless electronic calculators may be used by applicants during exam.

(c) the examinees shall not copy questions, make notes of test content, or reveal the contents of examination to others;

(d) examinees shall not leave the examination without permission from the examination proctor for any reason until they have handed in the completed answer sheet and test booklet to the administrator of the examination; and

(e) examinees shall not attempt to obtain or compare answers by viewing or discussing any matter with another examinee during the course of the examination.

(7) If an applicant for examination withdraws from, or fails to take the examination on the date scheduled, he must make application in the manner prescribed by the board.

(8) A passing score on the examination is 70%.

(9) The board may review and amend the examination type, format and score upon which the pass/fail determination is made."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"VII APPLICATION REQUIREMENTS (1) All evidence of appraisal activity must be supported by written file memorandum or actual written reports.

(2) An applicant must have made a substantial contribution to the appraisal report and arrived at a conclusion of value in any appraisal report claimed as evidence of meeting the experience requirements.

(3) Each applicant shall provide a signed and notarized statement, under penalty of perjury, attesting to the successful completion of the required hours appraisal experience. This statement will include an appraisal summary log to reflect the quantity and type of appraisals completed during each calendar year claimed for credit.

(4) The board reserves the right to verify evidence of appraisal experience by such means as it deems necessary, including, but not limited to requiring the following:

(a) submission of appraisal reports, files or file memorandum;

(b) employer affidavits or interviews;

(c) client affidavits or interviews."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"VIII. EXPERIENCE REQUIREMENTS (1) A licensed appraiser must present evidence of 2000 hours of appraisal experience as follows:

(a) The applicant must demonstrate that he/she has completed a minimum of 125 residential appraisal reports prepared in conformity with USPAP.

(b) Total experience claimed for a review appraiser shall consist of a minimum of 250 residential appraisal reports and the applicant shall certify that the applicant has viewed the subject property and verified the comparables for each appraisal claimed.

(c) Experience claimed for a combination of appraisal activity and review activity shall consist of a minimum of 65 residential appraisal reports and a minimum of 125 residential appraisal review reports as described in subsection (1)(b) above.

(d) A person who is unable to meet any of the above criteria due to the scale or complexity of appraisals performed shall petition the board to apply such experience toward the experience requirement.

(2) A certified residential appraiser must present evidence of 3000 hours of appraisal experience as follows:

(a) The applicant must demonstrate that he/she has completed a minimum of 185 residential appraisal reports prepared in conformity with USPAP.

(b) Total experience claimed for a review appraisal, shall consist of a minimum of 325 residential appraisal reports and the applicant shall certify that applicant has viewed the subject property and verified the comparables for each appraisal claimed.

(c) Experience claimed for a combination of appraisal activity and review activity shall consist of a minimum of 95 residential appraisal reports in the format as described in subsection (2)(b) above, and a minimum of 325 residential appraisal review reports.

(d) A person who is unable to meet any of the above criteria due to the scale or complexity of the appraisals performed shall petition the board to apply such experience toward the experience requirement.

(3) A certified general appraiser must present evidence of 3000 hours of appraisal experience, 1000 of which must be experience claimed in the appraisal of non-residential real estate as follows:

(a) The applicant must demonstrate that he/she has completed a minimum of 50 narrative non-residential appraisal reports prepared in conformity with USPAP.

(b) Total experience claimed for a review appraiser shall consist of a minimum of 100 narrative non-residential appraisals.

(c) A person who is unable to meet any of the above criteria due to the scale or complexity of the appraisals performed shall petition the board to apply such experience toward the experience requirement.

(4) A certified agricultural/rural lands appraiser must present evidence of 3000 hours of appraisal experience, 1000 of which must be in the appraisal of agricultural real estate.

(a) The applicant must demonstrate that he/she has completed a minimum of 50 narrative agricultural appraisal reports prepared in conformity with USPAP.

(b) Total experience claimed for review appraisal experience, shall consist of a minimum of 100 narrative agricultural appraisals.

(c) A person who is unable to meet any of the above criteria due to the scale or complexity of the appraisals performed shall petition the board to apply such experience toward the experience requirement."

Auth: Ch. 409, L. 1991; IME, Ch. 409, L. 1991

"IX EDUCATION REQUIREMENTS (1) All education requirements may be completed at any time prior to filing of the application for licensure or certification.

(2) Educational and training courses offered on or after the adoption of these rules must receive prior approval by the board.

(3) Approved courses must meet the following standards:

(a) the course was developed by persons qualified in the subject matter and instructional design;

(b) the program content is current;

(c) the instructor is qualified with respect to course content and teaching methods;

(d) the number of participants and physical facilities are consistent with the teaching methods; and

(e) the course includes an examination for measuring the information learned.

(4) The following are approved as providers of educational and training courses provided the standards set forth in subsections (3)(a) through (e) are met:

(a) universities, colleges, junior colleges or community colleges accredited by a regional accrediting body accepted by the appropriate agency of the state of Montana;

(b) professional appraisal and real estate related organizations, provided that the organization is a member of the appraisal foundation;

(c) proprietary schools holding valid certificates of approval from the state of Montana;

(d) such other providers as approved by the board.

(5) To apply for approval a course provider must make application in the manner prescribed by the board and pay the proper fee forty-five days prior to offering the course. The application shall include but not be limited to:

(a) course outline or syllabus;

(b) all texts, workbooks, handouts or other course materials;

(c) instructors and their qualifications, including selection, training and evaluation criteria;

(d) course examinations;

(e) dates of course offerings;

(f) locations of course offering;

(g) history of the provider;

(h) passing score requirement.

(6) The board shall have the authority to revoke its approval of a previously-approved course or course provider for cause.

(7) In order to be approved as original licensing and certification education and training, a course must be at least 15 hours in duration and must include an examination pertinent to the material offered.

(8) Except as otherwise provided in subsection (9), an applicant must attend a minimum of 90 percent of the scheduled class hours, complete all required exercises and achieve a passing score on the course examination in order to receive credit for the course.

(9) Credit will be granted for classroom hours where the applicant received credit from the course provider by challenge examination without attending the course prior to July 1, 1990.

(10) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses. Teachers may request credit for either the classroom hours or experience requirement but not both.

(11) It is the applicant's responsibility to verify that a particular course or other program for which credit is claimed has been accepted by the board.

(12) Each applicant shall provide a signed and notarized statement under penalty of perjury, and, if available, certificates and transcripts attesting to the successful completion of the required hours of appraisal education and training on a form prescribed by the board. The board reserves the right to require an applicant to provide additional satisfactory documentary evidence of completion of appropriate course work.

(13) Hours of appraisal education and training accepted for the education requirement of one level of licensure can be applied toward the requirement of another level and need not be repeated.

(14) If the applicant uses college credit to fulfill a portion of the education requirement for original licensure or certification, the following factors will be used to convert college credit to classroom hours:

(a) semester credits x 15 = classroom hours

(b) quarter credits x 10 = classroom hours

(15) Only 25% of the classroom hour requirements for original licensure or certification can be fulfilled by college coursework in subjects defined in new rule X unless the applicant can show that said coursework was specifically related to real estate appraisal."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"X. LICENSURE REQUIREMENTS (1) Each applicant for original licensure shall complete at least 75 classroom hours of instruction, 15 hours of which must cover the standards of professional appraisal practice promulgated at the time the educational offering was completed. The remaining number of hours must cover the following subject matter:

- (a) influences on real estate value;
- (b) legal considerations and appraisal;
- (c) types of value;
- (d) economic principles;
- (e) real estate markets and analysis;
- (f) evaluation process;
- (g) property description;
- (h) highest and best use analysis;
- (i) appraisal statistical concepts/methods;
- (j) sales comparison approach;
- (k) site value;
- (l) cost approach;
- (m) income approach;
 - (i) gross rent multiplier,
 - (ii) estimation of income and expenses,
 - (iii) operating expense ratios,
- (n) evaluation of partial interests;
- (o) appraisal standards and ethics;
- (p) types of misconduct for which disciplinary proceedings may be initiated against a licensed real estate appraiser, as set forth by statute."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"XI. RESIDENTIAL CERTIFICATION (1) Each applicant for original certification shall complete at least 105 classroom hours of instruction, 15 hours of which must cover the standards of professional appraisal practice at the time the educational offering was completed. The remaining number of hours must cover the following subject matter with particular emphasis on the appraisal of 1 to 4 unit residential properties:

- (a) influence on real estate value;
- (b) legal considerations and appraisals;
- (c) types of value;
- (d) economic principles;
- (e) real estate markets and analysis;
- (f) evaluation process;
- (g) property description;
- (h) highest and best use analysis;
- (i) appraisal statistical concepts/methods;
- (j) sales comparison approach;
- (k) site value;
- (l) cost approach;
- (m) income approach;
 - (i) gross rent multiplier,
 - (ii) estimation of income and expenses,
 - (iii) operating expense ratios,
- (n) evaluation of partial interests;
- (o) appraisal standards and ethics;
- (p) narrative report writing;

(g) types of misconduct for which disciplinary proceedings may be initiated against a licensed real estate appraiser, as set forth by statute."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"XII GENERAL CERTIFICATION (1) Each applicant for original certification shall complete at least 165 classroom hours of instruction, 15 hours of which must cover the standards of professional appraisal practice promulgated at the time the educational offering was completed. The remaining number of hours must cover the following subject matter with emphasis on the appraisal of non-residential properties:

- (a) influences on real estate value;
- (b) legal considerations and appraisal;
- (c) types of value;
- (d) economic principles;
- (e) real estate markets and analysis;
- (f) evaluation process;
- (g) property description;
- (h) highest and best use analysis;
- (i) appraisal statistical concepts/methods;
- (j) sales comparison approach;
- (k) site value;
- (l) cost approach;
- (m) income approach;
- (i) estimation of income and expenses,
- (ii) operating statement ratios,
- (iii) direct capitalization,
- (iv) cash flow estimates,
- (v) measures of cash flow,
- (vi) discounted cash flow analysis,
- (n) evaluation of partial interests;
- (o) appraisal standards and ethics;
- (p) narrative report writing;
- (q) types of misconduct for which disciplinary proceedings may be initiated against a certified real estate appraiser, as set forth by statute."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"XIII AGRICULTURAL CERTIFICATION (1) Each applicant for original certification shall complete at least 165 classroom hours of instruction, 15 hours of which must cover the standards of professional appraisal practice promulgated at the time the educational offering was completed. The remaining number of hours must cover the following subject matter with emphasis on the appraisal of agricultural properties:

- (a) influences on real estate value;
- (b) legal considerations and appraisal;
- (c) types of value;
- (d) economic principles;
- (e) real estate markets and analysis;
- (f) evaluation process;
- (g) property description;
- (h) highest and best use analysis;

- (i) appraisal statistical concepts/methods;
- (j) sales comparison approach;
- (k) site value;
- (l) cost approach;
- (m) income approach;
- (i) estimation of income and expenses;
- (ii) operating statement ratios;
- (iii) direct capitalization;
- (iv) cash flow estimates;
- (v) measures of cash flow;
- (vi) discounted cash flow analysis;
- (n) evaluation of partial interests;
- (o) appraisal standards and ethics;
- (p) narrative report writing;
- (q) types of misconduct for which disciplinary proceedings may be initiated against a certified real estate appraiser, as set forth by statute."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"XIV CONTINUING EDUCATION (1) Each applicant for license or certificate renewal shall complete at least 45 classroom hours of instruction in courses or seminars approved by the board. At least 15 hours must be related to the uniform standards of professional appraisal practice as promulgated by the appraisal foundation as of the date of the course completion.

(2) Courses must be a minimum of two hours in length to receive approval.

(3) Application may be made for continuing education credit for participation other than as a student in appraisal education processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined by the board to be equivalent to obtaining continuing education."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"XV FEES (1) The following fees will apply to all license/certificate holders. Fees are deemed earned once received and are not refundable or transferable.

- | | |
|--|----------|
| (a) original license/certificate application | \$450.00 |
| (b) address change/change of business | 20.00 |
| (c) temporary license | 150.00 |
| (d) course approval per course hour (with a minimum of \$50.00 and a maximum of \$200.00)" | 10.00 |

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

"XVI ADOPTION OF USPAP BY REFERENCE (1) The board hereby adopts and incorporates by reference the uniform standards of professional appraisal practice of the appraisal foundation."

Auth: Ch. 409, L. 1991; IMP, Ch. 409, L. 1991

REASON: To implement Chapter 409, Laws of 1991 mandated by the 1991 Montana Legislature and the Federal Financial Institutions Examination Council.

3. 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, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana 59620-0407, no later than September 26, 1991.

4. An attorney designated by the Department of Commerce will preside over and conduct the hearing.

BOARD OF REAL ESTATE APPRAISERS
PAT ASAY, CHAIRMAN

BY: 

ANDY POOLE, DEPUTY DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, August 19, 1991.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PROPOSED
of Rules 11.14.102 pertaining)	AMENDMENT OF RULES
to definitions; 11.14.316 and)	11.14.102 PERTAINING TO
11.14.414 pertaining to health)	DEFINITIONS; 11.14.316 AND
care requirements for children)	11.14.414 PERTAINING TO
in group and family day care)	HEALTH CARE REQUIREMENTS
homes; 11.14.501 pertaining to)	FOR CHILDREN IN GROUP AND
physical examination of)	FAMILY DAY CARE HOMES; RULE
infants in day care)	11.14.501 PERTAINING TO
facilities; and 11.14.502)	PHYSICAL EXAMINATION OF
pertaining to the use of non-)	INFANTS IN DAY CARE
disposable diapers in day care)	FACILITIES; AND RULE
facilities.)	11.14.502 PERTAINING TO THE
)	USE OF NON-DISPOSABLE
)	DIAPERS IN DAY CARE
)	FACILITIES.

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons

1. On November 14, 1991, the Department of Family Services proposes to amend Rule 11.14.102 pertaining to the definition of "day care facility," "related by blood or marriage," "family and group day care homes," "supplemental parental care," and "school age child." On the same date, the department proposes to amend Rules 11.14.316 and 11.14.414 pertaining to health care requirements in day care facilities; 11.14.501 pertaining to physical examination of infants in day care facilities; and 11.14.502 pertaining to the use of non-disposable diapers in day care facilities.

2. The rules as proposed to be amended read as follows:

11.14.102 DEFINITIONS (1) "Day care facility" means a person, association or place, incorporated or unincorporated, that provides supplemental parental care on a regular basis. It includes a family day care home, a day care center, or a group day care home. It does not include a person who limits care to children who are related to him by blood or marriage or under his legal guardianship, or any group facility established chiefly for educational purposes that limits its services to children who are three years of age or older.

(2) "Related by blood or marriage" means the status of a child who is the son, daughter, brother, sister, first cousin, nephew, niece, or grandchild of a person providing child care. The term also includes the status of a child as described above resulting from a step or adoptive relationship.

~~424~~(3) "Family day care home" means a ~~private-residence~~ place in which supplemental parental care is provided to three to six children, no more than 3 children under 2 years of age from separate families on a regular basis -- including the provider's own children who are less than 6 years of age.

Subsection (3) remains the same except it is renumbered (4).

~~444~~(5) "Group day care home" means a ~~private-residence~~ place in which supplemental parental care is provided to 7 to 12 children on a regular basis including the provider's own children who are less than 6 years of age.

~~454~~(6) "Supplemental parental care" means the provision of child care ~~outside of the child's home~~ by an adult other than a parent, guardian, or person in loco parentis, ~~or relative~~ on a regular basis for daily periods of less than 24 hours.

Subsections (6) through (18) remain the same except they are renumbered (7) through (19).

~~419~~(20) "School-age child" means a child who attends school and who is between 5 and ~~1213~~ years of age.

Subsection (20) remains the same except it is renumbered (21).

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-731; 52-2-703, MCA.

REASON: The definitions in ARM 11.14.102 follow the statutorily mandated definitions found in the Montana Child Care Act. The proposed changes in regard to the definition of "day care facility" and the definition of "related by blood or marriage" are necessary to bring ARM 11.14.102 into compliance with the 1991 amendments to the Montana Child Care Act found in House Bill 642.

The department also proposes to change the definition of group and family day care homes by deleting the requirement that the facility must be a private residence. The department finds that group and family day care homes should not be restricted to operating only in private residences.

This proposed amendment also deletes the language in the definition of "supplemental care" which requires that supplemental care always occur outside of the child's home by a non-relative. In certain cases involving federal day care benefits, "supplemental care" may include care which is both inside the home, and/or provided by a relative.

11.14.316 GROUP DAY CARE HOMES, HEALTH CARE REQUIREMENTS

~~(1) All family members and other children residing in the facility under 12 years of age shall be immunized against rubella, tetanus, diphtheria, polio, measles, and, if under 5 years of age, whooping cough. Any child with a history of measles is considered immunized. Such medical and immunization history will be recorded on forms provided by the department and on file. Except where a particular health care requirement is addressed by rule(s) promulgated by the department of family services, group day care homes must comply with applicable~~

requirements of ARM 16.24.414, promulgated by the department of health and environmental sciences, which set forth health care requirements for day care centers. The department of family services hereby adopts and incorporates by reference ARM 16.24.414 for this purpose. A copy of ARM 16.24.414 may be obtained from the Department of Family Services, P.O. Box 8005, Helena, Montana 59604. In addition, providers may address questions on meeting the health care requirements to the department's licensing representative.

(2) No child shall be admitted to a group day care home except in an emergency before obtaining from the parent the "Medical Record of Children Receiving Day Care" prescribed by the department stating that he is free from communicable disease and that he has been immunized or is in the process of being immunized against diphtheria, tetanus, polio, measles, rubella, and, if under five years of age, whooping cough. Any child with a history of measles is considered immunized. These requirements would be waived only in the case of a signed statement by a physician indicating that immunizations would be contra-indicated for health reasons. Such medical records shall be on file at the home for each child. Group day care homes must provide documentation to the department that all children present in the facility have been immunized or are otherwise exempted from immunization as set forth by the department of health and environmental sciences in ARM 16.24.413. The department of family services hereby adopts and incorporates by reference ARM 16.24.413. A copy of ARM 16.24.413 may be obtained from the Department of Family Services, P.O. Box 8005, Helena, Montana 59604. Fulfillment of the immunization requirements may occur most easily when parent(s) of the child obtain the blank form entitled STATE OF MONTANA-CERTIFICATE OF IMMUNIZATION, Form No. HES 101, from the local office of the department of health and environmental sciences. The form may also be obtained from any department of family services district office, or, in the event the provider is in possession of the blank form(s), from the provider. The blank form should be filled in with the immunization record of the child by the child's physician, the physician's nurse, or the county health nurse. The parent(s) shall then deliver the completed form to the provider who shall keep the completed form on file at the facility.

(3) ThePrior to enrollment of a child in a group day care home, the provider shall obtain the name and telephone number of the physician the child's parents they wish to be called for their child and along with a release authorizing the provider to call said physician in case of an emergency will be obtained from the parent(s) of each child admitted.

(4) If a child becomes ill or is suspected of having a communicable disease reportable to the health department while in care, the parent shall be notified by the provider. The parent is responsible for arranging to have the child taken home.

(4) The provider shall not give medication to the children unless the provider has a medical request signed by the

parent on file.

~~(6) When a child is absent, the day care provider shall obtain the reasons so the interest of the other children may be properly protected. If a reportable communicable disease is suspected, the provider shall inform a health officer. No child shall be re-admitted after an absence until the reason for the absence is known and there is assurance that his return will not harm him or the other children. Disease charts that identify the reportable diseases are available from the department of health and environmental sciences.~~

Subsections (7) through (9) remain the same except they are renumbered (5) through (7).

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-731; 52-2-703, MCA.

REASON: The reason for the amendment of ARM 11.14.316 is detailed in the "REASON" section immediately following the proposed amendment of ARM 11.14.414.

11.14.414 FAMILY DAY CARE HOMES, HEALTH CARE REQUIREMENTS

(1) All family members and other children residing in the facility under 12 years of age shall be immunized against tetanus, rubella, diphtheria, polio, measles, and, if under 5 years of age whooping cough. Any child with a history of measles is considered immunized. Such medical and immunization history will be recorded on forms provided by the department and on file. Except where a particular health care requirement is addressed by rule(s) promulgated by the department of family services, family day care homes must comply with applicable requirements of ARM 16.24.414, promulgated by the department of health and environmental sciences, which set forth health care requirements for day care centers. The department of family services hereby adopts and incorporates by reference ARM 16.24.414 for this purpose. A copy of ARM 16.24.414 may be obtained from the Department of Family Services, P.O. Box 8005, Helena, Montana 59604. In addition, providers may address questions on meeting the health care requirements to the department's licensing representative.

(2) No child shall be admitted to a family day care home except in an emergency before obtaining from the parent the "Medical Record of Children Receiving Day Care" prescribed by the department stating that he is free from communicable disease and that he has been immunized or is in the process of being immunized against diphtheria, tetanus, polio, measles, rubella, and, if under five years of age, whooping cough. Any child with a history of measles is considered immunized. These requirements would be waived only in the case of a signed statement by a physician indicating that immunizations would be contra-indicated for health reasons. Such medical records shall be on file at the home for each child. Family day care homes must provide documentation to the department that all children present in the facility have been immunized or are otherwise exempted from immunization as set forth by the department of health and environmental sciences in ARM 16.24.413. The

department of family services hereby adopts and incorporates by reference ARM 16.24.413. A copy of ARM 16.24.413 may be obtained from the Department of Family Services, P.O. Box 8005, Helena, Montana 59604. Fulfillment of the immunization requirements may occur most easily when parent(s) of the child obtain the blank form entitled STATE OF MONTANA-CERTIFICATE OF IMMUNIZATION, Form No. HES 101, from the local office of the department of health and environmental sciences. The form may also be obtained from any department of family services district office, or in the event the provider is in possession of blank form(s), from the provider. The blank form should be filled in with the immunization record of the child by the child's physician, the physician's nurse, or the county health nurse. The parent(s) shall then deliver the completed form to the provider who shall keep the completed form on file at the facility.

~~(3) If a child becomes ill or is suspected of having a communicable disease reportable to the health department while in care, the parent shall be notified by the provider. The parent is responsible for arranging to have the child taken home.~~

Subsections (4) through (8) remain the same except they are renumbered (3) through (7).

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-731; 52-2-703, MCA.

REASON: The department proposes to impose on group day care homes (ARM 11.14.316), and family day care homes (ARM 11.14.414), the applicable health care requirements promulgated by the department of health and environmental sciences in ARM 16.24.414 which currently apply only to day care centers. The qualifying term "applicable" is used because some of the health care requirements currently imposed on day care centers, and future requirements which may be added by amendment to ARM 16.24.414, may prove too burdensome or impractical for the smaller family and group day care homes. However, regardless of this flexibility which is built into the above amendments, and in the absence of a department of family services rule more particular to the health concern in question, the department intends that in general, the requirements of ARM 16.24.414, shall apply. With the adoption of the rule from the department of health and environmental sciences, the department of family services requirements for group and family day care homes which are repetitive of requirements in ARM 16.24.414, must be deleted. The imposition of ARM 16.24.414 on family and group day care homes will add requirements on testing for tuberculosis, and daily health status checks. ARM 16.24.414 also imposes procedures concerning steps to be taken when a child becomes ill at the facility, and procedures on readmission of a child who has been absent from a facility due to illness. These procedures are only slightly different and arguably no more burdensome than the procedures currently imposed by department of family services requirements in ARM 11.14.316 and 11.14.414. Adoption by reference of ARM 16.24.414 also has the

effect of reducing the requirements currently imposed on family and group day care providers by allowing for attendance of children suffering from a discharge from the nose which is unaccompanied by a fever. Currently, ARM 11.14.316 and 11.14.414 contain no such exception. The proposed change set out above also affects immunization requirements for group and family day care homes. The particular provisions of ARM 11.14.314 and 11.14.414 covering immunization requirements are deleted and replaced by the incorporation of the department of health and environmental sciences requirements in ARM 16.24.413. Immunization requirements for day care facilities should be uniform and be drafted with the aid of department of health and environmental science's expertise. The department intends that application of ARM 16.24.413 and 16.24.414 to day care facilities will continue despite renumbering or amendment of ARM 16.24.413 and 16.24.414. It is also intended that use of the form CERTIFICATE OF IMMUNIZATION, Form No. HES 101, will continue despite amendment or change in the title of the form. The department finds it necessary to adopt these amendments to improve rules designed to insure a healthy environment in day care facilities.

11.14.501 DAY CARE FACILITIES CARING FOR INFANTS, PHYSICAL EXAMINATION (1) ~~Physical examination.~~

~~(a) A Each infant shall have a preadmission physical within two weeks of admission including a written statement by a physician or county health nurse concerning any special needs of the each infant and documenting that the infant's presence in a day care facility poses no unusual health risk must be obtained and kept on file by the provider prior to residence or enrollment of such infant in the day care facility.~~

~~(b) Health examinations shall be repeated each three months during the infant's first year and each six months during the infant's second year. The date and results of health examinations shall be submitted by the parent to the day care facility.~~

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-731; 52-2-703, MCA.

REASON: The department proposes to allow more flexibility in requiring physical examinations in day care. The proposed change will allow enrollment or residence of an infant in a facility upon simple documentation from a physician or a county health nurse approving day care for the infant. The documentation in the form of a written statement must then be provided to the day care operator by the child's parent or guardian prior to enrollment or residence of the infant at the facility. For example, the parent or guardian could provide a written statement from the county health nurse or physician recording that the parent has consulted the physician or county health nurse and that day care is permissible for the infant. The department intends that documentation of the absence of any "unusual health risks" be fulfilled by such written statements, or by some other written statements containing similar language.

The requirement of physical examinations has been deleted. The department proposes to leave it up to the provider, the parent, and the child's physician to determine the frequency of examinations.

11.14.502 DAY CARE FACILITIES CARING FOR INFANTS,
DIAPERING AND TOILET TRAINING

(1) A sufficient supply of clean, dry diapers shall be available and diapers shall be changed as frequently as needed. Disposable diapers, a commercial diaper service, or reusable diapers supplied by the infant's family may be used ~~although disposable diapers are recommended. If the parent documents that~~ non-disposable diapers ~~should be~~ are used, the facility may launder the diapers using a germicidal process approved ~~and available from~~ by the state or local health department.

Subsections (2) through (8) remain the same.

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-731; 52-2-703, MCA.

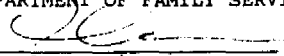
REASON: The change to Rule 11.14.502 was mandated by passage of SB 168 during the 1991 Legislative Session. As explained in the preamble to SB 168, the legislature intended to eliminate restrictions on the use of non-disposable diapers by requiring this change in the department's rule.

3. Interested parties may submit their data, views or arguments on the proposed amendment in writing to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than October 28, 1991.

4. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing 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 the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than October 28, 1991.

5. If the Department of Family Services receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendment, from the Administrative Code 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. Notice of the hearing will be published in the Montana Administrative Register.

DEPARTMENT OF FAMILY SERVICES


Tom Olsen, Director

Certified to the Secretary of State August 19, 1991.

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

IN THE MATTER OF THE PROPOSED	)	NOTICE OF PROPOSED AMENDMENT
AMENDMENT OF ARM 12.5.301	)	OF ARM 12.5.301
PERTAINING TO FRESHWATER)	
MUSSELS AS NONGAME SPECIES IN	)	No Public Hearing
NEED OF MANAGEMENT	)	Contemplated

TO: All interested persons

1. On October 1, 1991, the Montana Department of Fish, Wildlife & Parks proposes to amend ARM 12.5.301 to read as follows:

12.5.301 NONGAME WILDLIFE IN NEED OF MANAGEMENT (1) The following nongame wildlife species are determined by the department to be nongame wildlife in need of management within the meaning of the Nongame and Endangered Species Conservation Act, 87-5-101, MCA et seq. Management regulations for these species will be issued annually be the department.

(a) remains the same

(b) Freshwater mussels - all species of Pelecypoda

AUTH: Sec. 87-5-105 MCA

IMP: Sec. 87-5-105 MCA

2. Rationale for proposed amendment: A commercial fishery for freshwater mussels has existed in parts of the midwestern and southern U.S. The shells are processed and used by the pearl industry. Shells harvested in the U.S. are shipped for use in Japan and other locations.

In recent years the traditional sources of mussels have declined and the price has increased. Commercial operators have extended their search to new inland waters with resultant negative impacts on mussel populations. Wisconsin and North Dakota have declared emergency closures due to the large influx of commercial operators.

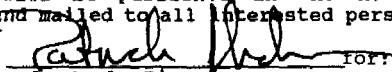
Although mussel harvest is not known to occur in Montana, many nonresident operators contacted the Department of Fish, Wildlife and Parks in 1990 and 1991 for information on regulations and the availability of mussels in Montana waters. Several persons have expressed their intention to begin operations in Montana.

Montana has not had rules to regulate mussel harvests. Very little is know about the species or numbers of mussels present in Montana. Designating all freshwater mussels as a "nongame species" in need of management will render the taking of freshwater mussels and their shells (any species of Pelecypoda) illegal until suitable regulations are implemented that will prevent overharvest.

3. Interested parties may submit their data, views or arguments, either orally or in writing, to Howard Johnson, Department of Fish, Wildlife and Parks, 1420 East Sixth, Helena, Montana 59620, no later than September 26, 1991.

4. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Howard Johnson, Department of Fish, Wildlife and Parks, 1420 East Sixth, Helena, Montana 59620, no later than September 26, 1991.

5. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code 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.


K.L. Cool, Director
Montana Department of Fish,
Wildlife and Parks

Certified to the Secretary of State Aug 19, 1991

BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
amendment of 16.8.1601 and the	)	FOR PROPOSED AMENDMENT
repeal of 16.8.1602 regarding the	)	OF 16.8.1601 AND THE
certification and testing of	)	REPEAL OF 16.8.1602
combustion devices for tax credit)	
purposes	)	(Air Quality - Combustion Device Tax Credit)

To: All Interested Persons

1. On October 3, 1991 at 9:00 a.m., the Department will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment and repeal of the above-captioned rules.

2. The proposed amendments are to be effective January 1, 1992, and are intended to replace existing rules concerning the certification and testing of combustion devices to determine their eligibility for favorable tax treatment. The proposed rules distinguish between those noncatalytic stoves or furnaces that burn wood pellets or other nonfossil biomass pellets, and those that only burn wood or other nonfossil biomass. Noncatalytic stoves or furnaces that burn wood pellets or other nonfossil biomass pellets may be certified on the basis of either their particulate emission rate or air-to-fuel ratio. Noncatalytic stoves or furnaces that burn wood or other nonfossil biomass may be certified only on the basis of their particulate emission rate. The proposed rules adopt by incorporation the applicable testing criteria and procedures developed by the U.S. Environmental Protection Agency, contained in 40 CFR Part 60, Subpart AAA (July 1, 1990 ed.), and set forth the statutory standards by which the department may determine which combustion devices are to be listed pursuant to Sections 15-32-102 and 15-32-203, MCA.

3. The rule to be repealed is found at page 16-271 of the Administrative Rules of Montana.

AUTH: 15-32-203, MCA IMP: 15-32-102, 201, MCA

4. The rule, as proposed to be amended, appears as follows (new material is underlined; material to be deleted is interlined):

16.8.1601 CERTIFICATION AND TESTING STANDARDS (1) Any stove, furnace, or catalytic converter added to a stove or furnace which burns wood or another nonfossil biomass fuel is eligible for the tax credit provided for in section 15-32-201, MCA, if it is:

~~(a) Purchased and installed during the period from January 1, 1985, through December 31, 1992;~~

~~(b) Tested according to the criteria and procedures set out in Sections 340-21-100 through 340-21-190 of the Oregon~~

Administrative Rules, and

(c) Certified by either the Oregon department of environmental quality or the Montana department of health and environmental sciences as emitting less than 6 grams per hour (weighted-average) of particulate when tested according to the procedures referred to in (b) above.

(2) A catalytic converter is eligible for the tax credit only if the converter and the particular model and brand of stove or furnace to which it is attached have been tested and certified together as meeting the emission limit cited in (1) (c) above. For the purposes of this rule, the phrase "pellet conversion unit" is defined as any device which a resident individual taxpayer installs on a stove or furnace for the purpose of modifying the stove or furnace so that it is capable of burning wood pellets or other nonfossil biomass pellets utilizing an automatic feed system.

(2) Pursuant to 15-32-102(5)(A)(II), MCA, and for the purposes of certifying the particulate emission rate of any noncatalytic stove or furnace that is specifically designed to burn wood pellets or other nonfossil biomass pellets, the department shall use the testing criteria and procedures contained in 40 CFR Part 60, subpart AAA (1990 ed.). In determining if a pellet conversion unit meets the particulate emission rate set forth in 15-32-102(5)(A)(II), MCA, the pellet conversion unit and the particular model and brand of stove or furnace to which it is attached shall be tested together as a combined unit.

(3) Pursuant to 15-32-102(5)(A)(III), MCA, and for the purposes of certifying the air-to-fuel ratio of any noncatalytic stove or furnace that is specifically designed to burn wood pellets or other nonfossil biomass pellets, the department shall use the testing criteria and procedures contained in 40 CFR Part 60, subpart AAA (1990 ed.). In determining if a pellet conversion unit meets the requirements in 15-32-102(5)(A)(II), MCA, concerning air-to-fuel ratio, the pellet conversion unit and the particular model and brand of stove or furnace to which it is attached shall be tested together as a combined unit.

(4) Pursuant to 15-32-102(5)(B), MCA, and for the purposes of certifying the particulate emission rate of any noncatalytic stove or furnace that burns wood or other nonfossil biomass, the department shall use the testing criteria and procedures contained in 40 CFR Part 60, subpart AAA (1990 ed.).

(5) The department shall maintain a current list of the following:

(a) all noncatalytic stoves or furnaces that are specifically designed to burn wood pellets or other nonfossil biomass pellets which have demonstrated a particulate emission rate of less than 4.1 grams per hour when tested in accordance with the criteria and procedures contained in section (2), above; and

(b) all noncatalytic stoves or furnaces that are specifically designed to burn wood pellets or other nonfossil biomass pellets which have demonstrated an air-to-fuel ratio of 35 to 1 or greater when tested in accordance with the criteria and

procedures contained in section (3), above; and

(c) all noncatalytic stoves or furnaces that burn wood or other nonfossil biomass which have demonstrated a particulate emission rate of less than 4.1 grams per hour when tested in accordance with the criteria and procedures contained in section (4), above.

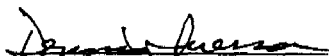
(3)(6) The department hereby adopts and incorporates by reference Sections 340-21-100 through 340-21-190 of the Oregon Administrative Rules, which set criteria and procedures for testing emissions from wood stoves. Copies of OAR Section 340-21-100 through 340-21-190 40 CFR Part 60, subpart AAA, which establishes criteria and procedures for testing particulate emissions and the air-to-fuel ratio for wood stoves and furnaces. Copies of 40 CFR Part 60, subpart AAA may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTH: 15-32-203, MCA; IMP: 15-32-102, 15-32-201, MCA

5. The department is proposing this amendment to the rules in order to implement the mandate of HB 338, passed by the 1991 Legislature, which extended the availability of favorable tax treatment for qualifying combustion devices, and changed the criteria governing the determination of eligibility for such treatment.

6. Interested persons may submit their data, views, or arguments concerning the proposed amendment, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Bob Raisch, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than October 3, 1991.

7. Tim Baker has been designated to preside over and conduct the hearing.


DENNIS IVERSON, Director

Certified to the Secretary of State August 19, 1991.

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

In the matter of the	)	NOTICE OF PROPOSED
amendment of rules concerning	)	AMENDMENT OF RULES
Montana's minimum hourly	)	ESTABLISHING MONTANA'S
wage rate	)	MINIMUM HOURLY WAGE RATE

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons

1. On September 28, 1991, the Department of Labor and Industry proposes to amend the rules establishing the minimum hourly wage rate in Montana.

2. The proposed amendments implement the changes to section 39-3-409, MCA, enacted by the 1991 Montana Legislature, whereby the minimum hourly wage rate, except for businesses whose annual gross sales are \$110,000 or less, must be the same minimum hourly wage rate provided for under the federal Fair Labor Standards Act (29 U.S.C. 206(A)(1)). The 1991 amendments also exclude from minimum wage calculation the value of tips received by the employee and provisions for a training wage.

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

24.16.1509. PROCEDURE FOR DETERMINING MINIMUM WAGE

(1) Section 39-3-409, MCA (1991), provides that the commissioner shall adopt rules to establish, with one exception, a minimum rate of wage the same as that "provided under the federal Fair Labor Standards Act (29 U.S.C. 206(A)(1)), ~~but not to exceed \$4 an hour.~~". The exception, found at 39-3-409(2), MCA, provides that "the minimum wage rate for a business whose annual gross sales are \$110,000 or less is \$4 an hour".

(2) The value of tips received by an employee may not be used to meet Montana's minimum wage requirements.

(3) The Federal training wage provisions may not be used to meet Montana's minimum wage requirements.

~~(4)~~ (4) Section 6(a) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)) was amended November 17, 1989, to provide for a minimum wage not less than \$3.35 an hour until March 31, 1990; not less than \$3.80 an hour for the year beginning April 1, 1990; and not less than \$4.25 an hour after March 31, 1991.

AUTH: 39-3-403, MCA

IMP: 39-3-409, MCA

24.16.1510 MINIMUM WAGE RATE (1) Up to and including March 31, 1990, Montana's minimum hourly wage rate, excluding the new hire wage provided for in section 39-3-410, MCA (1989), shall be \$3.35 an hour.

(2) From April 1, 1990 through March 31, 1991, Montana minimum hourly wage rate, excluding the new hire wage provided for in section 39-3-410, MCA (1989), shall be \$3.80 an hour.

(3) ~~Effective From April 1, 1991, and thereafter until further notice, through April 25, 1991,~~ Montana's minimum hourly wage rate, excluding the new hire wage provided for in section 39-3-410, MCA (1989), shall be \$4.00 an hour.

(4) Effective April 26, 1991, and thereafter until further notice, Montana's minimum hourly wage rate for a business whose annual gross sales is greater than \$110,000 shall be \$4.25 an hour, not including tips.

(5) Effective April 26, 1991, and thereafter until further notice, Montana's minimum hourly wage rate for a business whose annual gross sales is \$110,000 or less shall be \$4.00 an hour, not including tips.

(6) Effective April 26, 1991, no training or new hire wage will be recognized in Montana.

AUTH: 39-3-403, MCA

IMP: 39-3-409, MCA


4. The rule is proposed to adopt the minimum wage rates established by the 1991 Montana Legislature.

5. Interested parties may submit their data, views, or argument concerning the proposed rule in writing to Mike Stump, employment relations division, department of labor and industry, P. O. Box 1728, Helena, MT 59624, no later than September 26, 1991.

6. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Mike Stump, employment relations division, department of labor and industry, P. O. Box 1728, Helena, MT 59624, no later than September 26, 1991.

7. If the agency receives requests for a public hearing on the proposed amendment from 25 persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

8. The authority of the department to make the proposed rules is based on section 39-3-403, MCA, and the rule implements section 39-3-409, MCA.



Mario A. Micone, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State: August 19, 1991

BEFORE THE DEPARTMENT OF AGRICULTURE

STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION
of New Rules specifying the	)	OF NEW RULES
exact scientific procedures for	)	4.13.1004, 4.13.1005,
testing Kjeldahl proteins on	)	4.13.1006 AND 4.13.1007
barley, chit and germinations)	
on barley and falling number)	
determinations on wheat)	

TO: All Interested Persons:

1. On June 27, 1991, the Department of Agriculture published a notice to adopt the above stated new rules specifying the exact scientific procedures for testing Kjeldahl proteins on barley, chit and germination on barley and falling number determinations on wheat published on page 935 of the 1991 MAR Register, issue number 12.

2. No comments or testimony were received.

3. No public hearing was held nor was one requested. The department has adopted the new rules as proposed.

4. The following rules are transferred from Plant Industry to the State Grain Laboratory Division: 4.12.1012 GRAIN FEE SCHEDULE to 4.13.1001; 4.12.1017 GRAIN STANDARDS to 4.13.1002; and 4.12.1023 STANDARD FOR GRADING HULLESS BARLEY to 4.13.1003.

By: 
E.M. SNORTLAND, DIRECTOR
DEPARTMENT OF AGRICULTURE

Certified to the Secretary of State August 19, 1991

BEFORE THE BOARD OF MILK CONTROL
OF THE STATE OF MONTANA

In the matter of proposed) NOTICE OF AMENDMENTS OF RULES
amendments of Rule 8.86.301) 8.86.301 - PRICING RULES
as it relates to the class I) RULES 8.86.503, 8.86.504 AND
wholesale price; and Rules) RULES 8.86.513 - QUOTA AND
8.86.503, 8.86.504 and) POOLING RULES
8.86.513 as they relate to the)
statewide pool and quota plan) DOCKET #9-91

TO: ALL LICENSEES UNDER THE MONTANA MILK CONTROL ACT
(SECTION 81-23-101, MCA, AND FOLLOWING), AND ALL INTERESTED
PERSONS:

1. On May 30, 1991, the Board of Milk Control published notice of proposed adoption of rule 8.86.301(6)(1) as it relates to the class I wholesale price; rule 8.86.503(1), 8.86.504(1) and (1)(g)(ii), and 8.86.513(1)(d) as they relate to the statewide pool and quota plan. Notice was published at page 768 of the 1991 Administrative Register, issue no. 10, as MAR NOTICE 8-86-42.

2. A hearing was held on July 17, 1991, at 9:00 a.m. in the Department of Highways auditorium, 2701 Prospect Avenue, Helena, Montana. Eight persons appeared at the hearing to offer data, views or arguments; seven persons spoke in favor of various parts of the proposed amendments and one person was opposed to the proposed change in school milk prices. The bureau received forty-seven (47) comments prior to the hearing. All of the written comments were in opposition to the proposed amendment in 8.86.301.

3. After thoroughly considering all of the testimony and comments, the board of milk control is adopting the rule exactly as proposed.

4. The authority for the rule is section 81-23-302, MCA, and the rule implements section 81-23-302, MCA.

5. Principal reasons given for adoption of the rules were as follows:

a) Evidence submitted at the hearing revealed current school milk prices were below the processor's and jobber's cost of doing business.

b) Testimony revealed some jobbers could be forced out-of-business and some schools will have trouble getting an adequate supply of milk unless school milk prices are increased.

c) Evidence submitted indicated increases would have a very minimal impact of approximately four dollars per year for each child, but the loss to processors and jobbers would be very significant if the proposed increase in school milk prices were not implemented.

d) Testimony revealed a good portion of the cost of school milk is paid by the taxpayer and persons requesting the increase are part of that taxpaying public.

e) Testimony revealed that school milk and institutional milk prices had been the same at one time. Institutional prices have been at 92% of the regular wholesale price for the last thirty years and it has worked well for the milk industry.

6) Principle reasons given against the adoption were as follows:

a) Current methods of pricing school milk are fair and equitable.

b) The proposed school milk price increase would seriously affect the free and reduced meal's program for school children because the additional cost may have to be passed back to the families of the affected school children and as a result students will drop from the program.

c) The proposed pricing procedure would allow for unlimited increases to students participating in the hot lunch program and result in less participation by the school children.

d) Implementation of the new proposal on school milk pricing will cause some schools to drop-out of the national school lunch program because the cost of food and meal preparation will no longer make it worth continuing in the program.

e) Evidence submitted indicated one Montana processor was able to supply milk for much less than the current minimum school milk price in Montana.

7. The board rejected the reasons given against the adoption for the following reasons:


a) The board dismissed reasons 6(a) through 6(d) as not being substantial because the overall affect of the proposal, if the costs are passed back to the school children, would be about \$4.00 per year for each child.

b) The board rejected the contention that a Montana processor could sell for less because they testified to only one isolated incidence in an unregulated market.

c) The board rejected the notion concerning unlimited price increases in 6(c) because the formula is presently calculated each month and cost increases may occur monthly under the present rule.

MONTANA BOARD OF MILK CONTROL
MILTON J. OLSEN, Chairman

MONTANA DEPARTMENT OF COMMERCE

BY: 
Andy J. Poole, Deputy Director

Certified to the Secretary of State August 19, 1991.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	AMENDED NOTICE OF
adoption of Rule 10.57.208,	)	ADOPTION OF A RULE
10.57.401, and 10.57.403	)	PERTAINING TO
pertaining to reinstatement,	)	REINSTATEMENT, CLASS I
class 1 professional	)	PROFESSIONAL TEACHING
teaching certificate, and	)	CERTIFICATE, AND
class 3 administrative	)	CLASS 3 ADMINISTRATIVE
certificate	)	CERTIFICATE

TO: All Interested Persons

1. On March 14, 1991, the Board of Public Education published notice of adoption of Rule 10.57.208, 10.57.401 and 10.57.403 concerning reinstatement, class 1 professional teaching certificate, and class 3 administrative certificate in the 1991 Montana Administrative Register, issue number 5, page 297.

2. The original notice for public hearing for Rule 10.57.403, did not fully explain the Board's reason for adopting this rule. The reason should appear as follows:

3. ~~This amendment has been proposed for the purpose of requiring that the reinstatement requirements of a class 1 and class 3 certificate be greater than the renewal requirements for such certificate. Under the rules as they are presently written, it is easier under some circumstances to reinstate a lapsed teaching certificate than it is to renew that certificate. Under those circumstances, it would be simple for someone familiar with the rules to allow their certificate to lapse and then reinstate it, thereby avoiding some requirements. The purpose of these rule changes is to make the requirements to reinstate Class 1 and Class 3 certificates greater than those to renew those certificates.~~

4. All other sections of the March 14, 1991 notice for public hearing remain unchanged.

Bill Thomas
BILL THOMAS, CHAIRPERSON
Board of Public Education

BY:

Wayne Buchanan
WAYNE BUCHANAN, EXECUTIVE SECRETARY
Board of Public Education

Certified to the Secretary of State, August 8, 1991.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption	)	AMENDED NOTICE OF
of Rule 10.57.301, and	)	ADOPTION OF A RULE
10.58.511 pertaining to	)	PERTAINING TO
endorsement information and	)	ENDORSEMENT INFORMATION
foreign languages	)	AND FOREIGN LANGUAGES


TO: All Interested Persons

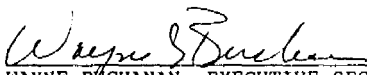
1. On March 14, 1991, the Board of Public Education published notice of adoption of Rule 10.57.301, and 10.58.511 concerning endorsement information and foreign languages in the 1991 Montana Administrative Register, issue number 5, page 299.

2. The original notice for public hearing for Rule 10.58.511 incorrectly cited the implementation statute for the rule. The statutory citation should appear as follows:

IMP: ~~20-1-121~~-MEA 20-2-121, MCA

3. All other sections of the March 14, 1991 notice of adoption remain unchanged.


BILL THOMAS, CHAIRPERSON
Board of Public Education

BY: 
WAYNE BUCHANAN, EXECUTIVE SECRETARY
Board of Public Education

Certified to the Secretary of State, August 8, 1991.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	AMENDED NOTICE OF
adoption of Rule 10.61.207	)	ADOPTION OF A RULE
pertaining to student	)	PERTAINING TO STUDENT
transportation	)	TRANSPORTATION


TO: All Interested Persons

1. On March 14, 1991, the Board of Public Education published a notice of adoption of Rule 10.61.207, concerning student transportation in the 1991 Montana Administrative Register, issue number 5, page 301.

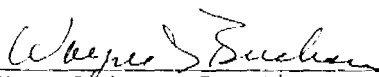
2. It has been determined that the original notice for public hearing for Rule 10.61.207 did not fully explain the Board's reasoning for adopting this rule. The reasoning should appear as follows:

3. ~~The board is proposing the amendments to this rule to ensure adequate and appropriate transportation for students. The present rules are quite specific as to how the superintendent for the Montana School for the Deaf and Blind must transport students who travel to and from the school. These rules sometimes have caused a student to be transported in an expensive, less safe, or otherwise inappropriate manner. This change would allow the superintendent greater flexibility to select a safe, economical form of travel for these students.~~

4. All other sections of the March 14, 1991 notice of adoption remain unchanged.


BILL THOMAS, CHAIRPERSON
Board of Public Education

BY:


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to Secretary of State August 8, 1991.

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

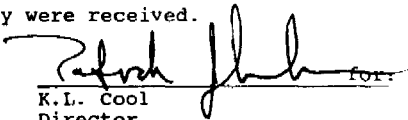
IN THE MATTER OF THE ADOPTION	)	NOTICE OF ADOPTION OF ARM
OF A NEW RULE PERTAINING TO	)	12.6.1202
SPECIES HUNTED ON SHOOTING)	
PRESERVES)	

TO: All interested persons

1. On July 11, 1991, the department published notice of proposed adoption of a new rule (12.6.1202) pertaining to species hunted on shooting preserves at page 1115 of the Montana Administrative Register, Issue No. 13.

2. The department has adopted the new rule as proposed with no changes.

3. No comments or testimony were received.


K.L. Cool
Director

Certified to the Secretary of State August 19, 1991

VOLUME NO. 44

OPINION NO. 17

COUNTIES - Smoking policy in county courthouse;
HEALTH - Smoking policy in county courthouse;
PUBLIC BUILDINGS - Smoking policy in county courthouse;
MONTANA CODE ANNOTATED - Sections 50-40-103, 50-40-201.

HELD: In a county building in which at least seven employees work, the managers or supervisors of the work areas, pursuant to section 50-40-201, MCA, may agree to designate one smoking area in the building with the remainder of the building designated as nonsmoking.

August 5, 1991

Bob Slomski
Sanders County Attorney
P.O. Box 519
Thompson Falls MT 59873

Dear Mr. Slomski:

You have requested an opinion on the following question:

Does section 50-40-201, MCA, of the Montana Clean Indoor Air Act preclude a board of county commissioners from designating the entire courthouse as a nonsmoking area, where there is no single office or work area in the courthouse which has seven or more employees?

Section 50-40-201, MCA, addresses the adoption of a smoking policy in a courthouse. The language of the statute, as amended in the 1991 legislative session by the adoption of House Bill 860, requires that both nonsmoking and smoking areas be provided in local government buildings where at least seven employees are employed. The statute, in pertinent part, provides:

50-40-201. Reservation of smoking and nonsmoking areas in work areas in local government buildings. In offices and work areas in buildings maintained by a political subdivision ... in which seven or more employees of the political subdivision are employed, the manager or person in charge of the work area shall arrange nonsmoking and smoking areas in a convenient area.

As mentioned above, section 50-40-201, MCA, was recently amended in the 1991 legislative session by the adoption of House Bill 860, which removed state buildings from the statute. The

smoking policy for state buildings is now addressed by a separate statute which prohibits smoking in specifically enumerated areas and requires at least one designated smoking area within each state building.

You have questioned whether the seven-employee threshold, which triggers application of section 50-40-201, MCA, relates to the number of employees in individual offices and work areas within county buildings, or to the buildings where the offices and work areas are located. Section 50-40-201, MCA, essentially states that in buildings maintained by a political subdivision in which seven or more employees of the political subdivision are employed, the manager or person in charge of the work areas within that building shall arrange nonsmoking and smoking areas in a convenient location. The language of the statute itself suggests that the seven-employee threshold applies to the building. The minutes of the legislative committees which discussed adoption of the statute in 1985 do not refute this interpretation. Therefore, it is my opinion that the seven-employee threshold applies to the building rather than to the office or work area that is located in the building.

Assuming that there are at least seven employees working in the Sanders County Courthouse, section 50-40-201, MCA, would require that the "manager or person in charge of the work area" arrange nonsmoking and smoking areas in convenient areas. A work area is not defined in section 50-40-201, MCA. However, the more generally applicable provisions of the Montana Clean Indoor Air Act refer to areas or rooms rather than to buildings. See § 50-40-103(2) and (7), MCA. Although, as your letter suggests, the county commissioners have general management responsibilities over county property (see, e.g., § 7-5-2101, MCA), the statute refers to persons in charge of work areas rather than to governing bodies. Thus, in the context of the Clean Indoor Air Act those county officers or employees who supervise particular offices should be considered the managers of their work areas. The county commissioners would have the authority to determine the smoking arrangements for their own office(s) as well as for common areas, such as hallways and lounges.

With respect to your specific question, nothing in section 50-40-201, MCA, would prevent the county commissioners and the several managers of the work areas in the county courthouse from reaching an agreement concerning the designation of the entire courthouse as "smoke-free" except for at least one convenient smoking area.

THEREFORE, IT IS MY OPINION:

In a county building in which at least seven employees work, the managers or supervisors of the work areas, pursuant to section 50-40-201, MCA, may agree to designate

one smoking area in the building with the remainder of the building designated as nonsmoking.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marc Racicot".

MARC RACICOT
Attorney General

VOLUME NO. 44

OPINION NO. 18

APPROPRIATIONS - Investment of excess bond proceeds and calculation of levy to pay bond interest and principal;
APPROPRIATIONS - Use of prior year's reserve to calculate current fiscal year's reserve;
TAXATION AND REVENUE - Investment of excess bond proceeds and calculation of levy to pay bond interest and principal;
TAXATION AND REVENUE - Use of prior year's reserve to calculate current fiscal year's reserve;
MONTANA CODE ANNOTATED - Sections 7-6-2319, 7-6-2330, 7-7-123, 7-7-124, 7-7-2260 to 7-7-2274.

- HELD: 1. Because the prior fiscal year's reserve is not considered part of the amount "appropriated and authorized to be spent during the current fiscal year," it may not be used to calculate the current fiscal year's reserve under section 7-6-2319(2), MCA.
2. The term "cash balance" in section 7-6-2319(1), MCA, means the cash in a fund on June 30 less any current liabilities.
3. Excess bond proceeds may not be retained in a separate fund and invested without first using the proceeds to calculate the amount of annual tax levy for a sinking fund. Any remainder of the proceeds may be invested in accordance with section 7-7-123, MCA.

August 14, 1991

Dennis Paxinos
Yellowstone County Attorney
P.O. Box 35025
Billings MT 59107

Dear Mr. Paxinos:

You have requested my opinion on the following three questions, which I have rephrased as follows:

1. Does the phrase "appropriated and authorized to be spent from the fund during the current fiscal year" as used in section 7-6-2319(2), MCA, mean that the prior fiscal year's reserve is to be included in the calculation of the current fiscal year's reserve?
2. Does the phrase "cash balance in the fund at the close of the preceding fiscal year" as used in section 7-6-2319(1), MCA, mean the amount of cash

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Montana Administrative Register

in the fund on June 30 or is it the amount of cash less the current liabilities on that date?

3. May excess proceeds from a bond issuance be retained in a fund and invested for the purpose of retiring the bonds on their call date and, if so, is the amount in the fund considered in the calculation of reserves?

Your first question involves interpretation of section 7-6-2319(2), MCA, which provides:

The board may add to the amount necessary to be raised for any fund by tax levy during the current fiscal year an additional amount as a reserve to meet expenditures to be made from the fund during the months of July to November of the next fiscal year. The amount which may be so added to any fund as the reserve may not exceed one-third of the total amount appropriated and authorized to be spent from the fund during the current fiscal year, after deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants.

Put another way, the first question you have presented asks whether a prior year's reserve is to be included within the amount used for the calculation of the current year's fund reserve because the prior year's reserve was set aside for expenditure in July through November of the "next fiscal year" and, thus, is included in the "total amount appropriated and authorized to be spent from the fund during the current fiscal year." It is my opinion that section 7-6-2319(2), MCA, does not allow for the prior fiscal year's reserve to be included in the amount used for the calculation of the current year's fund reserve. In interpreting a statute, a court may not depart from the statute's clear meaning. Thornock v. State, 229 Mont. 67, 745 P.2d 324 (1987). The explicit language of section 7-6-2319(2), MCA, limits the amount of a fund reserve to one-third of the total amount "appropriated and authorized to be spent from the fund during the current fiscal year." The phrase by its plain meaning refers to the amounts appropriated and authorized to be spent in the current fiscal year, not in a prior fiscal year.

Further, section 7-6-2330, MCA, requires that all appropriations shall lapse at the end of the fiscal year. This section precludes an appropriation that would carry over into the next fiscal year. Thus, monies reserved in a prior fiscal year cannot be considered amounts appropriated and authorized to be spent in the next fiscal year.

In your second question, you ask for the definition of the term "cash balance" as used in section 7-6-2319(1), MCA, which provides, in pertinent part:

Following the determinations required by 7-6-2318, the board shall determine the amount to be raised by tax levy for each fund by adding the cash balance in the fund at the close of the preceding fiscal year and the amount of the estimated revenues to accrue to the fund during the current fiscal year.

You note that in the past the term "cash balance" at the close of the fiscal year has been interpreted to mean the amount of cash in the fund on June 30 less the current liabilities. However, a different interpretation has been suggested in which the current liabilities are not deducted from the cash balance. I assume by "current liabilities" you mean county obligations that are currently due and payable from the cash balance in the fund, such as outstanding warrants. The purpose of deducting the current liabilities or outstanding warrants is to obtain an accurate accounting of the actual amount of cash that is available in the fund for the next fiscal year. If current liabilities were not considered, the cash balance would be artificially high and the cash balance would not be accurately reflected in the proposed budget. As a result, it is my opinion that "cash balance" in section 7-6-2319(1), MCA, means the cash in a fund on June 30 less any current liabilities.

Your last question concerns investment of excess bond proceeds. You state that approximately \$1 million of the original 1985 bond issue for the construction of the Yellowstone County Detention Center was not used for construction. After the construction was completed, the excess proceeds were invested in long-term United States Government securities. The investment maturity is scheduled to coincide with a prepayment option on the bonds of February 1, 1993. In setting the annual mill levy to support the sinking fund for the bonds, the county has not taken into consideration the excess bond proceeds, but has set the levy to meet the annual principal and interest obligations as they become due. This investment practice is intended to allow the county to retire the debt early, thus reducing the long-term tax burden on the taxpayers of the county. The first part of your question is whether the county may invest the proceeds on such a long-term basis and not use them to calculate the annual mill levy.

Under the statutes, after issuance of a county general obligation bond, all money arising from the sale of the bonds must be paid to the county treasurer and must be "immediately available for the purpose for which the bonds were issued and no other purpose." § 7-7-2260, MCA. The county treasurer must maintain a separate sinking fund account for each outstanding series of such bonds. § 7-7-2261, MCA. All taxes collected to meet interest and principal payments on the bonds are "placed

to the credit of the sinking fund." § 7-7-2261(2), MCA. Investment of sinking funds is expressly authorized in section 7-7-123(1)(a), MCA, which provides in pertinent part:

Except as provided in 7-7-124 and whenever outstanding bonds cannot be purchased pursuant to 7-7-2270 and 7-7-4270, the board of county commissioners of a county and the council or commission of a city or town shall invest so much of the bond sinking funds of the county, city, or town as is not needed for the payment of bonds or interest coupons in general obligation bonds or securities of the United States ... [and other securities][.]

Section 7-7-124, MCA, provides that the money in the sinking fund is not available for investment if any of the bonds for which the sinking fund was established are not yet due but are then redeemable under optional provisions. Thus, while investment in government securities is authorized, it is authorized only to the extent that the sinking fund is not needed for payment of the bonds or interest. Here, the excess bond proceeds were invested without first applying them to the interest or principal due on the bonds, and as such, the investment was improper.

Further, in order to impose a levy there must not be sufficient "funds on hand available for the payment of the full amount of the interest and principal" of the bonds. § 7-7-2264, MCA. Only when there are insufficient funds does the county treasurer prepare a statement showing the amount required to be raised by the tax levy during the current fiscal year for payment of the interest and principal becoming due. § 7-7-2264(2), MCA. While the county has placed the excess proceeds in a long-term investment, the proceeds nevertheless are "funds on hand available for the payment of the full amount of the interest and principal" of the bonds. Because the proceeds must be "immediately available for the purpose for which the bonds were issued," the proceeds are part of the sinking fund and, as such, available for the payment of interest and principal due on the bonds. Here, the county had funds to meet the interest obligations but has in the past imposed a levy in order to achieve long-term savings.

A problem similar to the one here was addressed by the Montana Supreme Court in Rogge v. Petroleum County, 107 Mont. 36, 80 P.2d 80 (1938). In Rogge, the county had in its sinking fund more money than was needed to meet the interest and principal payments for the current fiscal year. The county commissioners nevertheless imposed a levy in order to buy outstanding bonds at a discount and thus create a savings to the taxpayers. The Supreme Court held, however, that the board was without authority to impose any levy for the purpose of raising money to purchase outstanding bonds at a discount. While acknowledging that taxpayers in the long run might save money,

the Court reasoned that governments may not act like private enterprise because while private interests may invest as they please, "[c]ounty commissioners have only such authority with reference to tax matters as the legislature sees fit to give them." 80 P.2d at 382. Finding no express authority to raise funds with which to buy the county bonds before they mature, the court refused to find any implied authority and reasoned:

Implied authority to do so cannot be said to exist because in so holding we would, in effect, be declaring that a bond issue extending over a period of twenty years, in the discretion of the board might be retired in a lesser time over the protests of the taxpayers. Such a holding would in effect change the obligation of the taxpayers who assumed the bonded indebtedness on the understanding that they would not be called upon to meet the obligations until they matured according to their terms.

Id. While the county commissioners in Rogge and those in Yellowstone County were trying to save taxpayers money, Rogge stands for the general rule that county commissioners must take into consideration the amount of money available in each sinking fund and may not levy additional taxes to pay off bonds early. Here, the county commissioners did not take into consideration the amount of money available in the sinking fund and were, in effect, levying additional taxes to pay off the bonds at a discount. Under Rogge, such a practice is not authorized. The holding in Rogge is equally applicable today as it was then. The governing statutes have not changed in a way that would affect the holding in that case. There is still no express statutory authority to retain and invest bond proceeds in order to retire the bonds early, while levying taxes to be applied toward scheduled payments on the bonds.

You also ask whether the excess proceeds should be considered in calculating the reserves for the sinking fund. In light of the disposition of the first part of your question dealing with the statutory provisions defining the necessary procedures for payment of bond debt and the nature of sinking funds, this portion of your question need not be addressed. The normal procedure is to calculate the amount of money necessary to accumulate in the sinking fund in order to meet the bond obligations when they become due, and to invest any remainder in accordance with section 7-7-124, MCA. Accordingly, in calculating the "reserves" for a sinking fund, I refer you to the statutes discussed above which govern the operation of a sinking fund, sections 7-7-2260 to 2274, MCA, and to the bond indenture agreement.

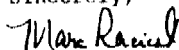
THEREFORE, IT IS MY OPINION:

1. Because the prior fiscal year's reserve is not considered part of the amount "appropriated and

authorized to be spent during the current fiscal year," it may not be used to calculate the current fiscal year's reserve under section 7-6-2319(2), MCA.

2. The term "cash balance" in section 7-6-2319(1), MCA, means the cash in a fund on June 30 less any current liabilities.
3. Excess bond proceeds may not be retained in a separate fund and invested without first using the proceeds to calculate the amount of annual tax levy for a sinking fund. Any remainder of the proceeds may be invested in accordance with section 7-7-123, MCA.

Sincerely,



MARC RACICOT
Attorney General

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules, amendment or repeal of existing rules filed with the Secretary of State, except rules proposed by the Department of Revenue. Proposals of the Department of Revenue are reviewed by the Revenue Oversight Committee.

The Administrative Code Committee has 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. In addition, the Committee 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 or amend a rule.

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with the existing or proposed rules. The address is Room 138, Montana State Capitol, Helena, Montana 59620.

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
Subject
Matter | 1. Consult ARM topical index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute
Number and
Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and 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 June 30, 1991. This table includes those rules adopted during the period July 1, 1991 through September 30, 1991 and any proposed rule action that is 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 June 30, 1991, 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 1991 Montana Administrative Register.

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- I Honeybee Hourly Inspection Fee, p. 880, 1272
- I Grading Standards for Hulled Barley, p. 383, 812

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- 4.12.1012 Grain Fee Schedule, p. 570, 998
- 4.12.1229 Fees Established for Service Samples, p. 2065, 440
- 4.12.1504 Fee on All Mint Oil Producers, p. 385, 813
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- I-VI Pricing of Noncompetitive or Volatile Lines, p. 2067, 253

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- (Board of Barbers)
- 8.10.403 and other rules - Fees - General Requirements - Sanitation Requirements - Teaching Staff - College Requirements - Applications - Procedure Upon Completion - Identification and Sanitation Requirements - Preparation and Publication of Posters, Notices, Orders, New Schools - Violation, p. 344, 911
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- 8.16.401 and other rules - Practice of Dentistry, p. 943
- 8.17.403 and other rules - Practice of Dentistry, p. 937
- (Board of Hearing Aid Dispensers)
- 8.20.402 and other rule - Fees - Record Retention, p. 575, 1273
- (Board of Horse Racing)
- 8.22.501 and other rules - Definitions - Fees - General Provisions - Definition of Conduct Detrimental to the Best Interests of Racing, p. 172, 355
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- 8.28.908 and other rule - Equivalency - EMT - Advanced Certification, p. 764
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- I-II Practice of Occupational Therapy - Treatment - Therapeutic Devices, p. 1377
- (Board of Optometrists)
- 8.36.403 and other rule - Application for Examination - Examination, p. 882, 1485

(Board of Outfitters)

8.39.502 and other rules - Licensure - Qualifications - Licensure - Examinations - Conduct, p. 213, 999

(Board of Social Workers and Professional Counselors)

8.61.401 Definitions, p. 884

(Board of Passenger Tramway Safety)

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BOARD APPOINTEES AND VACANCIES

House Bill 424, 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 HB 424 was 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 made in July, 1991, are published. Vacancies scheduled to appear from September 1, 1991, through November 30, 1991, are also listed, as are current recent vacancies due to resignations or other reasons.

Individuals interested in serving on a new board should refer to the bill that created the board for details about the number of members to be appointed and qualifications necessary.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of August 19, 1991.

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: JULY, 1991			
<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Aging Advisory Council (Governor)			
Mr. Roland F. Kennerly	Governor	reappointed	7/18/1991
Browning			7/18/1994
Qualifications (if required):	member from Region VII		
 Mr. Dwight MacKay	Governor	reappointed	7/18/1991
Billings			7/18/1994
Qualifications (if required):	member from Region II		
 Ms. Molly L. Munro	Governor	Johansen	7/18/1991
Great Falls			7/18/1994
Qualifications (if required):	member from Region VIII		
 Alfalfa Leaf Cutting Bee Advisory Council (Agriculture)			
Mr. Gill M. Sorg	Governor	reappointed	7/2/1991
Wolf Point			7/1/1994
Qualifications (if required):	alfalfa seed grower		
 Board of Barbers (Commerce)			
Ms. Amy S. Adler	Governor	Thomas	7/1/1991
Drummond			7/1/1994
Qualifications (if required):	licensed barber		
 Board of Cosmetologists (Commerce)			
Ms. Verna McCullough	Governor	Green	7/1/1991
Bozeman			10/1/1993
Qualifications (if required):	affiliated with school of cosmetology		
 Mr. Dick Meyers	Governor	Sorum	7/1/1991
Billings			7/1/1995
Qualifications (if required):	licensed cosmetologist		

BOARD AND COUNCIL APPOINTEES: JULY, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Hearing Aid Dispensers (Commerce)			
Dr. Wilson Higgs	Governor	reappointed	7/1/1991
Kalispell			7/1/1994
Qualifications (if required):	otolaryngologist		
Mr. Byron Randall	Governor	reappointed	7/1/1991
Kalispell			7/1/1994
Qualifications (if required):	hearing aid dispenser		
Board of Nursing (Commerce)			
Ms. Sherri Chatham	Governor	reappointed	7/12/1991
Great Falls			7/1/1995
Qualifications (if required):	licensed practical nurse		
Ms. Nancy Heyer	Governor	Snodgrass	7/12/1991
Missoula			7/1/1995
Qualifications (if required):	registered nurse		
Board of Plumbers (Commerce)			
Mr. Elmer Lazure	Governor	Thomas	7/2/1991
Helena			7/1/1995
Qualifications (if required):	public member		
Mr. Lloyd Linden	Governor	Lindsay	7/2/1991
Helena			7/1/1995
Qualifications (if required):	public member		
Mr. Roy A. Wells	Governor	reappointed	7/2/1991
Helena			7/1/1995
Qualifications (if required):	rep. of Department of Health and sanitary engineer		

BOARD AND COUNCIL APPOINTEES: JULY, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Public Accountants (Commerce)			
Ms. Elizabeth Hallowell	Governor	Upshaw	7/1/1991
Helena			7/1/1992
Qualifications (if required):	public member		
Ms. Ivah G. Schmitz			
Missoula	Governor	reappointed	7/1/1991
Qualifications (if required):	licensed public accountant		7/1/1996
Mr. Marvin Stephens			
Lewistown	Governor	Sliter	7/1/1991
Qualifications (if required):	certified public accountant		7/1/1993
Board of Radiologic Technologists (Commerce)			
Ms. Sandra Curtiss	Governor	reappointed	7/22/1991
Havre			7/1/1994
Qualifications (if required):	radiological technologist		
Committee on Telecommunication Services for the Handicapped (Social and Rehabilitation Services)			
Ms. Sheri Devlin	Governor	Jackson	7/1/1991
Billings			7/1/1994
Qualifications (if required):	represents Department of Social and Rehabilitation Services		
Mr. Eric Eck			
Helena	Governor	reappointed	7/1/1991
Qualifications (if required):	representative of Public Service Commission		7/1/1994
Mr. Norm Eck			
Helena	Governor	reappointed	7/1/1991
Qualifications (if required):	not handicapped and is a senior citizen		7/1/1994

BOARD AND COUNCIL APPOINTEES: JULY, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Committee on Telecommunication Services for the Handicapped (Social and Rehabilitation Services) cont.			
Ms. Barbara Ranf	Governor	McGree	7/1/1991
Helena			7/1/1994
Qualifications (if required): representative of local exchange company			
Department of Transportation (Highways)			
Mr. John Rothwell	Governor	not listed	7/1/1991
Helena			0/0/0
Qualifications (if required): none specified			
Historical Society Board of Trustees (Historical Society)			
Ms. Jean Birch	Governor	Ennis	7/1/1991
Great Falls			7/1/1995
Qualifications (if required): public member			
Mr. Chase Hibbard			
Helena	Governor	Stearns	7/1/1991
Qualifications (if required): public member			
Ms. Virginia Lucht			
Bigfork	Governor	Erickson	7/1/1991
Qualifications (if required): public member			
Joint Committee on Postsecondary Education Policy & Budget (Education)			
Ms. Marilyn Miller	Governor	new appointment	7/16/1991
Helena			7/1/1993
Qualifications (if required): member of executive branch			
Montana Mint Committee (Agricultural)			
Mr. Philip Clarke	Governor	reappointed	7/2/1991
Columbia Falls			7/1/1994
Qualifications (if required): active mint grower			

BOARD AND COUNCIL APPOINTEES: JULY, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Motorcycle Safety Advisory Committee (Office of Public Instruction)			
Mr. Dal Smilie	Governor	reappointed	7/1/1991
Helena			7/1/1993
Qualifications (if required): represents motorcycle group			
Mr. Ron Ullom	Governor	reappointed	7/1/1991
Red Lodge			7/1/1993
Qualifications (if required): peace officer			
Resource Conservation Advisory Council (Natural Resources and Conservation)			
Mr. Ellis Hagen	Governor	Rustad	7/31/1991
Westby			11/15/1991
Qualifications (if required): conservation district supervisor			
Tourism Advisory Council (Commerce)			
Mr. Terry Abelin	Governor	Middleton	7/22/1991
Bozeman			7/1/1994
Qualifications (if required): representative of Yellowstone Country and skiing			
Mr. Henry Gehl	Governor	reappointed	7/22/1991
Lewistown			7/1/1994
Qualifications (if required): Montana Chamber representative			
Mr. Kenneth Hickel	Governor	reappointed	7/22/1991
Billings			7/1/1992
Qualifications (if required): representative of Russell Country			
Mr. Herbert Leuprecht	Governor	reappointed	7/22/1991
Butte			7/1/1994
Qualifications (if required): representative of Gold West Country			

BOARD AND COUNCIL APPOINTEES: JULY, 1991

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<u>Tourism Advisory Council</u> (Commerce) cont.			
Ms. Barbara Moe	Governor	reappointed	7/22/1991
Great Falls			7/1/1994
Qualifications (if required):	representative of Russell Country		
Mr. Art Peterson	Governor	Frame	7/22/1991
Billings			7/1/1994
Qualifications (if required):	representative of Yellowstone Country and camping		
Ms. Velda Shelby	Governor	new position	7/22/1991
Ronan			7/1/1994
Qualifications (if required):	Native American		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Air Pollution Control Advisory Council (Health and Environmental Sciences)		
Mr. Ronald E. Burnam, Billings	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Ed Handl, Butte	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Rodney A. James, Butte	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Jess Kilgore, Three Forks	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Terry Konkright, Superior	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Stephen L'Heureux, Great Falls	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Joe Nelson, Walkerville	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Martin W. Perga, Laurel	Governor	11/8/91
Qualifications (if required): none specified		
Dr. Earl Pruyn, Missoula	Governor	11/8/91
Qualifications (if required): none specified		
Mr. Paul Sawyer, Butte	Governor	11/8/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term and</u>
Board of Medical Examiners (Commerce) Dr. John R. Jacobson, Butte Qualifications (if required): has degree of doctor of medicine	Governor	9/1/91
Dr. Thomas J. Malee, Glendive Qualifications (if required): has degree of doctor of medicine	Governor	9/1/91
Board of Psychologists (Commerce) Dr. Michael J. McLaughlin, Great Falls Qualifications (if required): licensed psychologist	Governor	9/1/91
Clark Fork Rehabilitation Advisory Council (Governor) Mr. Vic Andersen, Helena Qualifications (if required): none specified	Governor	9/8/91
Mr. Ray Beck, Helena Qualifications (if required): none specified	Governor	9/8/91
Mr. Frank Bennett, Anaconda Qualifications (if required): none specified	Governor	9/8/91
Mr. Bob Fox, Helena Qualifications (if required): none specified	Governor	9/8/91
Mr. Pat Graham, Helena Qualifications (if required): none specified	Governor	9/8/91
Mr. Dick Hafer, Helena Qualifications (if required): none specified	Governor	9/8/91
Mr. Frank Munshower, Bozeman Qualifications (if required): none specified	Governor	9/8/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Clark Fork Rehabilitation Advisory Council (Governor) cont.		
Mr. Peter Nielson, Missoula	Governor	9/8/91
Qualifications (if required): none specified		
Mr. Steve Pilcher, Helena	Governor	9/8/91
Qualifications (if required): none specified		
Mr. Joe Roberts, Butte	Governor	9/8/91
Qualifications (if required): none specified		
Mr. Ray Tiltman, Butte	Governor	9/8/91
Qualifications (if required): none specified		
Mr. Bill Williams, Anaconda	Governor	9/8/91
Qualifications (if required): none specified		
Criminal Justice and Corrections Advisory Council (Institutions)		
Sen. Thomas Beck, Deer Lodge	Governor	9/1/91
Qualifications (if required): none specified		
Ms. Margaret L. Borg, Missoula	Governor	9/1/91
Qualifications (if required): none specified		
Rep. Vivian M. Brooke, Missoula	Governor	9/1/91
Qualifications (if required): public member		
Mr. Henry E. Burgess, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Sen. B. F. "Chris" Christiaens, Great Falls	Governor	9/1/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term and</u>
<u>Criminal Justice and Corrections Advisory Council</u> (Institutions) cont.		
Ms. Colleen Conroy, Hardin	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Donald D. Dupuis, Pablo	Governor	9/1/91
Qualifications (if required): none specified		
Ms. Sheryl Hoffarth, Billings	Governor	9/1/91
Qualifications (if required): none specified		
Rep. Betty Lou Kasten, Brockway	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Mike Lavin, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Ted O. Lympus, Kalispell	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Walter J. Moore, Roundup	Governor	9/1/91
Qualifications (if required): none specified		
Rep. Helen O'Connell, Great Falls	Governor	9/1/91
Qualifications (if required): none specified		
Judge Thomas A. Olson, Bozeman	Governor	9/1/91
Qualifications (if required): none specified		
Ms. Pat Regan, Billings	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Daniel D. Russell, Helena	Governor	9/1/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Criminal Justice and Corrections Advisory Council (Institutions) cont.		
Mr. Mike Schafer, Billings	Governor	9/1/91
Qualifications (if required): none specified		
Ms. Debbie Swanson, Havre	Governor	9/1/91
Qualifications (if required): none specified		
Rep. Bob Thoft, Stevensville	Governor	9/1/91
Qualifications (if required): none specified		
Data Processing Advisory Council (Administration)		
Mr. Dave Ashley, Helena	Director	10/15/91
Qualifications (if required): none specified		
State Auditor Andrea "Andy" Bennett, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Peter Blouke, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Phil Brooks, Helena	Director	10/15/91
Qualifications (if required): none specified		
Ms. Judy Browning, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. K. L. Cool, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. David Darby, Helena	Director	10/15/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Data Processing Advisory Council (Administration) cont.		
Mr. Jack Ellery, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Gregg Groepper, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Larry Larsen, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Mike Micone, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Richard Miller, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Douglas M. Mitchell, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Bob Mullen, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. William J. Opitz, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Jim Oppedahl, Helena	Governor	10/15/91
Qualifications (if required): public member		
Mr. Robert Person, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Andrew Poole, Helena	Director	10/15/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Data Processing Advisory Council (Administration) cont.		
Mr. Wayne Wetzel, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Keith Wolcott, Helena	Director	10/15/91
Qualifications (if required): none specified		
Mr. Steve Yeakel, Helena	Director	10/15/91
Qualifications (if required): none specified		
Education Commission for the Nineties (Education)		
Mr. Dennis Burr, Clancy	Governor	10/6/91
Qualifications (if required): none specified		
Mr. Terry Cosgrove, Helena	Governor	10/6/91
Qualifications (if required): none specified		
Ms. Nancy Davidson, Great Falls	Governor	10/6/91
Qualifications (if required): none specified		
Mr. Jack Dietrich, Billings	Governor	10/6/91
Qualifications (if required): none specified		
Mr. Bill Fuglevand, Havre	Governor	10/6/91
Qualifications (if required): none specified		
Ms. Verna Green, Helena	Governor	10/6/91
Qualifications (if required): none specified		
Ms. Jean Hagan, Big Fork	Governor	10/6/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term and</u>
<u>Education Commission for the Mineties</u> (Education) cont. Sen. Howard W. "Svede" Hammond, Malta Qualifications (if required): none specified	Governor	10/6/91
Rep. Mike Kadas, Missoula Qualifications (if required): none specified	Governor	10/6/91
Ms. Charlene Loge, Dillon Qualifications (if required): none specified	Governor	10/6/91
Mr. Jim Moore, Bozeman Qualifications (if required): none specified	Governor	10/6/91
Mr. Jack Mudd, Missoula Qualifications (if required): none specified	Governor	10/6/91
Mr. John Olson, Sidney Qualifications (if required): none specified	Governor	10/6/91
Mr. Don Peoples, Butte Qualifications (if required): none specified	Governor	10/6/91
<u>Family Support Services Advisory Council</u> (Social and Rehabilitation Services) Mr. Dan McCarthy, Helena Qualifications (if required): represents OPI	Governor	11/6/91
Ms. Alicia Pichette, Helena Qualifications (if required): public member	Governor	9/29/91

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Montana Administrative Register

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historic Preservation Review Board (Education)		
Mr. Richard D. King, Havre	Governor	10/1/91
Qualifications (if required): none specified		
Mr. Ross Plambeck, Kalispell		
Qualifications (if required): public member	Governor	10/1/91
Ms. Ellen M. Sievert, Great Falls		
Qualifications (if required): none specified	Governor	10/1/91
Lewis and Clark Trail Advisory Council (Governor)		
Mr. John C. Austin, Hamilton	Governor	9/5/91
Qualifications (if required): none specified		
Mr. Joe Belgum, Great Falls		
Qualifications (if required): none specified	Governor	9/5/91
Mr. Arthur W. Dickhoff, Great Falls		
Qualifications (if required): none specified	Governor	9/5/91
Mr. Robert Doerk, Jr., Great Falls		
Qualifications (if required): none specified	Governor	9/5/91
Sen. Harry W. Fritz, Missoula		
Qualifications (if required): none specified	Governor	9/5/91
Mr. Jack Hane, Lewistown		
Qualifications (if required): none specified	Governor	9/5/91
Mr. Jack Hayne, Dupuyer		
Qualifications (if required): none specified	Governor	9/5/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis and Clark Trail Advisory Council (Governor) cont. Mr. Don D. Hyypa, Helena Qualifications (if required): none specified	Governor	9/5/91
Ms. Ruth Kvaalen, Lambert Qualifications (if required): none specified	Governor	9/5/91
Mr. Mike Letson, Helena Qualifications (if required): none specified	Governor	9/5/91
Mr. Donald F. Nell, Bozeman Qualifications (if required): none specified	Governor	9/5/91
Mr. Robert A Saindon, Helena Qualifications (if required): none specified	Governor	9/5/91
Ms. Jane Schmoyer Weber, Great Falls Qualifications (if required): none specified	Governor	9/5/91
Mr. William P. Sherman, Portland Qualifications (if required): none specified	Governor	9/5/91
Ms. Gladys V. Silk, Glasgow Qualifications (if required): none specified	Governor	9/5/91
Mr. Lawrence Sommer, Helena Qualifications (if required): none specified	Governor	9/5/91
Mr. Harold G. Stearns, Helena Qualifications (if required): none specified	Governor	9/5/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis and Clark Trail Advisory Council (Governor) cont.		
Mr. Andy A. Van Teylingen, Bozeman	Governor	9/5/91
Qualifications (if required): none specified		
Ms. Margaret S. Warden, Great Falls	Governor	9/5/91
Qualifications (if required): none specified		
Mr. John A. Willard, Billings	Governor	9/5/91
Qualifications (if required): none specified		
Local Youth Services Advisory Council, Billings		
Ms. Elaine K. Allestad, Big Timber	(Family Services) Director	10/26/91
Qualifications (if required): Billings area		
Mr. James F. Canan, Billings	Director	10/26/91
Qualifications (if required): Billings area		
Ms. Dollean Lind, Hardin	Director	10/26/91
Qualifications (if required): Billings area		
Mr. Cliff Murphy, Billings	Director	10/26/91
Qualifications (if required): Billings area		
Mr. Vern Peterson, Lewistown	Director	10/26/91
Qualifications (if required): Billings area		
Ms. Karen Smith, Billings	Director	10/26/91
Qualifications (if required): Billings area		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

Board/current position holder	Appointed by	Term end
Local Youth Services Advisory Council, Bozeman	(Family Services)	
Mr. Bruce Becker, Bozeman	Director	10/26/91
Qualifications (if required): Bozeman area		
Mr. Robert Brown, Bozeman	Director	10/26/91
Qualifications (if required): Bozeman area		
Mr. Jerry Churchill, White Sulphur Springs	Director	10/26/91
Qualifications (if required): Bozeman area		
Mr. Carlo Cieri, Livingston	Director	10/26/91
Qualifications (if required): Bozeman area		
Sen. Dorothy Eck, Bozeman	Director	10/26/91
Qualifications (if required): Bozeman area		
Mr. Ray Hokanson, Bozeman	Director	10/26/91
Qualifications (if required): Bozeman area		
Local Youth Services Advisory Council, Butte	(Family Services)	
Mr. Pat Clark, Dillon	Director	10/26/91
Qualifications (if required): Butte area		
Dr. William Hickey, Anaconda	Director	10/26/91
Qualifications (if required): Butte area		
Ms. Charlotte Kilroy, Butte	Director	10/26/91
Qualifications (if required): Butte area		
Mr. Mike Mahoney, Deer Lodge	Director	10/26/91
Qualifications (if required): Butte area		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Butte Rep. William T. "Red" Menahan, Anaconda Qualifications (if required): Butte area	(Family Services) cont. Director	10/26/91
Ms. Rosemary G. Rawls, Butte Qualifications (if required): Butte area	Director	10/26/91
Local Youth Services Advisory Council, Glasgow Mr. Ed Amestoy, Malta Qualifications (if required): Glasgow area	(Family Services) Director	10/26/91
Mr. Ron Arneson, Wolf Point Qualifications (if required): Glasgow area	Director	10/26/91
Mr. Arthur Arnold, Hinsdale Qualifications (if required): Glasgow area	Director	10/26/91
Pastor John Bent, Nashua Qualifications (if required): Glasgow area	Director	10/26/91
Rep. Dorothy Cody, Wolf Point Qualifications (if required): Glasgow area	Director	10/26/91
Mr. Jim Halverson, Wolf Point Qualifications (if required): Glasgow area	Director	10/26/91
Ms. Harriet McCoy, Plentywood Qualifications (if required): Glasgow area	Director	10/26/91
Mr. Larry Wahl, Scobey Qualifications (if required): Glasgow area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Glendive Mr. Pete Degel, Glendive Qualifications (if required): Glendive area	(Family Services) Director	10/26/91
Ms. Carol Friederichs, Glendive Qualifications (if required): Glendive area	Director	10/26/91
Mr. Bob Jensen, Circle Qualifications (if required): Glendive area	Director	10/26/91
Mr. Derry S. Long, Circle Qualifications (if required): Glendive area	Director	10/26/91
Ms. Gloria Paladichuk, Sidney Qualifications (if required): Glendive area	Director	10/26/91
Ms. Judy Reddig, Glendive Qualifications (if required): Glendive area	Director	10/26/91
Sen. Larry J. Tveit, Fairview Qualifications (if required): Glendive area	Director	10/26/91
Local Youth Services Advisory Council, Great Falls (Family Services) Mr. Russell R. Andrews, Choteau Qualifications (if required): Great Falls area	Director	10/26/91
Ms. Gini Onstad, Fort Benton Qualifications (if required): Great Falls area	Director	10/26/91
Rep. Ray Peck, Havre Qualifications (if required): Great Falls area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Great Falls (Family Services) cont. Judge John Warner, Havre Qualifications (if required): Great Falls area	Director	10/26/91
Local Youth Services Advisory Council, Helena (Family Services) Dr. Thomas D. Carlin, Helena Qualifications (if required): Helena area	Director	10/26/91
Ms. Bonnie Holman, Townsend Qualifications (if required): Helena area	Director	10/26/91
Ms. Joyce Janacaro, Whitehall Qualifications (if required): Helena area	Director	10/26/91
Mr. Wally Jewell, Helena Qualifications (if required): Helena area	Director	10/26/91
Rep. Jim Rice, Helena Qualifications (if required): Helena area	Director	10/26/91
Mr. Bob Stockton, Helena Qualifications (if required): Helena area	Director	10/26/91
Ms. Margaret Stuart, Helena Qualifications (if required): Helena area	Director	10/26/91
Local Youth Services Advisory Council, Kalispell (Family Services) Mr. Roy R. Delong, Thompson Falls Qualifications (if required): Kalispell area	Director	10/26/91
Mr. Howard W. Gipe, Kalispell Qualifications (if required): Kalispell area	Director	10/26/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Kalispell	(Family Services) cont.	
Ms. June Hermanson, Polson	Director	10/26/91
Qualifications (if required): Kalispell area		
Mr. Melvin R. Mohler, Swan Lake	Director	10/26/91
Qualifications (if required): Kalispell area		
Ms. Gretchen Otto, Kalispell	Director	10/26/91
Qualifications (if required): Kalispell area		
Mr. Scott Spencer, Libby	Director	10/26/91
Qualifications (if required): Kalispell area		
Local Youth Services Advisory Council, Miles City	(Family Services)	
Mr. Hubert Abrams, Wibaux	Director	10/26/91
Qualifications (if required): Miles City area		
Mr. Ernest Big Horn, Miles City	Acting Director	10/26/91
Qualifications (if required): Miles City area		
Ms. Carmelita Birdinground, Lame Deer	Director	10/26/91
Qualifications (if required): Miles City area		
Ms. Theresa Harris, Lame Deer	Director	10/26/91
Qualifications (if required): Miles City area		
Mr. Gerald Himelsbach, Broadus	Director	10/26/91
Qualifications (if required): Miles City area		
Ms. Colleen Kohn, Miles City	Director	10/26/91
Qualifications (if required): Miles City area		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services Advisory Council, Miles City (Family Services) cont.		
Ms. Julie Krutzveldt, Miles City	Director	10/26/91
Qualifications (if required): Miles City area		
Ms. Sue Matthews, Miles City	Director	10/26/91
Qualifications (if required): Miles City area		
Mr. Steven D. Rice, Miles City	Director	10/26/91
Qualifications (if required): Miles City area		
Local Youth Services Advisory Council, Missoula		
Mr. Jerry Allen, Hamilton	(Family Services) Director	10/26/91
Qualifications (if required): Missoula area		
Mr. Jon Ellingson, Missoula	Director	10/26/91
Qualifications (if required): Missoula area		
Ms. Mary Ann Moon, Missoula	Director	10/26/91
Qualifications (if required): Missoula area		
Rep. Barry "Spook" Stang, St. Regis	Director	10/26/91
Qualifications (if required): Missoula area		
Ms. Mary Taylor, Missoula	Director	10/26/91
Qualifications (if required): Missoula area		
Ms. Judy Wing, Missoula	Director	10/26/91
Qualifications (if required): Missoula area		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Natural Gas Marketing Advisory Council (Governor)		
Mr. William W. Ballard, Billings	Governor	11/1/91
Qualifications (if required): none specified		
Ms. Karen Barclay, Helena	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Chuck Brooke, Helena	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Dennis Casey, Helena	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Dennis L. Haider, Bismarck	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Carl J. Iverson, Shelby	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Pete Madison, Butte	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Kneelon Teague, Shelby	Governor	11/1/91
Qualifications (if required): none specified		
Mr. Bill Vaughey, Havre	Governor	11/1/91
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Prison Ranch Advisory Council (Institutions) Rep. Francis Bardonouve, Harlem Qualifications (if required): none specified	Director	9/1/91
Mr. Don Davis, Deer Lodge Qualifications (if required): none specified	Director	9/1/91
Rep. Edward J. "Ed" Grady, Canyon Creek Qualifications (if required): none specified	Director	9/1/91
Sen. Francis Koehnke, Townsend Qualifications (if required): none specified	Director	9/1/91
Mr. Ray Lybeck, Kalispell Qualifications (if required): none specified	Director	9/1/91
Resource Conservation Advisory Council (Natural Resources and Conservation) Mr. Ellis Hagen, Westby Qualifications (if required): conservation district supervisor	Governor	11/15/91
State Employee Group Benefits Advisory Council (Administration) Ms. Cindy Anders, Helena Qualifications (if required): none specified	Governor	9/1/91
Ms. Laurie Ekanger, Helena Qualifications (if required): none specified	Governor	9/1/91
Ms. Nancy Ellery, Helena Qualifications (if required): public member	Governor	9/1/91
Mr. David H. Evenson, Helena Qualifications (if required): none specified	Governor	9/1/91

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

Board/current position holder	Appointed by	Term end
State Employee Group Benefits Advisory Council	(Administration) cont.	
Mr. Ken Givens, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Ms. Nadian Jensen, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Tom McCarthy, Warm Springs	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Curt Nichols, Helena	Governor	9/1/91
Qualifications (if required): public member		
Mr. William Salisbury, Helena	Governor	9/1/91
Qualifications (if required): public member		
Mr. Thomas Schneider, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Scott Seacat, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Ms. Lois Steinbeck, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Mr. Dennis M. Taylor, Helena	Governor	9/1/91
Qualifications (if required): none specified		
Water and Waste Water Operators Advisory Council (Health and Environmental Sciences)		
Mr. Robert L. Butcher, Billings	Governor	10/16/91
Qualifications (if required): holds Class 1C license		

VACANCIES ON BOARDS AND COUNCILS -- September 1 through November 30, 1991

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Youth Services Advisory Council (Justice) Mr. Donald Wetzel, Harlem	Governor	9/27/91
Qualifications (if required): none specified		