

RESERVE **RESERVE**

KFM

9035

1973

.A245a

ATE LAW LIBRARY

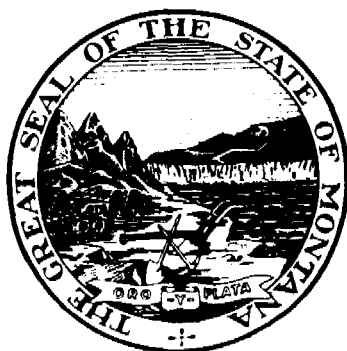
AUG 28 1992

OF MONTANA

MONTANA ADMINISTRATIVE REGISTER

**DOES NOT
CIRCULATE**

1992 ISSUE NO. 16
AUGUST 27, 1992
PAGES 1784-1899



STATE LAW LIBRARY

AUG 28 1992

OF MONTANA

MONTANA ADMINISTRATIVE REGISTER

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted.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

Page Number

TABLE OF CONTENTS

NOTICE SECTION

COMMERCE, Department of, Title 8

8-28-38 (Board of Medical Examiners) Notice of Proposed Amendment - Fees. No Public Hearing Contemplated. 1784-1785

8-80-13 (Financial Division) Notice of Proposed Adoption - Credit Unions - No Public Hearing Contemplated. 1786-1787

8-86-46 (Board of Milk Control) Notice of Proposed Amendment - Regulating the Calculation of the Price of Class II and III Milk Paid to Milk Producers Each Month. No Public Hearing Contemplated. 1788-1790

8-122-6 (Science and Technology Development Board) Notice of Public Hearing on Proposed Adoption - Seed Capital Project Loans to Venture Capital Companies. 1791-1794

EDUCATION, Title 10

10-2-92 (Superintendent of Public Instruction) Notice of Proposed Amendment and Repeal - Vocational Education General Rules. No Public Hearing Contemplated. 1795-1812

FAMILY SERVICES, Department of, Title 11

11-43 Notice of Proposed Amendment - Youth Detention Facilities. No Public Hearing Contemplated. 1813-1828

FAMILY SERVICES, Continued

11-44 Notice of Proposed Amendment - Disclosure of Case Records Containing Reports of Child Abuse or Neglect. No Public Hearing Contemplated.	1829-1830
11-45 Notice of Proposed Repeal - Local Service Areas - Local Youth Services Advisory Councils. No Public Hearing Contemplated.	1831-1832

FISH, WILDLIFE, AND PARKS, Department of, Title 12

12-2-195 (Fish, Wildlife, and Parks Commission) Notice of Proposed Amendment, Repeal and Adoption - Falconry. No Public Hearing Contemplated.	1833-1840
12-2-197 (Fish, Wildlife, and Parks Commission) Notice of Public Hearing on Proposed Adoption - Development of State Parks and Fishing Access Sites.	1841-1843
12-2-198 (Fish, Wildlife, and Parks Commission) Notice of Proposed Amendment - Closure of Flint Creek Below the Dam. No Public Hearing Contemplated.	1844-1845

PUBLIC SERVICE REGULATION, Department of, Title 18

38-2-104 Notice of Proposed Adoption and Amendment - Establishing Policy Guidelines on Integrated Least Cost Resource Planning for Electric Utilities in Montana - Cogeneration and Small Power Production. No Public Hearing Contemplated.	1846-1860
---	-----------

RULE SECTION

AGRICULTURE, Department of, Title 4

AMD Reporting/Monitoring Procedures - Field Evaluations - Council Appointments for the Noxious Weed Trust Fund.	1861
---	------

COMMERCE, Department of, Title 8

(Board of Horse Racing) Corrected Notice of Amendment - Requirements of Licensees.	1862
--	------

FAMILY SERVICES, Department of, Title 11

NEW Block Grant Payment of Day Care Benefits.	1863-1867
---	-----------

Page Number

TRANSPORTATION, Department of, Title 18

NEW	Encroachment of Mailboxes and Newspaper	
AMD	Delivery Boxes on Highway Rights-of-Way.	1868-1869

SECRETARY OF STATE, Title 44

NEW	Voting by Facsimile Transmission for Members of the United States Service.	1870
AMD	(Commissioner of Political Practices) Limitations on Receipts from Political Committees to Legislative Candidates.	1871

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

AMD	Durable Medical Equipment.	1872-1873
-----	----------------------------	-----------

SPECIAL NOTICE AND TABLE SECTION

Functions of the Administrative Code Committee.	1874
How to Use ARM and MAR.	1875
Accumulative Table.	1876-1885
Board and Council Appointees.	1886-1894
Vacancies on Boards and Councils.	1895-1899

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

In the matter of the proposed) NOTICE OF THE PROPOSED
amendment of rule pertaining) AMENDMENT OF 8.28.1505
to fees) FEES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On September 26, 1992, the Board of Medical Examiners proposes to amend the above-stated rule.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.28.1505 FEES (1) The fee for an initial certificate, including the application for approval of an initial utilization plan is ~~\$50.00~~ \$150.00.

(2) The fee for annual renewal of a utilization plan is ~~\$35.00~~ of a certificate is \$50.00.

(3) ~~The fee for substituting a supervising physician is \$50.00.~~ The fee for a change in a utilization plan is \$25.00.

(4) The fee for a new utilization plan (new setting and new primary supervising physician) is \$50.00.

(5) The fee for the approval of a locum tenens utilization plan is \$50.00.

(6) All fees provided for in this rule are non-refundable.

(7) The date for annual certificate renewal and payment of fees therefor is set by the board. In the first year of implementation of this rule, certificate holders who have renewed within six months of the renewal date will not be required to pay an additional renewal fee."

Auth: Sec. 37-1-134, 37-20-201, MCA; IMP, Sec. 37-20-302, MCA

REASON: The fees are being modified to reflect more accurately the administrative costs of processing both applications for licensure and for utilization plan changes and approval, and to implement the statutory provisions for annual renewal of physician assistant certificates.

3. Interested persons may present their data, views or arguments concerning the proposed amendment in writing to the Board of Medical Examiners, Arcade Building, 111 North Jackson, Helena, Montana 59620-0407, to be received no later than 5:00 p.m., September 24, 1992.

4. If a person who is directly affected by the proposed amendment wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Medical Examiners, 111 North

Jackson, Helena, Montana 59620-0407, to be received no later than 5:00 p.m., September 24, 1992.

5. If the Board receives requests for a public hearing on the proposed amendment from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendment, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 5 based on the 54 licensees in Montana.

BOARD OF MEDICAL EXAMINERS
PETER BURLEIGH, M.D.
CHAIRMAN

BY:

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 17, 1992.

BEFORE THE FINANCIAL DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED ADOPTION
adoption of a new rule per-) OF A NEW RULE PERTAINING TO
taining to credit unions) CREDIT UNIONS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On September 26, 1992, the Financial Division proposes to adopt a new rule pertaining to credit unions.
2. The proposed new rule will read as follows:

"I CREDIT UNIONS - SURETY BOND AND HAZARD INSURANCE COVERAGE (1) Each credit union shall provide surety bond coverage for each of its employees, board members, or committee members whose duties include the handling of cash, cash equivalents, negotiable instruments of any kind, credit cards, debit cards, or who act as bookkeepers or who are able to make entries to accounts affecting the credit union or its members.

(2) Each credit union shall obtain casualty insurance, fire insurance, liability insurance or such other types of insurance as may be appropriate to the credit union's needs.

(3) Surety bond coverage and insurance coverage shall be in amounts appropriate to the total assets of the credit union, the nature of its business, and the value of its insured property. In no case shall the amounts of coverage be less than those required of federal credit unions by the national credit union administration."

Auth: Sec. 32-3-201, MCA; IMP, Sec. 32-3-201, MCA

REASON: The new rule will assure that the minimum amount of surety bond coverage and casualty, liability, and fire insurance required of credit unions in relation to their assets or to the money and other personal property involved or their exposure to risk, is maintained.

3. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to the Financial Division, Room 50, Lee Metcalf Building, 1520 East 6th Avenue, Helena, Montana 59620, to be received no later than September 24, 1992.

4. If a person who is directly affected by the proposed adoption wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request with any comments he has to the Financial Division, Room 50, Lee Metcalf Building, 1520 East 6th Avenue, Helena, Montana 59620, to be received no later than September 24, 1992.

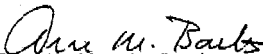
5. If the Division receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed adoption, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those credit unions directly affected has been determined to be 2 based on the 17 credit unions state-chartered in Montana.

FINANCIAL DIVISION
DONALD HUTCHISON,
COMMISSIONER OF
FINANCIAL INSTITUTIONS

BY:



ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE



ANNIE M. BARTOS, RULE REVIEWER
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, August 17, 1992.

BEFORE THE BOARD OF MILK CONTROL
OF THE STATE OF MONTANA

In the matter of proposed	)	NOTICE OF PROPOSED AMENDMENT
amendments of Rule 8.86.301)	
as it relates to regulating	)	NO PUBLIC HEARING
the calculation of the price	)	CONTEMPLATED
of class II and III milk paid)	
to milk producers each month	)	DOCKET #14-92

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

1. On Monday, September 28, 1992, the Board of Milk Control (Board) proposes to amend ARM 8.86.301(7)(a) and (8)(a) which is at the request of Ted Doney, Esq., on behalf of the Montana Dairymen's Association (MDA). The proposed change would enable class II and III producer prices to more closely correlate to actual prices received in the regional markets.

2. The rule as proposed to be amended would read as follows: (Full text of the rule is located at pages 8-2539 thru 8-2549, Administrative Rules of Montana.) (new matter underlined, deleted matter interlined)

"8.86.301 PRICING RULES

(1)-(7) remains the same.

(a) Prices paid producers for class II milk will be the average last spray process nonfat dry milk solids price per pound quote for the month, Central States area, as most recently reported by the United States department of agriculture, plus a factor of \$.0125 per pound for freight, multiplied by 8.2 (which is the amount of solids not fat in skim milk), plus the average last Chicago area butter price quote for the month (grade A, 92 score), as most recently reported by the United States department of agriculture, multiplied by 4.2 (which is the amount of butter in pounds, which can be produced from one hundred (100) pounds of three point five percent (3.5%) milk), less a make allowance of eight and one half percent (8.5%). In the case of milk containing more or less than three point five percent (3.5%) butterfat, the differential to be employed in computing prices will be determined by multiplying the above-mentioned Chicago area butter price by .111 and the resulting answer from this calculation shall be rounded to nearest half cent (\$.005).

(b)-(8) remains the same.

(a) Prices paid to producers for class III milk will be the average last Chicago area butter price quote for the month (grade A, 92 score) as most recently reported by the United States department of agriculture, less ten percent (10%) and, in addition, when skim milk is utilized in this classification by any distributor, the average last spray process nonfat milk solids price per pound quote for the month, the central states area, as most recently reported by the United States department of agriculture, plus a factor of \$.0125 per pound for freight, multiplied by 8.2, less seventeen percent (17%).

(b)-(14)(b) remains the same.

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

3. ARM 8.86.301(7)(a) and (8)(a) are being amended to ensure that the prices paid for class II and III milk to milk producers more accurately and quickly follow the market price for milk in the central states area, reducing the amount of lag time experienced under the current rule.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to the Milk Control Bureau, 1520 East Sixth Avenue, Room 50, Helena, MT 59620-0512. Any comments must be received no later than September 24, 1992.

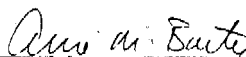
5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Milk Control Bureau, 1520 East Sixth Avenue, Room 50, Helena, MT 59620-0512. A written request must be received no later than September 24, 1992.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; 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. Ten percent of those persons directly affected has been determined to be (19) persons based on (186) producers and (5) licensed Montana distributors.

MONTANA BOARD OF MILK CONTROL
MILTON J. OLSEN, Chairman

By: 

Andy J. Poole, Deputy Director
Department of Commerce


Annie M. Bartos, Rule Reviewer
Commerce Chief Legal Counsel 2-4-110

Certified to the Secretary of State August 17, 1992.

BEFORE THE SCIENCE AND TECHNOLOGY DEVELOPMENT BOARD
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 seed capital project loans) PERTAINING TO SEED CAPITAL PROJECT
to venture capital companies) LOANS TO VENTURE CAPITAL COMPANIES

TO: All Interested Persons:

1. On September 23, 1992, from 9:00 a.m. to 11:00 a.m., a public hearing will be held at the Power Block Building Conference Room on the 4th Floor, in Helena, Montana, to consider the proposed adoption of new rules pertaining to seed capital project loans to venture capital companies.

2. The proposed new rules will read as follows:

"I. APPLICATION PROCEDURES FOR A SEED CAPITAL PROJECT
LOAN TO A VENTURE CAPITAL COMPANY - SUBMISSION AND USE OF
PROSPECTUS

(1) The applicant must submit a prospectus or other offering document to the board's staff.

(2) The prospectus must include, but is not limited to, the following items:

- (a) a summary of the prospectus;
- (b) a description of the venture capital company's investment strategy, including investment objective, investment focus, technology focus, investment region and investment policies;
- (c) a description of the venture capital company's investment criteria;
- (d) a description of the venture capital company's management personnel, including the general partners or fund managers, and other business activities of the general managers.
- (e) a description of the projected size of the fund;
- (f) a description of venture capital investment opportunities in Montana;
- (g) a description of the risk factors associated with investment in the venture capital company;
- (h) a summary of the venture capital company, including, but not limited to:
 - (i) structure (e.g., limited partnership, corporation, etc.);
 - (ii) term of the fund;
 - (iii) powers and duties of the general partners or managers;
 - (iv) liability of the general partners or managers;
 - (v) capital contribution of the general partners or managers;
 - (vi) capital commitments and capital contributions of the limited partners or other parties;
 - (vii) allocation of income, gains and losses;
 - (viii) distributions;
 - (ix) management fees;

- (x) expenses;
- (xi) withdrawal and dissolution;
- (xii) audits and reports;
- (xiii) meeting schedules;
- (xiv) investment opportunities and conflicts of interest;
- (xv) withdrawal of or assignment by limited partners;
- (xvi) valuation of partnership interest;
- (xvii) indemnification provisions;
- (xviii) provisions to amend the organizational documents; and
- (xix) federal tax status.

(3) The applicant must submit a copy of the venture capital company's by-laws to the alliance.

(4) The applicant must also submit detailed biographies of the venture capital company's managing general partners or other fund managers with emphasis on the prior experience of such individuals with venture capital funds and start up companies.

(5) In addition, the applicant must submit an analyses and description of the performances of any predecessor funds.

(6) Upon receipt, the prospectus will be subjected to a threshold review to determine whether it complies with subsections (1) through (5) above, 90-3-501 through 90-3-504, and 90-3-519, MCA."

Auth: Sec. 90-3-519, MCA; IMP, Sec. 90-3-519, MCA

"II. APPLICATION PROCEDURES FOR A SEED CAPITAL TECHNOLOGY LOAN TO A VENTURE CAPITAL COMPANY - REVIEW PROCESS (1) After the threshold review is completed, the board's staff will present its findings and recommendation to the board.

(a) As a result of that presentation to the board, the board may vote to have its staff continue processing the application through an in-depth due diligence examination.

(b) The board may request the company to make a formal presentation to the board on its proposal at a regularly scheduled board meeting.

(2) If the board decides to continue reviewing the proposal based on compliance with the applicable statutory criteria, the board may direct the staff to conduct its own in-depth due diligence examination.

(3) The board's staff will then formulate a recommendation to the board for its review and consideration."

Auth: Sec. 90-3-519, MCA; IMP, Sec. 90-3-519, MCA

"III. APPLICATION PROCEDURES FOR A SEED CAPITAL TECHNOLOGY LOAN TO A VENTURE CAPITAL COMPANY - BOARD ACTION

(1) Upon receipt of the staff's recommendation, the board shall apply the following criteria in determining whether to make a seed capital technology loan:

(a) quality of the general partners or other fund managers;

(b) quality of the venture capital company's prospectus;

(c) opportunity for the board to exit the loan with a potentially substantial return;

(d) investment performance of predecessor funds of applicant;

(e) compliance with all other applicable provisions of the act.

(2) If the board determines that the venture capital company has complied with all applicable criteria, the board may approve a loan. If the board determines to approve a loan, a document describing the approved terms will then be presented to the venture capital company."

Auth: Sec. 90-3-519, MCA; IMP, Sec. 90-3-519, MCA

"IV. VENTURE CAPITAL COMPANIES - INVESTMENT IN MONTANA COMPANIES (1) During the time the board loan is outstanding, the venture capital company must agree to invest in Montana companies an amount at least equal to the amount of the loan made to the venture capital company by the board."

Auth: Sec. 90-3-519, MCA; IMP, Sec. 90-3-519, MCA

"V. VENTURE CAPITAL COMPANIES - AGREEMENT - INTEREST - PAYBACK (1) The board loan agreement may require the venture capital company to submit periodic financial and performance reports.

(2) A board loan to a venture capital company may not be for less than \$500,000.00 nor more than \$1,000,000.00.

(3) The payback provisions on a board loan to a venture capital company must be structured as contracted debt.

(4) The payback provisions must allow debt to be repaid in portions of the original loan amount or as interest on the original loan amount in the same proportion as any paybacks made to the other investors or lenders that make up the remaining capitalization of the fund being raised by the venture capital company.

(5) The payback provisions may not be more or less favorable than the repayment and earnings provisions applicable to other investors or lenders that make up the remaining capitalization of the fund being raised by the venture capital company.

(6) The term for payback in the agreement may not exceed 12 years."

Auth: Sec. 90-3-520, MCA; IMP, Sec. 90-3-519, MCA

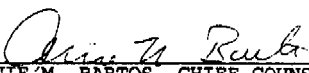
REASON: The Board is proposing to adopt these new rules in order to implement HB 703 (Ch. 566, Laws of Montana 1991), passed by the Fifty-Second Legislature in order to insure that the loans meet the requirements of 90-3-501 through 90-3-504, MCA.

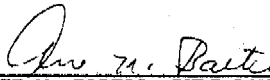
3. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Science and Technology Development Board, 46 North Last Chance Gulch, Suite 2B, Helena, Montana 59620-0504, no later than September 28, 1992.

4. Mona Jamison, attorney, Helena, Montana, has been designated to preside over and conduct the hearing.

SCIENCE AND TECHNOLOGY
DEVELOPMENT BOARD
RAY V. TILMAN, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 17, 1992.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF THE PROPOSED
amendment and repeal of rules)	AMENDMENT AND REPEAL OF
relating to vo-ed general)	RULES RELATING TO VO-ED
rules)	GENERAL RULES

NO PUBLIC HEARING CONTEMPLATED

To: All interested persons

1. On September 28, 1992, the Superintendent of Public Instruction proposes to amend and repeal rules pertaining to vocational education general rules.

2. The rules, as proposed to be amended, new material underlined, deleted material interlined, provide as follows. Full text of the rules is found at pages 10-543 through 10-565, ARM.

10.41.101 DEFINITIONS Terms used in the policy statements on reference to vocational education are defined as follows:

~~(1) Acquisition Cost. Acquisition cost of an asset includes the net price paid the vendor, all transportation and installation costs, and the cost of any adjustment or modification. Acquisition cost of land includes costs or removing unwanted buildings, grading and draining, installation or walks or roadways and landscaping and other carrying costs.~~

~~(2) Adult Program. Vocational education for persons 16 years of age or older who have completed or left high school and who are not described in the definition of "postsecondary program," or persons who have already entered the labor market, or persons who are unemployed.~~

~~(3) American Native, Native Alaskan. A person having origins in any of the original people of North America, and who maintains cultural identification through tribal affiliation or community recognition.~~

~~(4) Ancillary Services. Activities which contribute to the enhancement of quality in vocational education programs, including activities such as teacher training and curriculum development, but excluding administration.~~

~~(5) Application Fee. A fee collected only one time from each applying student.~~

~~(6) Remains the same, renumbered (1).~~

~~(7) Asian or Pacific Islander. A person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa, India and Vietnam.~~

~~(8) Black, not of Hispanic Origin. A person having origins in any of the black racial groups of Africa.~~

~~(92) Capital Expenditure. Expenditures for the acquisition of fixed assets or additions to fixed assets (real and personal property). Real property expenditures for land, land~~

improvements, buildings, building remodeling, building additions, building construction and personal property expenditures for machinery, equipment, furniture, fixtures, vehicles and tools which exceed \$2300 in value.

(10) - (12) Remains the same, renumbered (3) - (5).

~~(13) Curriculum. A series of courses or units, organized in sequential order, designed to lead the student toward the attainment of vocational aims and objectives.~~

~~(14) Disadvantaged.~~

~~(a) Persons (other than handicapped persons) who:~~

~~(i) Have academic or economic disadvantages; and~~

~~(ii) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs.~~

~~(b) "Academic disadvantage" for the purposes of this definition of "disadvantaged" means that a person~~

~~(i) Lacks reading and writing skills;~~

~~(ii) Lacks mathematical skills; or~~

~~(iii) Performs below grade level.~~

~~(c) "Economic disadvantage," for the purposes of this definition of "disadvantaged," means~~

~~(i) Family income is at or below national poverty level;~~

~~(ii) Participant or parent(s) or guardian of the participant is unemployed.~~

~~(iii) Participant or parent of the participant is recipient of public assistance; or~~

~~(iv) Participant is institutionalized or under state guardianship.~~

~~(15) Displaced Homemakers. Persons who had been homemakers for a substantial number of years but who now, because of dissolution or marriage, must seek employment; or persons who are single heads of households and who lack adequate job skills; or persons who are currently homemakers and unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.~~

~~(16) Energy Education Program. A program for training of miners, supervisors, technicians (particularly safety personnel) and environmentalists in the field of coal mining and coal mining technology. Programs may also include training of individuals needed for the installation of solar energy equipment, including training necessary for the installation of glass paneled solar collectors and or wind energy generators, and for the installation of other related applications of solar energy.~~

~~(17) Evaluation. A procedure for determining the effectiveness of the program.~~

~~(186) Executive Officer of Vocational Education. The superintendent of public instruction is the executive officer, the legally designated state official directly responsible for the development of policies for K-12 vocational education.~~

~~(19) Exemplary Program. A program designed to enable educational agencies to explore, develop and demonstrate new and innovative ways to plan, implement and conduct vocational education programs, including~~

~~(a) Programs designed to develop high quality vocational education programs for urban centers with high concentrations of economically disadvantaged individuals, unskilled workers, and unemployed individuals;~~

~~(b) Programs designed to develop training opportunities for programs in sparsely populated rural areas and for individuals migrating from farms to urban areas;~~

~~(c) Programs of effective vocational education for individuals with limited English speaking ability;~~

~~(d) Establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities for youth, with special emphasis given to youth who have academic, socioeconomic, or other handicaps, including~~

~~(i) Programs and projects designed to familiarize secondary school students with the broad range of occupations for which special skills are required, and the requisites for careers in such occupations; and~~

~~(ii) Programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education. Priority will be given to programs designed to reduce sex stereotyping in vocational education.~~

~~(20) Full-time Equivalent. (Postsecondary vocational technical center.)~~

~~(a) Student Three hundred thirty three point three classroom contact hours per quarter and one thousand (1,000) classroom contact hours per year.~~

~~(b) Administrator Twelve (12) months of contracted employment.~~

~~(c) Full-time Equivalent Instructional Staff One thousand sixty eight (1,068) hours of actual student classroom contact hours per year (postsecondary vocational technical centers).~~

~~(d) Other Professional One hundred eighty five (185) days of contracted employment.~~

~~(e) Support Staff Forty (40) hours per week for a twelve (12) month period.~~

~~(21) Full-time Vocational Education Teacher. An instructor carrying a vocational teaching assignment that contains at least the minimum number of hours considered by the superintendent of public instruction or local educational agency to be the recognized full-time load of a person engaged for a normal work day and week in the program.~~

~~(22) Guidance and Counseling Programs. Includes counseling, information on placement, appraisal, follow-up and research.~~

~~(23) Handicapped.~~

~~(a) A person who is:~~

~~(i) deaf;~~

~~(ii) deaf-blind;~~

~~(iii) hard of hearing;~~

~~(iv) mentally retarded;~~

~~(v) multihandicapped;~~

~~(vi) orthopedically impaired;~~

- ~~(vii) other health-impaired;~~
- ~~(viii) seriously emotionally disturbed;~~
- ~~(ix) specific learning disability;~~

~~(b) A person, who, by reason of the above:~~

~~(i) Requires special education and related services, and~~
~~(ii) Cannot succeed in the regular vocational education program without special educational assistance, or~~

~~(iii) Requires a modified vocational educational program;~~

~~(24) Hispanic. A person of Mexican, Puerto Rican, Cuban, central or South American, or other Spanish culture or origin, regardless of race.~~

~~(25) Industrial Arts Education Program. Those education programs:~~

~~(a) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, as experimenting, designing, constructing, evaluating and using tools, machines, materials and processes; and~~

~~(b) which assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.~~

~~(26) Instructional Staff. Individuals employed for the primary purpose of performing instructional activities in job skill preparation. Only those individuals who devote 50% or more of their time to instruction in specific job skills instruction or training should be reported. Both part-time and full-time staff members should be reported.~~

~~(27) Job Training Partnership Act (JTPA), formerly CETA, new P.L. 97-300, an act to establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in a special need of such training to obtain productive employment. Vocational services of an educational and training nature provided under JTPA within districts or postsecondary centers shall be approved by the executive officer (state superintendent) for K-12 vocational education.~~

~~(28) Left Before Completion. A student who had been enrolled in a program of vocational education and left the school and program voluntarily before formally completing it because he/she acquired sufficient entry-level job skills to work in the field, and who took a job related to that training or left for personal reasons.~~

~~(29) Limited-English-Speaking.~~

~~(a) Individuals who were not born in the United States or whose native language is a language other than English, and~~

~~(b) Individuals who come from environments where a language is dominant, as further defined by the Commissioner under regulations authority by the Bilingual Education Act, Title VII, Elementary and Secondary Education Act of 1965, as amended and by reasons thereof, have difficulty speaking and understanding instruction in the English language.~~

~~(30) Local Education Agency. Consists of the local board~~

of trustees responsible for local policy and administration including the district superintendent and staff.

(31) - (32) Remains the same, renumbered (8) - (9).

~~(3310) Major Occupational Headings.~~

(a) Agriculture Education

(b) Consumer Home Economics Education

(c) Distributive Marketing Education

(d) Health Occupations Education

(e) Home Economics Occupational Preparation Wage Earning Education

(f) Industrial Arts/Technology Education

(g) Business and Office Education

~~(h) Technical~~

(i) Trade and Industrial Education

(i) Under these occupational headings there are many specific occupational or vocational fields of training.

~~(34) Manpower Training (JTPA). Specialized federal training programs designed to lower the state or local unemployment level or to increase the number of employable persons through training programs.~~

(35) - Remains the same, renumbered (11).

~~(3612) Montana Advisory for Council on Vocational Education. An independent council which is separate from and independent of the office of public instruction and which is appointed by the superintendent of public instruction governor. The advisory council shall advise the superintendent of public instruction on long-range planning, on the development of a state plan and on policy matters arising from administration of the state plan. It shall also provide technical assistance to local advisory councils when requested, assists the superintendent in the development of state evaluation procedures, consults with other agencies to determine manpower needs of the state and monitor evaluations.~~

~~(37) Montana View (Vital Information for Education and Work). A career guidance system which contains microfilmed information on education and work.~~

~~(38) Other Eligible Recipients (OER). Any postsecondary school, agency, or institution public or private eligible for the receipt of federal funds.~~

(39) Remains the same, renumbered (13).

~~(4014) Occupational Title. The common name by which a position is identified. The generally accepted source of nomenclature is the Dictionary of Occupational Titles, published by the department of labor or the classification of instructional programs (CIP).~~

~~(41) Open Entry/Exit Program. A program which allows students to enter at any time as the specific program allows, and to exit upon achieving acceptable competency.~~

~~(42) Property Accountability and Management System (PAMS). A state system of inventory which is used to inventory equipment and property acquired through legislatively appropriated primary operations funds of the five vocational technical centers.~~

~~(43) Part-time Vocational Education Teacher. An instructor carrying a vocational teaching assignment of less than the~~

~~minimum number of hours considered by the superintendent of public instruction or local educational agency to be the recognized full-time load of a person engaged for a normal work day and week in that program.~~

~~(44) Personal Property. Property that retains its original shape and appearance with use; it is nonexpendable; that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to repair it rather than replace it with an entirely new unit; it represents an investment of money which makes it feasible and advisable to capitalize the item; and it does not lose its identity through incorporation into a different or more complex unit or substance.~~

~~(45) Preparatory Instruction. Vocational education instruction for persons who are available for study in preparation for entering the labor market. Classes must be part of an approved program and all students receiving vocational instruction in preparatory classes under the state plan must be conducted in the day or evening, but in all cases must be part of a total program or study intended to prepare the student to enter the labor market in the vocation for which the instruction is given.~~

~~(46) Program Assignment. Persons classified as instructional staff are unduplicated and only counted once. Dual or multiple assignments should be recorded in the program where the most clock hours of instruction occur. This definition relates to staff accounting and not budgeting.~~

~~(47) Program Charges. A definition employing the concept of students receiving goods or services that are deemed necessary for their use in the program on an individual cost reimbursement basis. The sole purpose for collecting such charges would be for control purposes of items needed by the student that would have to be purchased regardless. Monies collected shall not supplement program budgets.~~

~~(48) Program Completer. A student who has completed a planned sequence of courses, services, or activities designed to meet an occupational objective. A program leaver is anyone who was enrolled in and attended a vocational program and has left the program without completing it and is not known to be continuing in vocational education.~~

~~(49) Remedial. Planned diagnostic and/or helpful systematic activities for individuals currently enrolled who have deficiencies in basic skills area.~~

~~(50) Remains the same, renumbered (15).~~

~~(51) Sex Bias. Behaviors resulting from the assumption that one sex is superior to the other.~~

~~(52) Sex Discrimination. Any action which limits or denies a person or a group of persons opportunities, privileges, roles, or rewards on the basis of their sex.~~

~~(53) Sex Stereotyping. Attributing behaviors, abilities, interests, value and roles to a person or group of persons on the basis of their sex.~~

~~(54) Short-term Preparatory. Classes organized to present short, intensive instruction in the skills or knowledge~~

~~essential to employment at the entry level in a specific vocation.~~

~~(55) Special Disadvantaged. Special programs for disadvantaged persons in areas of the state which have high concentrations of youth unemployment or school dropouts.~~

~~(56) Special Needs. Applies to persons who meet the requirements under the law for one of the three categories handicapped, disadvantaged, and limited English speaking who require special programs, modification of programs, or supplemental services to help them succeed in a vocational education program.~~

~~(57) The State Director of Vocational Education. shall be known as the Assistant Superintendent for Vocational Education Services. The state director of vocational education is the state administrator of all elementary and secondary and postsecondary vocational programs under the state superintendent.~~

~~(58) Support Service Programs. Skill assessment, day care costs, employment counseling, job placement and follow up services, for:~~

~~(a) persons who had been solely homemakers for a substantial number of years but who now, because of dissolution of marriage, must seek employment.~~

~~(b) persons who are single heads of households and who lack adequate job skills.~~

~~(c) persons who are currently homemakers and part-time workers but who wish to secure a full-time job.~~

~~(d) women and men who are now in jobs which have been traditionally considered job areas for females (males) and who wish to seek employment in job areas that have not been traditionally considered job areas for females (males); and~~

~~(e) women and men who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men (women).~~

~~(59) Syllabus. A summary or outline kept on file at the school which outlines the main points of a course of study for each vocational course offered.~~

~~(60) State Fund 21 Postsecondary Students. Fund 21 students shall be considered students accounted for out of primary operations funding.~~

~~(61) Tuition. Payment for instruction with the amount determined by the superintendent of public instruction.~~

~~(62) Twelfth Day Report. A report of contact hours submitted by the vocational-technical centers for each program offered divided by 33.3 per quarter to determine the FTE student count.~~

~~(63) Unduplicated Count. The process of reporting an individual student only once, regardless of the number of programs in which he or she is enrolled during the year. Students who were enrolled in more than one program during the year, or who transferred from one program to another, should be reported only once. Assign that student to the program closest to the student's occupational objective. If the student has two or more occupational objectives, then assign to the one program with the greatest number of hours in instruction.~~

~~(64) Remains the same, renumbered (18).~~

~~(65) Vocational Education Data System. A federal~~

~~requirement of annual reporting for all institutions offering vocational education funded by state/federal money that consists of student enrollment by classification of instructional code, student completers/leavers, employer follow-up and teacher data.~~

(66) - (66)(a) Remain the same, renumbered (19) - (19)(a).

(b) The acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment.

~~The term "vocational education" does not mean the construction, acquisition, or initial equipping of buildings, or the acquisition or rental of land.~~

~~(67) Postsecondary/Secondary Policies. Procedures and/or Guidelines. A series of procedures established by the assistant superintendent for vocational education services to bring into focus and to carry out the policies and directives of the superintendent of public instruction.~~

~~(6820) Vocational Education Course. An organization of vocational education subject matter and related learning experiences organized as part of a sequence of educational activities related to vocational preparation providing for the instruction of students on a regular or systematic basis.~~

(69) Remains the same, renumbered (21).

~~(70) Vocational Education Personnel. All state and local personnel whose part or full-time salary is paid from funds appropriated or otherwise provided for vocational education.~~

~~(7122) Vocational Education Programs. A planned sequence of secondary courses leading to the development of skills and knowledge required for entry into a specific vocation occupation developed and conducted in consultation with potential employers and/or others having skills in and substantive knowledge of the vocation a local advisory committee. A program combines and coordinates related instruction of field, shop, laboratory, cooperative work or other vocational experience which is of sufficient duration to develop competencies for employment. Consumer homemaking programs as established in the Montana state plan for vocational education shall also be included under this definition.~~

(72) - (72)(b) Remain the same, renumbered (23) - (23)(b).

(c) Programs providing occupational work experiences, including cooperative education and related instructional aspects of apprenticeship programs; and

~~(d) Remedial programs which are designed to enable individuals to profit from instruction related to the occupation or occupations for which they are being trained by correcting whatever educational deficiencies or handicaps prevent them from benefiting from such instruction; and~~

(e) Remains the same, renumbered (d).

(73) - (74) Remain the same, renumbered (24) - (25).

~~(7526) Vocational Student Organization. An organization of students in vocational programs which serves members by providing opportunities for leadership, citizenship and character development. The organization enhances the vocational instructional program by providing motivation for personal achievement and appreciation of life roles. Activities are considered an integral part of the program and are carried out at local, state and national levels in affiliation with such organizations as future farmers of America the National FFA~~

Organization, #Future #Homemakers of America, #Distributive #Education #Clubs of America, #Office #Education #Association or #Vocational #Industrial #Clubs of America, #Business #Professionals of America, #Vocational #Industrial #Clubs of America, and #Technology #Student #Association.

~~(76) White, Not of Hispanic Origin. A person having origins in any of the original peoples of Europe, North Africa or the Middle East.~~

~~(77) Work Study (Vocational). Programs administered to any youth who:~~

~~(a) Has been accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the superintendent of public instruction and the local educational agency for vocational education programs assisted under this act, or in the case of a student already enrolled in such a program, is in good standing and in full-time attendance.~~

~~(b) Is in need of the earnings from such employment to commence or continue the student's vocational education program; and~~

~~(c) Is at least 15 years of age and less than 21 years of age.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.102. COMPREHENSIVE STATE PLAN (1) There shall be a comprehensive state plan for vocational education in Montana; the superintendent of public instruction shall be the sole governing agent to disburse federal and state vocational funds and to plan, coordinate, govern and provide leadership for the state K-12 vocational education system. The superintendent of public instruction recognizes the need for coordination with other governing agencies.

~~(2) The assistant superintendent for vocational education services and the staff of the department for vocational education services~~ superintendent of public instruction shall prepare the Montana state plan for K-12 vocational education in consultation with the commissioner of higher education, the Montana vocational education planning council of practitioners and the Montana advisory council for on vocational education. The plan shall be prepared in accordance with policies and instructions of the superintendent of public instruction and with the department of education.

(23) The superintendent of public instruction shall review the Montana state plan for vocational education and certify that public hearings were held to permit people in the state a voice in its preparation.

(34) The superintendent of public instruction shall approve the state plan. The approved state plan shall be the basis for operation and administration of K-12 vocational education.

~~(4) The state plan shall be forwarded to the appropriate agencies in accordance with executive order 12372.~~

~~(5) Preparation of any other state plan for vocational education shall not be authorized.~~

~~(6) All state and federal funds appropriated or designated~~

~~for vocational education shall, in accordance with the state law, be deposited with the state treasurer who shall disburse such funds at the direction of the superintendent of public instruction.~~

(AUTH: 20-7-301, MCA; IMP: 20-16-102, MCA)

10.41.103 ASSISTANT SUPERINTENDENT FOR STATE DIRECTOR OF VOCATIONAL EDUCATION SERVICES (1) ~~The assistant superintendent for state director of vocational education services shall be responsible for implementing all policies adopted by the superintendent of public instruction for the administration of vocational education.~~

(2) ~~The assistant superintendent for state director of vocational education services is the appointed state administrator for vocational education.~~

(3) ~~Appeal from actions of the assistant superintendent for vocational education services School controversies arising from secondary vocational courses and programs will adhere to shall be governed by ARM Chapter 6, 10.6.101 through 10.6.130.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.104 EMPLOYMENT OF STATE STAFF (1) ~~The assistant superintendent for state director of vocational education services shall have the authority to recommend employment of the necessary staff to assure the superintendent of public instruction that policies are adhered to and that state program specialists are available to serve the educational institutions of Montana which are offering vocational education programs.~~

(2) ~~The assistant superintendent for state director of vocational education services shall implement a staff plan for a department of vocational education in the office of public instruction for the purposes of assuring the superintendent of public instruction that policies are adhered to and that knowledgeable program specialists are available.~~

(3) ~~The assistant superintendent for vocational education services shall follow the procedure of recruitment of professional personnel as outlined in Section 501, Article V of the Affirmative Action Plan adopted by the superintendent of public instruction. These procedures shall not be retroactive to employees on staff prior to the date of adoption.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.105 DUTIES OF STATE STAFF (1) ~~The assistant superintendent for state director of vocational education services shall be responsible for promoting and improving vocational education programs offered in the educational institutions of the state.~~

(1) - (2) Remain the same, renumbered (2) - (3).

(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.106 ACCOUNTABILITY (1) ~~The assistant superintendent for state director of vocational education services will determine that vocational education activities within the state are being conducted according to federal and state rules and~~

(12) Approved vocational programs shall be in compliance with federal and state requirements, directives and laws.

(2) Remains the same, renumbered (3).

(AUTH: 20-7-301, MCA; IMP: 20-7-303)

10.41.111 ADMINISTRATION OF EMPLOYMENT AND TRAINING

(1) Employment and training funds distributed from the state treasury at the direction and discretion of the superintendent of public instruction for use by educational institutions shall be administered in cooperation with local educational institutions, agencies and/or other state agencies. The superintendent of public instruction recognizes that students from Indian Reservations and/or other groups within the state of Montana may need special consideration.

~~(1) All negotiations for establishment of employment and training slots (individual referral) or programs at the five postsecondary vocational technical centers shall be between the awarding agency and the superintendent of public instruction.~~

~~(2) Employment and training slots (individual referral) or programs established by negotiations between the awarding agency and the superintendent of public instruction will be similar at each of the centers.~~

(3) Remains the same, renumbered (2).

(4) It shall be the responsibility of the assistant superintendent for state director of vocational education services to resolve conflicts of authority or interest and to insure that services are not needlessly duplicated.

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.115 APPROVAL OF PROGRAMS (1) Secondary and post-secondary vocational education programs must have approval of the superintendent of public instruction prior to receipt of funds.

(2) The assistant superintendent for state director of vocational education services shall recommend to the superintendent of public instruction which programs should be approved, based on established criteria and consistent with state and federal law.

(3) Programs, ~~excluding consumer home economics and industrial arts~~, shall have a vocational objective. Program subject matter must consist of the knowledge and skills required for the student's successful performance in the vocation. Program titles must refer to vocational objectives and relate to classification of instructional program codes.

(4) All significant curriculum changes must be approved by the assistant superintendent for state director of vocational education services. Change requests are accomplished by submitting both the current and revised curricula, with a cover letter indicating the reason(s) for the change and the date that the change is to be effective. A syllabus for each approved vocational course in a program which the institution is offering must be on file.

(4) Remains the same, renumbered (5).

~~(5) All preparatory instruction funded by the superintendent of public funded by the superintendent of public instruction must be in accordance with approved programs. All such courses, seminars, practicums, etc., must be offered only as part of an approved program.~~

~~(6) Requests for approval of preparatory programs for secondary students must be submitted at least four months in advance of the starting date of the program. Postsecondary pre-vocational programs may be submitted at any time but must operate within the center budget approved by the superintendent of public instruction.~~

~~(7) Requests for adult and youth vocational courses may be submitted at any time, but must be approved prior to proposed starting date.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.116 DETERMINATION OF PROGRAMS TO BE OFFERED

~~(1) Vocational education program offerings shall be determined on the basis of identifiable student interest and need, vocational advisory committee recommendations, employment statistics and current occupational surveys.~~

~~(2) Programs to meet virtually any vocational training need may be developed for purposes of funding in the following areas: agriculture, consumer homemaking, wage earning homemaking, economics, distribution and marketing, business and office, technical, trade and industrial, health occupations, pre-vocational, adult vocational, guidance and counseling, research, exemplary, curriculum development, special needs, disadvantaged or handicapped, and teacher training technology.~~

~~(2) Remains the same, renumbered (3).~~

~~(3) In order for state office of public instruction, department of vocational education services staff members to review programs being operated in local institutions educational agencies, each institution local educational agency must maintain current files and records inclusive of, but not limited to course syllabi, cooperative training plans/agreements, curricula and course descriptions as approved, course evaluations, inventories of all equipment purchased with vocational funds, annual application, revisions, and supporting schedules, audits, follow-up data, and enrollment reports.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.117 VOCATIONAL PROGRAM DESIGN

~~(1) Vocational education programs shall be designed to prepare individuals for employment or for advancement in recognized or new and emerging occupations, or to prepare individuals for enrollment in advanced vocational education programs.~~

~~(1) remains the same, renumbered (2).~~

~~(2) Special vocational programs may be designed to provide training for disadvantaged and handicapped students, but when feasible, such students should be enrolled in regular programs with special training provided.~~

~~(3) Evidence that a program will not prepare students for employment may cause the program to be disapproved (with the~~

exclusion of consumer homemaking, and industrial arts and technology education).

(4) A program or course shall not discriminate on the basis of race, color, religion, creed, political ideas, sex gender, age, parental status, marital status, physical or mental handicap disability or national origin in enrollment procedures, counseling, classroom instruction, completion requirements or job placement.

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.118 LOCAL ADVISORY COUNCILS ~~Institutions offering vocational education programs shall have a local advisory council composed of representatives from management, labor, and citizens at large to consult with and advise school administrators on matters pertaining to the development and improvement of vocational education.~~

~~(1) A local advisory council is required to meet at least once per year; minutes of all meetings must be on file at the local institution.~~

(2) - (3) Remains the same, renumbered (1) - (2).

(AUTH: 20-7-301, MCA; IMP: 20-7-302, MCA)

10.41.119 PROGRAM ADVISORY COMMITTEES (1) Each vocational education program shall have a program advisory committee composed of, but not limited to, representatives from management and labor to consult with administrators and teachers on program matters, except as noted in 10.41.118(2)

(1) - (4) Remain the same, renumbered (2) - (5).

(AUTH: 20-7-301, MCA; IMP: 20-7-312, MCA)

10.41.120 STATE VOCATIONAL EDUCATION INFORMATION SYSTEM

(1) Institutions/schools offering vocational education programs and/or courses shall provide information to the ~~assistant superintendent for state director of vocational education services for a state educational information system.~~

(12) Reporting forms developed by the ~~assistant superintendent state director of vocational education services~~ and approved by the superintendent of public instruction shall be furnished to the local institution.

(21) Institutions/schools shall report on a timely basis to enable the ~~assistant superintendent for state director of vocational education services~~ to prepare required state and federal reports.

(3) Remains the same, renumbered (4).

(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.124 ADEQUATE FUNDING (1) The superintendent of public instruction and the ~~assistant superintendent for state director of vocational education services~~ shall work toward assuring adequate funding of Montana's vocational education programs from all levels of government (federal, state and local).

(12) The ~~assistant superintendent for state director of vocational education service~~ shall conduct cost studies to determine funding requirements for vocational programs.

(21) The ~~assistant superintendent for state director of vocational education services~~ shall be prepared to provide to

the superintendent of public instruction, governor and state legislature a complete analysis of vocational education program budgets as requested.

(34) ~~The assistant superintendent for state director of vocational education services shall disseminate the program funding requirements to the educational institutions of Montana.~~

(45) Distribution of federal funds shall be in accordance with the state plan.

(AUTH: 20-3-106, 20-7-301, MCA; IMP: 39-6-103, MCA)

10.41.125 RESPONSIBILITY FOR DISBURSEMENT OF STATE AND FEDERAL FUNDS (1) The superintendent of public instruction shall be responsible for the disbursement of state and federal funds for elementary and secondary vocational education.

~~(1) The superintendent of public instruction is responsible for the disbursement of state and federal funds for vocational education in accordance with state law.~~

~~(2) All funds appropriated for vocational education by the state legislature or received from federal sources shall be deposited in the state treasury in accordance with state law.~~

(32) Federal vocational funds shall be allocated to LEA's (local educational agencies) and OER's (other eligible recipients) ~~on a formula basis~~. The method used for allocation of funds shall be developed in accord with state and federal laws ~~as specified in the annual and five year plan for vocational education as approved by the superintendent of public instruction and in concert with executive order 12372.~~

~~(43) Special vocational needs funds shall be granted to local institutions on an annual competitive grant application basis. The superintendent of public instruction shall approve or disapprove all elementary and secondary school grant applications in accordance with procedures established in the state plan for vocational education and approved by the superintendent.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.126 CRITERIA FOR ALLOCATION OF FUNDS (1) In determining the allocation of vocational education funds to local educational ~~institutions~~ agencies, the superintendent of public instruction shall consider such factors as: identified needs of vocational education for the population within the local district, region, state and the nation as measured by needs assessments; the compatibility of program offerings with the state's long range vocational education objectives; the ~~excess~~ additional cost of program offerings; local and state ability to support the program and any need for program duplication.

(32) In determining the basis for allocation of funds, the superintendent of public instruction shall consider ~~applicable federal legislation~~, state plan funding formula and other appropriate factors.

(21) Funding for vocational programs shall follow the state fiscal year ~~and DOE fiscal requirements~~.

(34) Each ~~institution~~ agency requesting funds for a vocational program must submit an annual application. Approved programs shall be the only programs eligible for the funding.

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.127 APPROVED ELEMENTS OF COSTS (1) The expenditures by an ~~institution~~ agency of any funds received under the provisions headed "Vocational Education" shall be limited to those elements of costs approved by the superintendent of public instruction.

(12) ~~The assistant superintendent of state director for~~ vocational education services shall compile a list of "elements of cost" for which vocational education funds may be used. The list shall be official only after superintendent of public instruction's approval.

(23) Each institution must maintain a current inventory of equipment initially costing \$300 or more which was purchased, ~~leased or rented with federal/state vocational funds.~~

(24) All such equipment ~~purchased with vocational funds~~ must be marked or otherwise identified in order to make it easily distinguishable from equipment purchased, ~~leased or rented with funds other than vocational education funds.~~ ~~(Manpower purchased equipment in excess of \$200 and all federal excess property must also be maintained.)~~

(4) - (6) Remain the same, renumbered (5) - (7).

~~(7) Records of expenditures for vocational programs administered by local education institutions and/or public institutions, are subject to audit by the state director's vocational staff or state and/or federal auditors. Such financial records shall be retained on file for a period of five years.~~

~~(8) Local education institutions and/or public institutions receiving vocational funds shall comply with all applicable state and federal statutes, with provisions of the State Plan, with policies and regulations of the superintendent of public instruction and other auditing authorities.~~

~~(9) Postsecondary vocational technical centers shall record their inventory using the property accountability and management system (PAMS).~~

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.129 PROGRAM EVALUATION (1) Evaluation shall be an integral part of Montana's vocational education system.

(12) ~~The assistant superintendent for state director of~~ vocational education services shall evaluate each vocational program approved by the superintendent of public instruction.

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.130 CONDUCT OF EVALUATION (1) There shall be provisions for periodic and continuous evaluation at both state and local levels.

(1) remains the same, renumbered (2).

(23) Each fiscal year, secondary and ~~postsecondary~~ programs shall be evaluated by the ~~assistant superintendent for state director of~~ vocational education services and staff; every program must be evaluated once in a five year period.

(3) remains the same, renumbered (4).

~~(4) Office of civil rights evaluations shall be conducted in accordance with the Montana "vocational education methods of administration" as approved by the office of civil rights.~~

(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

3. The proposed rules for repeal follow.

10.41.102 COMPREHENSIVE STATE PLAN (IS HEREBY REPEALED)
(AUTH: 20-7-201, MCA; IMP: 20-7-301, MCA)

10.41.110 CONSISTENCY IN POLICY AND PROCEDURE (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-303, MCA)

10.41.112 RECRUITMENT, SELECTION, EMPLOYMENT AND ADVANCEMENT OF PERSONNEL (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-312, MCA)

10.41.113 OCCUPATIONAL AND PROFESSIONAL CERTIFICATION (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.114 DEVELOPMENT AND MAINTENANCE OF PERSONNEL COMPETENCIES (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.121 OCCUPATIONAL INFORMATION, GUIDANCE AND PLACEMENT SERVICES IN POSTSECONDARY INSTITUTIONS (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-312, MCA)

10.41.122 COOPERATION IN PLANNING (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-312, MCA)

10.41.123 ANTIDISCRIMINATORY SERVICE TO ELIGIBLE POPULATIONS (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-301, MCA)

10.41.128 UNIFORM ACCOUNTING AND REPORTING SYSTEM (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-302.1, MCA)

10.41.131 ROLES OF ASSISTANT SUPERINTENDENT FOR VOCATIONAL EDUCATION SERVICES AND MONTANA ADVISORY COUNCIL IN EVALUATION (IS HEREBY REPEALED)
(AUTH: 20-7-301, MCA; IMP: 20-7-301(15), MCA)


4. These rules were amended and repealed to comply with legislative changes effecting vocational education pursuant to House Bill 39, Chapter 658, 1987 Legislature, Sections 20-7-304, 20-7-313, 20-7-323, 20-7-326 and 20-7-331, MCA.

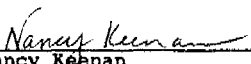
5. Interested persons may submit their data, views or arguments concerning the proposed rule changes in writing to the Office of Public Instruction, Room 106, State Capitol, Helena, Montana 59620, no later than 5:00 p.m. on September 25, 1992.

6. If a person who is directly affected by the proposed changes wishes to express his/her data, views and arguments orally or in writing at a public hearing, s/he must make written request for a hearing and submit this request along with any written comments s/he may have to the Office of Public Instruc-

tion, Room 106, State Capitol, Helena, Montana 59620, no later than 5:00 p.m. on September 25, 1992.

7. If OPI receives requests for a public hearing on the proposed changes from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed changes 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.


Beda J. Loyett
Rule Reviewer
Office of Public Instruction


Nancy Keenan
Superintendent
Office of Public Instruction

Certified to the Secretary of State August 17, 1992.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF PROPOSED AMENDMENT
of rules pertaining to youth) OF RULES PERTAINING TO YOUTH
detention facilities.) DETENTION FACILITIES

NO PUBLIC HEARING
CONTEMPLATED

1. On October 15, 1992, the Department of Family Services proposes to amend ARM 11.17.101, 11.17.102, 11.17.110, 11.17.111, 11.17.113, 11.17.115, 11.17.117, 11.17.118, 11.17.120, 11.17.124, 11.17.125, 11.17.127, 11.17.129, 11.17.131, 11.17.138, and 11.17.146, pertaining to youth detention facilities.

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

11.17.101 YOUTH DETENTION FACILITY. PURPOSE (1) These rules establish licensing requirements and procedures for youth detention facilities, and short-term detention facilities detaining youth for a period of time up to 96 hours, hereinafter referred to as 96-hour detention facilities. Except where specifically noted, these rules apply to both types of facilities. In addition to other restrictions imposed by the Montana Youth Court Act, youths may be held in 96-hour detention facilities for a maximum of 96 hours, excluding weekends and holidays.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: Many counties have recently put short-term detention facilities in place to provide for detention of youths who may no longer be legally held in adult jails. The department, under its authority to make rules on the operation of the short-term facilities, intends to limit the amount of time youths may be held in such facilities to 96 hours. The above change imposes the time limitation, and also makes the provisions of Title 11, Chapter 17, generally applicable to these facilities.

11.17.102 YOUTH DETENTION FACILITY. DEFINITIONS

(1) The following definitions apply to all youth detention facility licensing rules:

(a) "Chemical restraint" means the use of psychotropic medication to subdue, inhibit, confine or control a youth's behavior.

(b) "Contraband" means anything that could be used to endanger health or safety of the youth or others, is illegal or compromises the security of a facility.

(c) "Custodian" means a person other than a parent or guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.

(d) "Delinquent youth" means a youth as defined by 41-5-103(13), MCA.

(e) "Detention" means the temporary substitute care of youth in physically restricting facilities.

(f) "Detention facility", and "96-hour detention facility" means a facility that uses locked doors or windows or other means to prevent a youth from departing at will.

(g) "Department" means department of family services.

(h) "Facility" means youth detention facility.

(i) "Mechanical restraint" means the restriction by mechanical means of a youth's mobility and/or ability to use his/her hands, arms or legs.

(j) "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof.

(k) "Passive physical restraint" means the least amount of direct physical contact required by a staff member using approved methods of making such physical contact to restrain a youth from harming self or others.

(l) "Temporary lock up/secure observation" means isolation of a youth in a locked room to protect the youth, other youths, and staff and to give the youth the opportunity to regain control of his or her behavior and emotions by providing definite external boundaries and decreased stimulation.

(m) "Youth" means any person under the age of 18 years, without regard to sex or emancipation.

(n) "Youth in need of care" means a youth as defined in 41-3-102, MCA.

(o) "Youth in need of supervision" means a youth as defined in 41-5-103(14), MCA.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The proposed amendment to this rule includes the department's term for certain short-term detention facilities, time limited as "96-hour detention facilities", in the definition of detention facilities. Detention facilities covered by these rules must be licensed either as "detention facilities", or as a "96-hour detention facilities".

11.17.110 YOUTH DETENTION FACILITY. CONFIDENTIALITY OF RECORDS AND INFORMATION Subsection (1) remains the same.

(2) In addition to the requirements of subsection (1) of this rule, facility record keeping must meet any additional state or federal records requirements, and facility policy must provide:

(a) an orderly system of recording, managing and maintaining youth records;

(b) that all records are marked confidential, and kept in locked files to safeguard against unauthorized or improper use disclosure; and

(c) for an admittance form as detailed in ARM 11.17.124(2)(g).

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The added provisions are proposed to improve organization and safeguarding of youth records, and to ensure compliance with state and federal laws and regulations.

11.17.111 YOUTH DETENTION FACILITY, REPORTS Subsections (1) through (7) remain the same.

(8) The facility shall implement a means of recording the daily population of juveniles in the facility. The means of such recording must be set out in written policy. The policy shall ensure compliance with the requirement that the population of juveniles be recorded daily.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The addition of a subsection requiring daily documentation of population is necessary to ensure detention facilities document that they are remaining within set population limits.

11.17.113 YOUTH DETENTION FACILITY, ADMINISTRATION

(1) Each facility shall be purchased, leased, or otherwise provided by one or more counties.

(a) The facility shall ensure that the county commissioners shall provide for inspection of any facility every 3 months. Inspection must include but is not limited to health, fire safety, security, rehabilitation programs, recreation, treatment of youths, and personnel training.

(b) The facility shall ensure that the judge of the youth court for the county shall inspect any facility at least once a year.

(c) In addition to the inspections by the county commissioners and the youth court judge, 96-hour detention facilities are subject to the requirement that the parent agency or governing authority representative meet on a regular basis with the program manager and appropriate staff to ensure compliance with licensing requirements.

~~(c)~~ (d) Within 30 days of an inspection, the facility shall develop a plan to correct any deficiencies identified by the inspection.

(1) The facility shall notify the department of the results of an inspection, its plan to correct any deficiencies identified, and its time frame for correcting deficiencies.

(2) The facility shall not be used for the confinement of adults. Juveniles held or charged with an offense which would

not be a crime if committed by adults shall not be confined in detention facilities. Nor shall any facility serve as a sentencing alternative in youth court proceedings, or be used to confine youth identified solely as abused, dependent or neglected.

(3) The facility must have written policies and procedures which describe the purpose, program and services offered by the facility. Such written policies and procedures shall include: admissions, including the requirement that the facility only admit youth considered appropriate as "appropriate" is defined in such policy, medical care, emergencies, discipline, recreation, food, clothing, visiting, transportation, mail, religious services, grievances, discharge, access by media, fiscal management, an organizational chart, and personnel consistent with these rules.

(a) The policies and procedures shall be explained to each new staff person prior to his having direct contact with youth in the facility.

(b) A copy of the policies and procedures shall be made available to all employees at the time of their employment and be continually available thereafter.

(c) The policies and procedures shall be developed in consultation with employees, county commissioners, law enforcement, youth court personnel and other relevant agencies or persons.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The first change imposes a requirement on 96-hour detention facilities only. The amendment mandates that 96-hour detention facilities' staff and the governing authority or parent agency meet for discussion of compliance with licensing requirements. The additional meeting requirement is imposed because these new and smaller detention centers will probably employ less experienced staff, and more part-time staff, who should have the benefit of scheduled meetings with the governing authority or parent agency to discuss compliance with licensing requirements. In addition, the less stringent requirements for the program manager of a "96-hour" detention facility, as compared to a director of a regular detention facility, justify imposition of regular management meetings.

The second change is added to properly reflect Montana law on the types of youths who may be held in detention facilities. Similarly, the third amendment to this rule is designed to require admission of only youth deemed to be appropriate as further implemented by facility policy.

11.17.115 YOUTH DETENTION FACILITY, PERSONNEL Subsection (1) remains the same.

(2) Each facility, other than 96-hour detention facilities, shall have a director to whom all employees or units are responsible and who shall have responsibility and

accountability for the day to day operations of the facility. The director's duties include supervision of the care and services provided to the youths, personnel matters, fiscal procedures and any other specific matters determined by the county commissioners or the board of directors of the facility.

(a) A director must meet the following qualifications:

(i) have a bachelor's degree supplemented with experience in an area relating to professional child care or appropriate graduate education or an equivalent combination of education and experience;

(ii) have a thorough understanding of the purposes and programs of youth detention facilities in general;

(iii) have general leadership, administrative, and management ability, including the ability to supervise youth care personnel; and

(iv) have or attain within three months of beginning employment a thorough working knowledge of the Youth Court Act and related laws of Montana regarding law enforcement, apprehension and detention of youth and the youth's rights under the law.

(3) Each 96-hour detention facility shall have an identified program manager to whom all employees are responsible and who bears responsibility and accountability for the facility's day-to-day operations. The program manager must have the following qualifications:

(i) a bachelor's degree, or at least three years' experience in a supervisory position involving human services responsibility;

(ii) a thorough understanding of the purposes of the facility; and

(iii) general leadership, administrative, and management ability.

~~(3)~~ (4) The facility shall employ, train and supervise an adequate number of staff necessary to provide continuous awake supervision of youths and at least one immediately available staff member of the same sex as the youths.

(a) The minimum ratio of staff on duty to numbers of youth shall be:

(i) 1:8 from 7:00 a.m. to 11:00 p.m.; and

(ii) 1:12 from 11:00 p.m. to 7:00 a.m.

(b) At any time when youth are being detained and there is only one awake staff person, there shall be immediately available backup staff.

(c) No staff member or other person having direct contact with the youth in the facility shall conduct themselves in a manner which poses any potential threat to the health, safety and well-being of the youth in detention.

(d) The facility shall investigate the personal and past employment references of all staff prior to hiring.

(e) All youth care facility staff must meet the following general qualifications on their first day of employment:

(i) be at least 18 years of age;

(ii) be of good character;

(iii) be physically, mentally and emotionally competent to

care for youth;

(iv) be in good general health;
(v) understand the purpose of the youth detention facility and be willing to carry out its policies and programs; and

(vi) be certified in cardiopulmonary resuscitation.

(f) Each youth care staff member must complete at least 16 hours of orientation within the first week of employment and at least 15 8 hours of in-service training each year, in an area directly related to the staff member's duties. Orientation training must include suicide risk and assessment, first aid, facility policies and procedures, overview of juvenile justice system, youth rights, training in passive physical restraint, and the provisions of the Montana Youth Court Act. CPR training must be accomplished annually by each youth care staff member in addition to the required 8 hours of annual training. Passive physical restraint training shall be accomplished as set out in ARM 11.17.125.

(i) Training must be documented in each staff member's personnel file.

(ii) The training may include formal course work, workshop attendance, or the reading of appropriate literature and shall include instruction on the Youth Court Act.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The initial amendment to this rule exempts 96-hour detention facilities from the requirement of a director as set out in the rule. The amendments then go on to add the requirement of a program manager to head 96-hour detention facilities. Program managers need not have all the qualifications required of directors of regular detention facilities. The amendments to this rule also include clarification of training requirements for staff in charge of supervising youths. Staff must annually receive 8 hours of training in addition to CPR training. Under the existing version of the rule, staff are required to train for 15 hours, which includes time spent in CPR training. The department anticipates that CPR training will generally take 7 hours, and therefore this change does not necessarily reduce the hours of training required annually because the CPR training is in addition to the 8 hours of required training.

11.17.117 YOUTH DETENTION FACILITY. ENVIRONMENT

Subsections (1) through (3) remain the same.

(4) A facility shall comply with the following structural requirements:

(a) All rooms and hallways shall have adequate lighting.

(b) Adequate space shall be provided for all phases of daily living, including recreation, privacy, group activities and visits.

(c) Except for 96-hour detention facilities, youth shall have indoor areas of at least 40 square feet of floor space per

youth for quiet, reading, study, relaxing, and recreation. Halls, kitchens, and any rooms not used by youths shall not be included in the minimum space requirement.

(d) Except for 96-hour detention facilities, sleeping areas shall contain at least 50 square feet of floor space per youth and bedrooms for single occupancy must have at least 80 square feet.

(e) 96-hour detention facilities need only provide 30 square feet of floor space per confined juvenile in living units primarily designed as single occupancy sleeping rooms. Unless an exception is provided for good cause as determined by the department's licensing representative, multiple occupancy rooms must not exceed 25% of the facility's bed capacity.

(f) There shall be a minimum of one toilet, shower and wash basin for every 5 juvenile detainees.

Subsections (5) through (7) remain the same.

(8) The facility and all areas used by youth shall have an adequate ventilation and heating system.

(9) The rated population capacity for juvenile detainees at each facility must be established and the population shall not exceed that capacity.

(10) Where a juvenile facility is properly shared with an adult facility, the facility must provide for total separation of juvenile and adult detainees. In addition:

(a) sharing of facilities may occur only where written operational plans, policies and procedures are in place to ensure that no haphazard contact between juvenile and adult detainees occurs;

(b) recreational and admission areas used for both adult and juvenile detainees must be closely regulated by time phasing to prevent accidental contact between adult and juvenile detainees;

(c) sleeping and living areas may not be shared by adult and juvenile detainees under any circumstances;

(d) only staff such as cooks, medical professionals and bookkeepers, whose infrequent contact with detainees occurs under conditions of separation of adult and juvenile detainees, may serve both types of detainees; and

(e) administrative and security functions of juvenile detention facilities must be vested in separate staff who, where they serve both juvenile and adult populations, are trained to serve juveniles. Staff whose duties include in whole or in part the provision of direct care to juveniles may not be used to serve the adult jail at the same time or during the same tour of duty that they serve in the juvenile detention facility.

(11) The facility must also:

(a) provide access to a telephone for calls made upon admission as provided in ARM 11.17.124(2)(n), and for other approved calls;

(b) provide a visiting area that allows for private communications with approved visitors (such area need not be devoted exclusively to visitation); and

(c) free all living and sleeping areas of physical features such as bars, grates, hooks or any other physical

features which may reasonably be expected to present a suicide risk to detainees.

(12) Each youth shall be physically observed at least every fifteen minutes. A means of confirming these checks must be in place. A youth giving indications of self-destructive tendencies or exhibiting behavior suggesting possible medical problems shall be monitored more regularly.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The first amendment to this rule exempts 96-hour detention facilities from the space requirements applicable to regular detention facilities. An additional amendment further into the rule imposes specific space requirements for 96-hour detention facilities which provide for less space per youth. The shorter period of time youths may be confined in 96-hour detention facilities justifies less stringent space requirements.

The next amendments add bath and heating requirements for both types of facilities. The lack of such requirements could allow for less than adequate heating and bathrooms.

Additional changes to this rule address requirements for population capacity, and separation of adult staff and areas involved with adult correctional facilities. The provisions on separation of youth and adult detention staff and facility space are intended to comply with federal requirements. Further, the proposed amendments insert specific provisions on telephone access and visiting areas which are designed to enable private communications with youths.

The amendments also require removal of physical features which could reasonably be expected to enable suicide, 15 minute checks for all youth, and more regular checks for youth with possible medical problems or youth exhibiting self-destructive tendencies. These changes are designed to provide for greater safety in youth detention facilities.

11.17.118 YOUTH DETENTION FACILITY, FIRE SAFETY (1) The department hereby adopts and incorporates by reference group I division 3 of the uniform building code which sets forth the fire safety regulations which shall apply to newly constructed facilities and which may be obtained from the Building Codes Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620. Other specific fire safety requirements shall be complied with as directed by the chief of the fire department of the municipality or district where the detention facility is located when a fire inspection program is established, or a fire inspector of the department of justice when no fire inspection program exists. In the event that the detention facility documents an inability to obtain inspection and implementation of fire safety requirements through local officials or the state

fire marshal, the remaining provisions of this rule shall apply.

(2) Smoke detectors approved by a recognized testing laboratory shall be located at stairways and in any areas requiring separation as set forth in the uniform building codes.

(3) A fire extinguisher approved by a recognized testing laboratory with a minimum rating of 2A10BC shall be readily accessible to the kitchen area.

(4) The date and signature of the person checking both the batteries in the smoke detectors and the fire extinguisher shall be recorded and filed at the facility.

(a) Smoke detector batteries shall be checked by the facility at least once each month and the batteries replaced at least once each year.

(b) Fire extinguishers shall be checked by the facility at least quarterly.

(5) The staff shall be trained in the proper use of the fire extinguisher and the training recorded in the files.

(6) Staff and youths shall be instructed upon arrival in the procedure for evacuation in case of fire. The procedure shall be posted in a conspicuous place in the facility.

(7) Paint, flammable liquids and other combustible material shall be kept in locked storage away from heat sources or in outbuildings not used by the youth.

(8) Polyurethane foam mattresses or furniture shall not be used in the facility.

(9) The facility shall be equipped with a fire alarm system.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The proposed amendment to this rule adds a provision allowing for inspection for, and establishment of, fire safety requirements as directed by local officials working under a fire prevention program, or a fire inspector appointed by the State Fire Marshal, as set out generally in Section 50-61-114, MCA. In the event that the facility documents an inability to obtain an inspection and a list of requirements from the fire safety officials designated in Section 50-61-114, MCA, the requirements in subsections (2) through (9) must be met. The amendment is designed to take advantage of fire safety expertise of officials assigned the duty of establishing fire safety programs.

11.17.120 YOUTH DETENTION FACILITY. NUTRITION Subsections (1) through (3) remain the same.

(4) ~~All food shall be transported, stored, covered, prepared and served in a sanitary manner~~ The department hereby adopts and incorporates by reference, with exceptions, Title 16, Chapter 10, sub-chapter 2 of the Administrative Rules of Montana, which sets food sanitation and food handling standards for food service establishments. A copy of ARM Title 16, Chapter 10, sub-chapter 2 may be obtained from the Department of Family Services, Legal Unit, P.O. Box 8005, Helena, Montana 59604.

(5) ~~Use of home-canned products, other than jams, jellies~~

and fruits is prohibited. A detention facility preparing meals for detainees must comply with all requirements set for food service establishments in Title 16, Chapter 10, sub-chapter 2 of the Administrative Rules of Montana, with the following exceptions from the rules noted:

(a) ARM 16.10.215(17), (18), and (23) do not apply to detention facilities;

(b) ARM 16.10.220 and 16.10.221 do not apply to detention facilities;

(c) ARM 16.10.232(2) through (6) do not apply to detention facilities;

(d) ARM 16.10.238 does not apply to detention facilities, i.e., licensure as a food service establishment is not required;

(e) ARM 16.10.239 does not apply to detention facilities, detention facilities are subject to inspection as specifically provided by these rules; and

(f) Where good cause exists, any detention facility may obtain an exemption from the provisions of Title 16, Chapter 10, subchapter 2, of the Administrative Rules of Montana, subject to approval by the department's licensing representative. However, there must be documentation that the exception does not pose a health hazard to detainees.

(6) Hands shall be washed with warm water and soap before handling the food. The evening meal shall be served no more than 14 hours after breakfast.

(7) When food is transported to the facility for consumption by detainees, approved heated or insulated food containers must be utilized.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The department intends that food preparation in detention facilities be in accord generally with requirements for food service establishments. Exceptions to these requirements are noted specifically in the amendments, and a catch-all exception is also provided where the detention facility has good cause to continue provision of food to detainees, but cannot comply with the food service requirement for which an exception is claimed. However, such an exception may not issue unless there is documentation that the lack of enforcement of the requirement will not be a health hazard to detainees.

11.17.124 YOUTH DETENTION FACILITY, ADMISSION (1) The facility shall obtain in writing the youth court's order for the detention of a youth, or written authorization for the detention of the youth from a law enforcement officer, probation officer (or designee of such probation officer), department representative enforcing an aftercare agreement, or other lawful authorizing documentation for detention of the youth under the requirements of the Montana Youth Court Act.

(a) A youth who has been placed in detention shall not be held longer than 24 hours, excluding weekends and legal

holidays, unless a hearing has been held by the court to determine whether there is probable cause to believe the youth is a delinquent youth or a youth in need of supervision.

(2) The facility shall develop written policy and procedures governing the admission and orientation of admitted youth which includes the following requirements:

(a) A staff member of each sex shall be available or on call at all times to receive youth for detention;

(b) Staff members accepting youth for detention must determine that each youth is being held under proper legal authority, and the identity of the youth being admitted must be verified as soon as possible;

(c) A pat down search of the youth shall be performed to prevent the introduction of weapons or contraband.

(i) All pat down searches shall be conducted by a person of the same sex as the youth being searched.

(ii) A strip search or body cavity search shall be performed only in accordance with ARM 11.17.122.

(iii) All personal clothing shall be carefully searched for contraband.

(d) The youth's personal property, if removed, shall be properly itemized, signed for by the youth and staff, and held safely. The youth shall be advised that all personal belongings will be returned to him when he leaves, with the exception of illegal contraband or evidence.

(e) Each youth shall be given a shower and clean under and outer clothing, a clean towel, clean bedding, and necessary toiletry and personal hygiene articles, including soap, toothbrush, toothpaste, comb and the youth's own clothing shall be laundered if needed and safely stored.

(f) Blankets shall be provided in sufficient number to maintain warmth under prevailing climactic conditions.

(g) The youth's physical and emotional condition shall be noted and recorded, along with identifying data, under the facility admittance form which must be completed upon admission of the youth. Facility admittance forms, as a minimum, must also allow for the recording of the following information:

(i) court case number, corrections JO number, and facility admission number;

(ii) date and time of admission;

(iii) name of youth and AKA (if any);

(iv) last known address;

(v) name of attorney (if any);

(vi) specific charges;

(vii) sex, race, and religion;

(viii) date and place of birth;

(ix) health status;

(x) property inventory; and

(xi) emergency contact number.

(+) (xii) The admitting staff member shall inquire into and examine the youth for any obvious injuries, medical tags, rashes, unusual cough or high temperature and determine, by questioning, if there are medical problems, including drug or alcohol abuse, asthma, diabetes, epilepsy, mental distress or

other conditions, which require medical attention.

~~(iii)~~ (xiii) Any youth showing signs of or reporting physical or mental distress or drug or alcohol abuse shall be referred to health care personnel, as appropriate.

~~(iii)~~ (xiv) Any prescription medication in the possession of a youth at admission shall be labeled for identification and determination shall be made at the earliest possible time regarding the need for its continued use by contacting the prescribing health care professional.

~~(iv)~~ (xv) Any seriously injured or seriously ill youth shall not be admitted to the facility until a medical examination has been conducted by a licensed physician. A written record of the diagnosis, treatment, and medication prescribed shall be placed in the youth's detention file.

(h) Treatment, as directed by medical personnel, shall be initiated immediately when body pests are detected.

(i) Staff shall contact parents or other responsible persons as soon as possible following the detaining of the youth. Verification of such contacts or attempted contacts shall be recorded in writing.

(j) If a youth is hungry at admission, he shall be given sufficient food to sustain the youth until the next regular meal.

(k) After a youth has been admitted, showered, issued clothing and other essentials, he shall receive orientation on the policies and procedures of the facility before he is isolated in a room.

(i) The youth shall be given a copy of the printed facility rules and the youth's rights. Staff shall explain or clarify the contents of the material, especially for youth who do not have adequate reading or comprehension skills.

(ii) Completion of orientation shall be documented by a statement that is signed and dated by the youth.

(l) A notice of facility rules and youth's rights shall be posted in the facility in an area where the youths can view it.

(m) A record for each youth shall be established at admission and shall be maintained throughout the period of detention.

(n) Facility policy and procedure shall grant all youth the right to make at least two local or long-distance telephone calls to family members, attorneys or other approved individuals at sometime during the admission process.

(i) If the youth is unable to complete the call without assistance, a staff member shall provide assistance or, if requested, shall make the call for the youth.

(ii) These phone calls shall not be electronically monitored.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: Initially, the amendment to this rule alters the first subsection so individuals other than the youth court may authorize the detention of youths in youth detention facilities,

as is already provided by the youth court act. Another change aims to improve record keeping on youths by requiring additional information from the youth upon admission.

11.17.125 YOUTH DETENTION FACILITY, RIGHTS OF YOUTH

(1) The facility shall implement the following policies and procedures governing the rights of youths which shall include:

(a) The facility's written grievance procedure for youths and the youth's right to make requests or complaints to the facility's administration without censorship.

(b) No youth shall be subjected to medical or pharmaceutical testing for experimental or research purposes or the use of chemical restraint.

(c) The youth shall have the right to determine the length and style of their hair, including facial hair.

(d) The youth's right to be separated from the general population.

(e) Each youth shall be assured equal opportunities to facility components and no facility shall discriminate in provision of facility components based on race, religion, national origin, sex, handicap, or political belief.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The department intends to prohibit illegal discrimination against youths by the addition of subsection (e) above.

11.17.127 YOUTH DETENTION FACILITY, COMMUNICATION

Subsection (1) remains the same.

(2) The facility shall adopt policies and procedures governing visitation including the following requirements:

(a) The facility shall provide visiting facilities to permit informal communication, including opportunity for physical contact.

(b) The use of barriers or devices to prevent physical contact between visitors and youth is prohibited unless there is a clear and present danger of physical injury or introduction of contraband.

(c) All visitors must register their name and relationship to youth.

(d) Visitors must submit packages, purses, handbags and briefcases for inspection by facility personnel.

(e) Visitors must submit to a frisk and pat-down search by an employee who is of the same sex.

(i) In the event that there is probable cause reasonable grounds to believe that weapons or contraband will be found by more extensive search, admission to the facility shall be denied.

(ii) A "search notice" sign which advises visitors of the foregoing provisions must be conspicuously posted and pointed out to all visitors.

- (f) Youth shall be searched after each contact visit.
- (g) The visiting area shall be thoroughly searched before and after each visiting period.
- (h) During a visit there shall be a system for residents and staff to communicate with one another at all times.
- (3) The facility shall adopt policies and procedures governing telephone use which shall include the following:
 - (a) The facility must be equipped with a telephone.
 - (b) Telephone numbers of the hospital, police department, fire department, ambulance, and poison control center must be posted by each telephone.
 - (c) Telephone number of the parent(s) shall be readily available.
 - (d) Youths must be permitted reasonable and equitable access to the telephone according to the facility's policy which may establish hours of availability and time limits.
 - (i) Youths shall have the right to call attorneys at all reasonable times at facility expense. These telephone calls shall be confidential.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The change to this rule deletes a requirement for probable cause and replaces it with a requirement for the existence of reasonable cause prior to a decision to disallow visitation. Youth detention facilities should not be required to meet probable cause standards to prohibit admittance of individuals suspected of attempting to bring in contraband or weapons.

11.17.129 YOUTH DETENTION FACILITY. SUPERVISION OF

MEDICATION Subsections (1) through (3) remain the same.

- (4) All medications shall be maintained in a locked repository. The facility must have a procedure for immediately:
 - (a) identifying for whom the medication is kept in the repository; and
 - (b) accounting for the types and quantities of medications kept in the repository.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The above amendment is proposed to improve the safeguarding of medication which must be on hand at a youth detention facility.

11.17.131 YOUTH DETENTION FACILITY. SERVICES AND PROGRAM

- (1) Because of the limited time period for which a youth may be detained in a 96-hour detention facility, this rule applies to 96-hour detention facilities only as is documented as practical for such facilities to provide for the services set out in this rule.
- (2) There shall be a range of resources to meet the needs

of youth, including individual and family counseling and community services.

(a) Youths shall be afforded access to mental health counseling and crisis intervention services in accordance with their needs.

(b) Psychiatric, psychological, medical and other diagnostic services, as determined by the youth court, shall be available to every youth either provided directly by the facility or by contracting with another county or agency which provides such services.

(c) Other professional services shall be provided as needed.

(3) ~~(2)~~ The facility shall have a recreational program.

(a) There shall be opportunities for exercise and leisure time activity, indoors and outdoors. All youth shall be permitted and encouraged to participate in supervised outdoor recreation unless restricted for health or security reasons.

(b) No youth shall be required or forced to participate in recreational activities.

(c) Exercise areas shall be equipped and used within the limitations of security requirements.

(4) ~~(3)~~ Procedures shall allow youth to participate in religious services and counseling within the facility on a voluntary basis. All youth shall have the opportunity to voluntarily practice their respective religions and to receive visits from representatives of their respective faiths.

(5) ~~(4)~~ The facility shall provide library services which are available to all youth.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The department proposes that 96-hour youth detention facilities be exempted from the program requirements of this rule except to the extent that identical or similar programs prove to be practical for these facilities. The shorter stay of youths at 96-hour detention facilities justifies the proposal because most youth will not be present in the facility for a period sufficiently long to benefit from such programs.

11.17.138 YOUTH DETENTION FACILITY, MECHANICAL RESTRAINT

(1) A facility may use ~~handcuffs~~ hand/ankle or soft cuffs when transporting a youth to or from the facility.

(2) Any other use of mechanical restraint is prohibited.

AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: This change is needed to allow for the use of ankle cuffs which may be needed for transporting youth.

11.17.146 YOUTH DETENTION FACILITY, RELEASE, TRANSFER AND TRANSPORTATION

(1) A youth's release from or continuance in detention shall be determined by ~~order of the~~

~~youth court or by authority delegated by the court proper authority.~~

(a) The release from detention shall be in writing and on file at the facility and the youth court.

(b) If a release is made by phone, it shall be recorded in writing.

Subsection (2) remains the same.

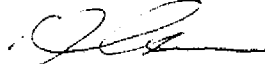
(3) Transfers to other facilities shall be by youth court order or by other proper written authorization.

Subsections (4) through (6) remain the same.

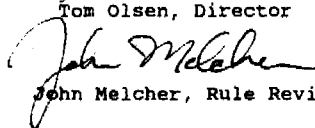
AUTH: Sec. 41-5-809, MCA. IMP: Sec. 41-5-802, 41-5-809, MCA.

REASON: The amendment brings the rule into accord with the Montana Youth Court Act because other proper authority for release and transfers in addition to order of the youth court exists under the Act and other statutes.

DEPARTMENT OF FAMILY SERVICES



Tom Olsen, Director



John Melcher, Rule Reviewer

Certified to the Secretary of State, August 17, 1992.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PROPOSED AMENDMENT
of Rules 11.5.607 and 11.5.608)	OF RULES 11.5.607 AND
pertaining to disclosure of)	11.5.608 PERTAINING TO
case records containing)	DISCLOSURE OF CASE RECORDS
reports of child abuse or)	CONTAINING REPORTS OF CHILD
neglect.)	ABUSE OR NEGLECT.

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons

1. On October 15, 1992, the Department of Family Services proposes to amend Rules 11.5.607 and 11.5.608 pertaining to disclosure of case records containing reports of child abuse or neglect.

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

11.5.607 DISCLOSURE (1) Records ~~shall~~ may be disclosed to those individuals or entities referred to in section 41-3-205(2) and (3), MCA, subject to any limitations imposed by that statute. In addition, records shall be disclosed to employees of the department of social and rehabilitation services if disclosure is necessary for the administration of programs designed to benefit the child.

AUTH: Sec. 41-3-208, MCA. IMP: Sec. 41-3-205, MCA.

11.5.608 DISCLOSURE PROCEDURES Subsection (1) remains the same.

(2) Upon receiving a request for disclosure, the department shall determine if the person or entity who is requesting disclosure is authorized by statute or these rules to receive such information.

(a) Any person who is not authorized to receive the information shall be notified in writing that the information cannot legally be disclosed without a court order.

(b) If the person or entity requesting disclosure is authorized by statute or these rules to receive the requested information, the department ~~shall~~ may disclose the information to the requesting party or entity.

AUTH: Sec. 41-3-208, MCA. IMP: Sec. 41-3-205, MCA.

3. The department proposes to amend the rule to allow withholding of records from individuals and entities who may receive records under Sections 41-3-205(2) and (3), MCA. For example, the amendment will allow health care providers submitting reports to the department to retain control over dissemination of

such reports, even though these documents are considered to be case records which may be released to those individuals and entities set out in Sections 41-3-205(2) and (3), MCA. Other restrictions on release to individuals and entities who may be provided access to department records under Sections 41-3-205(2) and (3), MCA, may also occur on a case-by-case basis.

4. Interested persons may submit their data, views or arguments to 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 September 28, 1992.

5. 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 September 28, 1992.

6. 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


John Melcher, Rule Reviewer

Certified to the Secretary of State, August 17, 1992.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the repeal)	NOTICE OF PROPOSED REPEAL OF
of Rules 11.2.401 and 11.2.403)	RULES 11.2.401 AND 11.2.403
pertaining to local service)	PERTAINING TO LOCAL SERVICE
areas and local youth services)	AREAS AND LOCAL YOUTH
advisory councils.)	SERVICES ADVISORY COUNCILS

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons.

1. On October 15, 1992, the Department of Family Services proposes to repeal Rules 11.2.401 and 11.2.403 pertaining to local service areas and local youth services advisory councils.

2. The rules proposed to be repealed can be found on page 11-51 of the ARM. 11.2.401 AUTH: 52-1-103(17) IMP: 52-1-201, MCA
11.2.402 AUTH: 52-1-103(17) IMP: 52-1-203, MCA

3. The department proposes to repeal the rules pending establishment of a new system of organization for local service areas and local youth advisory councils. The department intends to put the new system of organization into place through additional rule-making in the near future.

4. Interested persons may submit their data, views or arguments to the proposed repeal, 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 September 28, 1992.

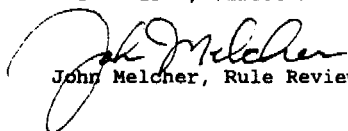
5. If a person who is directly affected by the proposed repeal, wishes to express data, views and arguments orally or in writing at a public hearing, that person must make a written request for a public hearing and submit such request, along with any written comments, to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than September 28, 1992.

6. If the Department of Family Services receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed repeal, 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

A handwritten signature in dark ink, appearing to read "Tom Olsen", written in a cursive style.

Tom Olsen, Director

A handwritten signature in dark ink, appearing to read "John Melcher", written in a cursive style.

John Melcher, Rule Reviewer

Certified to the Secretary of State, August 17, 1992.

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

In the matter of the	)	NOTICE OF PROPOSED
amendment, repeal and adoption	)	AMENDMENT, REPEAL AND
of new rules relating to	)	THE ADOPTION OF NEW
falconry.	)	RULES I-XII
)	
	)	No Public Hearing
	)	Contemplated

To: All Interested Persons

1. On October 30, 1992, the Fish, Wildlife and Parks Commission proposes to adopt new rules I through XII, the amendment of rules 12.6.1101, 12.6.1103, 12.6.1106, 12.6.1109, 12.6.1112, 12.6.1116, 12.6.1118, and the repeal of rules 12.6.1102, 12.6.1104, 12.6.1105, 12.6.1107, 12.6.1108, 12.6.1110, 12.6.1111, 12.6.1113, 12.6.1114, 12.6.1115, and 12.6.1117 relating to falconry.

2. The proposed new rules provide as follows:

RULE I PERMIT REQUIREMENTS (1) A Montana falconry permit, or for nonresidents, a valid falconry permit from another state meeting federal falconry standards, is required before any person may possess, transport, sell, purchase, barter, or offer to sell, purchase or barter raptors for falconry purposes or practice falconry in the state of Montana.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE II FALCONRY PERMITS (1) The director may issue falconry permits in response to applications received on forms provided by the department, provided an applicant meets the requirements and otherwise complies with the provisions of this rule.

(a) Permits are valid for a period of three years or portion thereof, and shall expire on the date designated on the face of the permit unless amended or revoked. Permits are renewable.

(b) Only a person who is a resident of Montana as defined in section 87-2-102, MCA may apply for a permit under this rule.

(c) Applicants shall submit payment of a \$25 state permit fee with the application, together with a separate, additional check or money order made payable to "U.S. Fish and Wildlife Service" in the amount of \$25 as fee for the requisite federal falconry permit.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE III FACILITIES AND EQUIPMENT (1) Before a falconry permit is issued, the applicant's raptor housing

facilities and falconry equipment shall be inspected and certified by a representative of the department or by a department designated master falconer as meeting the requirements of Rule IV and 12.6.1106.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE IV FACILITIES (1) The primary consideration for raptor housing facilities, whether indoors (mew) or outdoors (weather area), is protection from the environment, predators, and undue disturbance. The applicant shall have one or both of the following facilities:

(a) Indoor facilities (mews) shall be large enough to allow easy access for caring for the raptors housed in the facility. If more than one raptor is to be kept in the mews, raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(b) Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators except that perches more than 6 1/2 feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE V REPORTING (1) No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless the permittee submits a federal form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the service and the department within five (5) calendar days of any transaction.

(2) No raptor may be possessed under authority of a falconry permit unless the permittee has a properly completed form 3-186A for each bird possessed. A copy of form 3-186A for each raptor shall accompany the permit and be available for inspection by appropriate department representatives while the permittee is involved in permitted activities.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE VI MARKING (1) Any peregrine falcon (Falco peregrinus), gyrfalcon (Falco rusticolus), or Harris hawk (Parabuteo unicinctus) taken, possessed or transported shall be banded at all times by either a numbered seamless band or with a permanent, non-reusable numbered band issued by the department or the service. No raptor taken from the wild may

be banded with a seamless numbered band.

(2) Any gyrfalcon taken from the wild shall be reported to the department within five (5) days of taking.

(3) Loss or removal of any band shall be reported to the issuing office within five (5) working days of the loss. The lost band shall be replaced by a permanent, non-reusable numbered band supplied by the department or by the service. A federal form 3-186A shall be filed in accordance with the instructions on the form reporting the loss of the banding and rebanding.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE VII TEMPORARY HOLDING OF RAPTORS (1) A legally possessed raptor may be temporarily held by another person authorized to possess raptors if a form 3-186A and a dated and signed statement authorizing temporary possession accompany the raptor.

(2) A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 days.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE VIII TRANSFER OF RAPTORS (1) Wild raptors held by a permittee may be permanently transferred to a resident authorized to possess raptors for falconry purposes provided:

(a) the permittees submit a federal form 3-186A in accordance with the reporting requirements of 12.6.1103,

(b) no money, barter or any other consideration is involved in the transfer.

(2) Wild raptors held by a permittee may be permanently transferred to a nonresident authorized to possess raptors for falconry purposes provided:

(a) the permittees submit a federal form 3-186A in accordance with 12.6.1103 reporting requirements,

(b) an export permit has been issued by the department in advance of export from the state.

(c) the nonresident recipient resides in a state which provides privileges to Montana residents to conduct permitted activities comparable to activities permitted in Montana; and

(d) no money, barter or any other consideration is involved in the transfer. The species and number of raptors transferred, held or replaced is limited in accordance with the permit classes section of this regulation. (12.6.1103)

(3) Captive-bred raptors held by a permittee may be permanently transferred to residents or nonresidents authorized to possess raptors, provided the permittees submit a federal form 3-186A in accordance with the reporting requirements of 12.6.1103.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE IX TEMPORARY TRANSPORT (1) Holders of Montana falconry permits may temporarily remove raptors from Montana

and return them to the state, provided all necessary permits or licenses are obtained from the states or other legal authority into which the raptors are transported.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE X SALE OF RAPTORS (1) A falconry permittee may not sell, purchase, barter, or offer to sell, purchase or barter any raptor unless the raptor is marked on its metatarsus by a seamless numbered band supplied by the department or the service.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE XI PROPAGATION PERMIT (1) A falconry permittee may not propagate raptors without prior acquisition of a valid raptor propagation permit issued in accordance with appropriate federal and state regulations.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

RULE XII RELEASE OF RAPTORS (1) A falconry permittee shall obtain written authorization from the director before any species not indigenous to Montana is intentionally released to the wild, at which time the marker from the released bird shall be removed and surrendered to the department. The marker from an intentionally released bird which is indigenous to Montana shall also be removed and surrendered to the department. A standard federal bird band shall be attached to any such bird by the department or an authorized federal bird bander whenever practical.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

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

12.6.1101 DEFINITIONS (1) remains the same.

(2) "Bred in captivity" or "captive-bred" means raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

(3) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402, MCA.

(4) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3402, MCA.

(5) "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401, MCA.

(6) "Falconry" means the sport of taking quarry by means of a trained raptor.

(7) "Service" means the fish and wildlife service, U.S. department of interior.

(8) "Warden" means a state fish and game warden.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

12.6.1103 FALCONRY PERMIT CLASSES (1) There are three classes of falconry permits: ~~apprentice, general, and master. The requirements for each class are as follows:~~

(a) Apprentice class:

(i) ~~An applicant~~ A permittee under this class must shall be at least 14 years old;

(ii) a permittee under this class must have a sponsor who holds a general or master falconry permit for the first 2 years in which an apprentice permit is held, regardless of age of permittee. A sponsor may not have more than three apprentices at any one time;

(iii) a permittee may not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period;

(iv) a permittee ~~may shall~~ possess only the following raptors, which must be taken from the wild: an American kestrel (Falco sparverius) or a red-tailed hawk (Buteo jamaicensis).

(b) General class:

(i) ~~an applicant~~ a permittee under this class must shall be at least 18 years old;

(ii) ~~an applicant shall have held an apprentice class permit for at least 2 years before applying for a general class permit;~~ a permittee must possess and train or hunt with a raptor for portions of at least two seasons in the practice of falconry at the apprentice level or its equivalent, and must be recommended by the sponsor;

(iii) a permittee ~~may shall~~ not possess more than two raptors and ~~may shall~~ not obtain more than two raptors for replacement birds during any 12-month period;

(iv) a permittee ~~may shall~~ not take, transport, or possess any golden eagle or any species listed as threatened under appropriate federal rules or endangered under the appropriate state or federal rules, or a species in need of management under the appropriate state rules, in 50 CFR 17.11.

(c) master class:

(i) ~~an applicant shall have a general class permit at least 5 years before applying for a master class permit;~~ a permittee under this class must have at least five years of experience in the practice of falconry at the general class level.

(ii) a permittee ~~may shall~~ not possess more than three raptors and ~~may shall~~ not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;

(iii) a permittee may not take from the wild any species listed as endangered in 50 CFR 17.11, but may transport, or possess a such species listed as endangered under the appropriate state or federal rules, in accordance with said regulations;

(iv) a permittee may not take, transport, or possess ~~more than one raptor listed as threatened under federal rules or as a species in need of management under state rules and then only in accordance with appropriate federal and state rules.~~ any golden eagle for falconry purposes unless authorized in writing in accordance with appropriate federal regulations; and

(v) a permittee shall not take from the wild in any 12-

month period, as a part of the three-bird limitation, more than one raptor listed as threatened in 50 CFR 17.11, and then only in accordance with those regulations.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

12.6.1106 HANDLING EQUIPMENT (1) ~~The following equipment must be prepared in readiness. The applicant must have the following items before he or she may obtain a permit:~~

(a) Jesses - at least one pair of Alymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free; traditional one-piece jesses may be used on raptors when not being flown;

(b) ~~leashes and swivels~~ - at least one strong swivel of acceptable falconry design;

~~(c) leashes at least one flexible, weather-resistant leash;~~

~~(d) gauntlet glove at least one glove of acceptable falconry design;~~

(e)(c) bath container - at least one suitable container, 2 to 6 inches deep and wider than the length of the raptor for drinking and bathing for each raptor;

(d) outdoor perches at least one weathering area perch of an acceptable design for each raptor;

(f)(e) weighing device - a reliable scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than 1/2 ounce (15 gram).

(2) All facilities and equipment shall be kept at or above these standards at all times.

~~(2) The above listed equipment is the minimum equipment required. Hoods and other items may be introduced later.~~

~~(3) Inspection of the handling equipment shall be done as outlined in rule 12.7.1105(3).~~

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

12.6.1109 EXAMINATION (1) ~~An applicant shall take and must A permit will not be issued until the applicant has answered correctly at least 80% of the questions on a falconry supervised examination approved by the U.S. fish and wildlife service and the department administered by the department or a designated master falconer, relating to basic biology, care and handling of raptors, literature, laws, rules or other appropriate subject matter as approved by the service. Examinations will be administered on an "as needed" basis provided that any applicant failing to score 80% will only be allowed to retake the written examination at 60-day intervals. Applicants may not take the examination more than three times in one year. Applicants failing the written examination three times in one year will forfeit the \$25 application fee.~~

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

12.6.1112 TAKING OF RAPTORS (1) ~~The following rules shall be observed in the taking of raptors:~~

~~(a) Young birds raptors, not yet capable of flight~~

(eyasses) may be taken from the wild only by a general or master falconer during the period from June 15 through and July 15, inclusive, and no more than two eyasses may be taken by the same permittee during that period. These birds may not be taken by trap each year.

(b)(2) First-year (passage) birds raptors may be taken from the wild only during the period from between September 6 19 and February 6, inclusive through January 31.

(c)(3) Notwithstanding, the preceding requirements, a marked or jessed raptor may be retrapped at any time.

(d)(4) Only American kestrels (*Falco sparverius*) and great-horned owls (*Bubo virginianus*) may be taken when over one year old, except that any raptor other than an endangered or threatened species taken under a federal depredation (or special purpose) permit and not prohibited by state law, may be used for falconry by general and master falconers.

~~(e) Raptors may not be taken except as provided in this sub-chapter.~~

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

12.6.1116 FEATHERS (1) Feathers that are molted, or those feathers from birds held in captivity that die, may be retained and exchanged by a permittee only for the purpose of repairing broken feathers (imping). purposes.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

12.6.1118 ENFORCEMENT (1) Regulations contained in this sub-chapter may be enforced by any fish and game warden or other officer duly authorized by the state of Montana. An officer of the department may inspect the falconry permittee's raptors, records, facilities or equipment at any reasonable time.

AUTH: Sec. 87-5-204, MCA IMP: Sec. 87-5-204, MCA

4. Rationale for Proposed Rulemaking: The Fish, Wildlife and Parks Commission is proposing these amendments and adoption of new rules and repeal of old rules in order to meet the requirements of section 87-4-204, MCA, as amended by the 1991 Legislature. The rulemaking conforms state requirements to federal regulations at 50 CFR, Part 21.

5. Rules 12.6.1102, 12.6.1104, 12.6.1105, 12.6.1107, 12.6.1108, 12.6.1110, 12.6.1111, 12.6.1113, 12.6.1114, 12.6.1115, and 12.6.1117, which can be found on pages 12-330.1 through 12-336 of the Administrative Rules of Montana, are proposed to be repealed because they are out of date and inconsistent with federal requirements. The authority and implementing cite for these repealed rules is Sec. 87-5-204, MCA.

6. Interested persons may present their data, views, or arguments in writing to Ervin Kent, Enforcement Division, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620, no later than 5:00 p.m., September 24, 1992.

FISH, WILDLIFE AND PARKS
COMMISSION

Robert N. Lane

Rule Reviewer

Robert N. Lane

R. L. Cool

R. L. Cool, Secretary

Certified to the Secretary of State on August 17,
1992.

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

In the matter of the proposed)
adoption of new rules)
pertaining to the) NOTICE OF PUBLIC HEARINGS
development of state parks)
and fishing access sites.)

To: All Interested Persons

1. On September 18, 1992, at 7:00 p.m. a public hearing will be held in the Department of Fish, Wildlife and Parks' headquarters at Kalispell, Montana, to consider the adoption of new rules pertaining to the development of state parks and fishing access sites. There will also be hearings on September 21, 1992, in the Helena headquarters building at 7:00 p.m., and on September 22, 1992, in the Billings regional office at 7:00 p.m.

2. The proposed new rules provide as follows:

RULE I PURPOSE (1) Section 23-1-110, MCA, requires the commission to adopt rules which will establish a policy on specific procedures for considering improvements to parks and fishing access sites. These rules must consider the wishes of users, the capacity of the site for development, environmental impacts, long-range maintenance, protection of natural features and impacts on tourism.

AUTH: Sec. 23-1-110, MCA IMP: Sec. 23-1-110, MCA

RULE II DEVELOPMENT OR IMPROVEMENT (1) In implementing Section 23-1-110, MCA, the commission considers the following development or improvement projects to be those that significantly change park or fishing access site features or use patterns:

- (a) new roadways or trails built over undisturbed land;
 - (b) new buildings constructed on undisturbed land (with the exception of vault latrines);
 - (c) any excavation of 20 cubic yards or greater;
 - (d) new parking lots built over undisturbed land or the expansion of an existing lot that increases the parking capacity by 25% or more;
 - (e) any new shoreline alteration that exceeds a double wide boat ramp or handicapped fishing station;
 - (f) any new construction into lakes, reservoirs or streams;
 - (g) any new construction in an area with National Registry quality cultural artifacts (as determined by the state historical preservation office); and,
 - (h) any new above ground utility lines.
- (2) Other proposed developments or improvement projects will be evaluated on a case-by-case basis to determine if they would significantly change park or fishing access site

features or use patterns.

AUTH: Sec. 23-1-110, MCA IMP: Sec. 23-1-110, MCA

RULE III DEPARTMENT ACTION (1) All improvement or development projects determined to be significant must comply with the review and report procedures set out in these rules prior to any final decision on their implementation.

AUTH: Sec. 23-1-110, MCA IMP: Sec. 23-1-110, MCA

RULE IV DRAFT REPORT (1) A draft report shall be produced prior to the public review meeting which addresses the following items:

(a) The "capacity for development" referred to in Section 23-1-110(2)b, MCA, is further defined as the physical capacity of the site to withstand the proposed modifications. Specific items to be considered include the sites soil, terrain, natural features and all practicable ways to preserve site aesthetics;

(b) the impacts to the physical and human environment;

(c) compliance with the Montana Environmental Policy Act;

(d) projected operation and maintenance costs over the useful life of the proposed improvements under the following assumptions or conditions:

(i) the life expectancy used in the analysis of the proposed improvements will not exceed 25 years;

(ii) when sites generate income, that information shall be part of the analysis; and,

(iii) future funding for operation and maintenance costs are subject to appropriations each biennium by the legislature;

(e) information on the natural, cultural and historic features present on the site;

(f) the impacts, both positive and negative, that the site development will likely have on tourism where:

(i) tourism is defined as the guidance or management of tourists, who are individuals who make tours for pleasure or education; and,

(ii) site development projects will be sent to the department of commerce with a request for review as to the impacts on the tourism economy; and,

(g) how the commitment of financial resources through site improvements and the added operation and maintenance costs will cumulatively impact the entire system.

AUTH: Sec. 23-1-110, MCA IMP: Sec. 23-1-110, MCA

RULE V PUBLIC COMMENT (1) The desires of the users and the public pertaining to proposed site development or improvement projects shall be solicited and used in the following manner:

(a) Notice of public meetings shall be published in local newspaper at least once per week for a minimum of three weeks.

(b) The public notice shall detail the nature of the

development or improvements and the date and place of the public meeting.

- (c) The public meetings may take the forms of:
 - (i) open houses;
 - (ii) informal hearings;
 - (iii) facilitated interactions; or
 - (iv) department presentations.
- (d) The public shall be given the opportunity to submit verbal and written comments during the public meeting and to submit written comments during the public meeting and to submit written comments for seven days following the meeting.
- (e) Mail-in comments shall be addressed to:
 - Montana Department of Fish, Wildlife and Parks
 - Design and Construction Bureau
 - 1420 East Sixth Avenue
 - Helena, Montana 59620
- (f) Comments shall be summarized and included in the final report; and
- (g) Concerns shall be addressed in the final report without regard to whether they result in modifications of the final project plan.

AUTH: Sec. 23-1-110, MCA IMP: Sec. 23-1-110, MCA

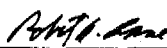
RULE VI FINAL REPORT (1) A final report development or improvement report shall be produced and filed in the respective fishery or parks division and available for public review.

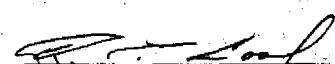
AUTH: Sec. 23-1-110, MCA IMP: Sec. 23-1-110, MCA

3. Adoption of the new rules are necessary because in 1991 the 52nd Legislature passed and the Governor signed HB 495. This act requires the commission to adopt rules establishing a policy for certain development and improvement of state parks and fishing access sites. The policy must address the desires of users, the capacity of the site, environmental impacts, long range maintenance implications, protection of site features, and potential impacts on tourism.

4. Interested parties may submit their data, views or arguments concerning the proposed rules, orally or in writing, at one of the scheduled hearings, or in writing to Jeffrey Tiberi, Parks Division, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620. Any comments must be received no later than September 30, 1992.

5. Robert N. Lane has been designated to preside over and conduct the hearings.


Rule Reviewer
Robert N. Lane


K.L. Cool, Secretary
Montana Fish, Wildlife and Parks
Commission

Certified to the Secretary of State August 17, 1992.

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

In the matter of the) NOTICE OF PROPOSED AMENDMENT
amendment of A.R.M. 12.6.904)
regarding the closure of) NO PUBLIC HEARING
Flint Creek below the dam) CONTEMPLATED

To: All Interested Persons

1. On October 30, 1992, the Fish, Wildlife and Parks Commission proposes to amend A.R.M. 12.6.904, imposing use restrictions on Flint Creek 150 feet below the dam.

2. The rule as proposed to be amended provides as follows:

12.6.904 USE RESTRICTIONS AT MONTANA POWER COMPANY DAMS

(1) remains the same.

(a) The following waters near Montana power company owned and operated hydroelectric dams are closed to all boating, sailing, floating and swimming:

Black Eagle:	500 feet above the dam to 100 feet below the waterfalls;
Cochrane:	500 feet above the dam to 500 feet below the dam;
Flint Creek:	100 feet above the dam to <u>150 feet below the dam;</u>
Hauser:	250 feet above the dam to 600 feet below the dam;
Hebgen:	100 feet above the dam and 100 feet below the outlet works;
Holter:	150 feet above the dam to 900 feet below the dam;
Madison:	600 feet above the dam to 900 feet below the dam;
Milltown:	200 feet above the dam to 200 feet below the dam;
Morony:	500 feet above the dam to 500 feet below the dam;
Mystic:	100 feet above the dam to the dam;
Rainbow:	600 feet above the dam to 100 feet below the waterfalls;
Ryan:	500 feet above the dam to 100 feet below the waterfalls;
Thompson Falls:	1,020 feet above main channel dam to 500 feet below powerhouse;
West Rosebud:	100 feet above the dam to the dam.

(i) through (b) remain the same

AUTH: Sec. 87-1-303, MCA IMP: Sec. 87-1-303, MCA


3. The amendment of A.R.M. 12.6.904 is necessary for public safety. The recent addition of a stilling basin below the toe of the dam has become a swimming hole. There is concern for safety of people swimming or floating in the stilling basin

because of the current and whirlpool on the left side of the dam and because a portion of the basin floor is constructed with gabion cage "fencing" material that could trap an individual's foot. Without this amendment, swimming and other activities will be a threat to the safety of persons, particularly children, who would continue to use the stilling basin.


4. Interested persons may present their data, views, or arguments concerning the proposed amendment in writing to Erv Kent, Enforcement Division, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620. Any comments must be received no later than September 24, 1992.

5. If a person who is directly affected by the proposed amendment wishes to express his or her 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 or she has to Erv Kent, Enforcement Division, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620. A written request for hearing must be received no later than September 24, 1992.

6. If the commission receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; 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.



Rule Reviewer
Robert N. Lane



K.L. Cool, Secretary
Fish, Wildlife and Parks
Commission

Certified to the Secretary of State August 17, 1992.

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

In the Matter of Proposed	)	NOTICE OF PROPOSED ADOPTION
Adoption of Rules on Inte-	)	OF NEW RULES ESTABLISHING
grated Least Cost Planning	)	POLICY GUIDELINES ON
for Electric Utilities and	)	INTEGRATED LEAST COST
Proposed Amendment of Rules	)	RESOURCE PLANNING FOR
38.5.1902 and 38.5.1905	)	ELECTRIC UTILITIES IN
Pertaining to Cogeneration	)	MONTANA AND PROPOSED
and Small Power Production.	)	AMENDMENT OF RULES
	)	38.5.1902 AND 38.5.1905
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On September 28, 1992 the Department of Public Service Regulation proposes to adopt new rules establishing policy guidelines on integrated least cost resource planning for electric utilities under the jurisdiction of the Montana Public Service Commission and amend rules pertaining to cogeneration and small power production.

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

RULE I. GOAL AND POLICY (1) The goal of these integrated least cost resource planning guidelines is to encourage electric utilities to meet their customers' needs for adequate, reliable and efficient energy services at the lowest total cost while remaining financially sound. To achieve this goal utilities should plan to meet future loads through timely acquisition of an integrated set of demand- and supply-side resources. Importantly, this includes actively pursuing and acquiring all cost effective energy conservation. The cost effectiveness of all resources should be determined with respect to long-term societal costs.

(2) These guidelines represent the policy of the Montana public service commission concerning proper integrated least cost resource planning and acquisition. Electric utilities under the jurisdiction of the Montana public service commission are required to file least cost plans as outlined below.

(3) These guidelines do not change the fundamental rate-making relationship between the utilities and the commission. Rather, they are a restatement of the commission's regulatory objective: to efficiently allocate society's resources to the production of electricity and ensure just and reasonable rates for consumers.

(4) The guidelines provide the utilities with policy and planning guidance. They do not specify the outcome of the planning process nor mandate particular investment decisions. Each utility's plan should be the result of that utility's unique planning process and judgment.

(5) Integrated least cost planning may demonstrate that, on the basis of overall societal costs, previously rate-based resources should be abandoned and replaced by new resources.

In addition, least cost plans may show that it is in society's best interest for construction of a new resource to be abandoned in favor of some other resource option. If such situations occur, the commission will open separate proceedings in which the utility can attempt to justify such abandonment and can propose a method for treating the costs of abandonment.

(6) The guidelines do not shift risk; rather, they suggest ways to reduce and manage the risk of resource choices to shareholders, ratepayers and society.

(7) Existing resources should be operated, and new resources acquired, only when needed and in a manner consistent with these guidelines.

(8) Until such time as the commission determines that market barriers to conservation have been reduced or eliminated, investment in conservation measures installed on the customer's side of the meter should be considered cost effective up to 115 percent of the utility's long-term avoided cost.

(9) The utility should thoroughly document the exercise of its judgment in weighing the importance of conflicting decision objectives. The utility should prepare such documentation so that it can be reasonably understood by the commission and interested parties.

(10) Resource decisions have a significant impact on the public. Each utility can best meet the diverse goals of its shareholders, its ratepayers and society if it involves the public in resource planning. To facilitate such involvement the resource planning process should be thoroughly documented and reasonably understandable.

(11) Implementation of these guidelines will require a commitment from both the public and private sectors to honor the spirit and intent of the guidelines. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA.

RULE II. DEFINITIONS (1) "Integrated least cost resource planning" is an ongoing, dynamic and flexible process which:

(a) explicitly manages the consequences of uncertainty and risk associated with a utility's market characteristics and supply alternatives,

(b) integrates the demand- and supply-side resources that represent the least cost to society over the long-term,

(c) explicitly weighs a broad range of resource attributes (e.g., environmental externalities) in the evaluation of alternative resources,

(d) is reasonably understandable to interested persons (including members of the general public) and the commission,

(e) involves stakeholders and nonutility expertise in utility resource planning,

(f) results from a planning process within the utility which facilitates communication and coordination among the entities dealing with utility finances, demand forecasts, demand- and supply-side resource evaluations, as well as other relevant entities, and

(g) continually monitors and develops data on the cost effectiveness and actual productivity of conservation programs.

(2) "Energy conservation" is any reduction in electric power consumption resulting from:

(a) increased energy efficiency in the production, transmission, distribution and customer end-use applications of electricity, and

(b) increased customer knowledge concerning the societal impacts of consumption. (Such knowledge may be the result of economically efficient energy prices or other means of communication when prices are of the "second best" nature.)

(3) "Energy efficiency" refers to a ratio of output to input; a ratio of 1 indicates the highest conceptual degree of efficiency. In terms of least cost resource planning, the output ultimately produced is an energy service; the generation, transmission, distribution and end-use conversion of electricity are intermediate steps in the production of the energy service. The input may be a fuel source such as coal, wind or moving water, which is converted to electricity. Energy efficiency encompasses the entire spectrum, from conversion of the fuel source to electricity, to the energy service finally consumed.

(4) "Societal cost" consists of all costs which are internal to the utility plus all external costs which are imposed on the global society.

(5) "External costs" or "externalities" are costs imposed on society, but which are not directly borne by the producer in production and delivery activities (e.g. as in the production and delivery of energy services). Due to imperfections in, or the absence of, markets, the producer's production and pricing decisions do not account for these costs.

(6) "Planning costs" are the costs of evaluating the future demand for energy services and of evaluating alternative methods of satisfying that demand. Planning costs include, but may not be limited to costs associated with:

(a) econometric and end-use forecasting,

(b) identification and evaluation of alternative demand and supply-side resource options,

(c) evaluation of externalities associated with alternative resources, and

(d) evaluation of resource portfolios to determine compatibility with these guidelines.

(7) "Portfolio development costs" are costs of preparing a resource in a portfolio for prompt and timely acquisition. Portfolio development costs include, but may not be limited to costs associated with:

(a) negotiating contracts with competitively acquired resources,

(b) acquiring and holding resource options, and

(c) developing and maintaining the capability to rapidly acquire demand-side resources. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule 1.

RULE III. ENVIRONMENTAL EXTERNALITIES (1) Externalities result in over consumption of goods and services and misallocation of society's resources. It is in society's interest to internalize external costs when the marginal benefits of continued efforts to do so are greater than the marginal costs. Utilities should address environmental externalities in their existing resource portfolios and in resource planning and acquisitions as follows.

(a) A range of environmental impact mitigation and control costs should be quantified. The value of unmitigated environmental impacts should be estimated using the best available methods for assessing environmental costs. Environmental externalities which are nonquantifiable should not be ignored; they should be incorporated using documented judgment in the multiple attribute evaluation;

(b) The uncertainty and risk associated with the cost of future environmental regulations which may be imposed on a utility should be assessed and incorporated into resource planning decisions;

(c) Uncertainty associated with the size and importance of environmental externalities should be incorporated into the risk assessment analysis;

(d) Existing and potential resources should be weighed and ranked, in part, on the basis of their environmental impacts. The utility should assign weights and ranks by drawing on the best available scientific and engineering methods, its own judgment and input from the public;

(e) The environmental externalities associated with all resource alternatives, including continued operation of existing resources, PURPA resources and resources identified through competitive solicitations, should be analyzed consistently. The type of analysis specified in the decision standards in the administrative rules of the Major Facility Siting Act may be used as a reference. See ARM 36.7.101 - 36.7.5502;

(f) In evaluating resource options utilities should recognize protected areas such as wildernesses, parks, the north-west power planning council's (NWPPC) designated "protected areas" (see protected areas and amendments and responses to comments; NWPPC issue paper 88-22) and any areas inhabited by protected wildlife;

(g) Utilities should recognize the positive externalities associated with resources that correct or reduce existing environmental damage to, for example, critical airsheds and superfund sites;

(h) Sensitivity analyses should be conducted to determine if more environmentally benign resource alternatives exist which can provide equivalent benefits at lower societal cost.

(2) The externalities associated with transmission facilities should be accounted for in the utilities' least cost plans. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

RULE IV. UNCERTAINTY AND RISK (1) Integrated least cost resource planning and resource acquisition requires evaluating uncertainty and managing risk associated with a utility's market characteristics and its alternatives for supplying energy services and products. In order to evaluate uncertainty and manage risk, utilities should determine the sources of risk using their own techniques and judgment. Sources of risk include, but may not be limited to:

- (a) resource lead-time,
- (b) water availability,
- (c) future load growth,
- (d) shortcomings of various forecasting methods,
- (e) performance and useful lives of existing resources,
- (f) cost and performance of future demand- and supply-side resources,
- (g) the rate of technological change,
- (h) future fuel availability and price,
- (i) the existence and social evaluation of environmental externalities, and
- (j) the future sociopolitical and regulatory environment.

(2) Utilities should consider risk management techniques when evaluating and acquiring resources. Planning techniques that manage the risk associated with the above sources include, but may not be limited to:

- (a) assessing the risk of resource alternatives,
- (b) developing resource options which increase scheduling flexibility,
- (c) developing small, short lead-time resources which better match loads with resources and reduce the amount of, and period over which, capital must be invested to meet future load growth,
- (d) diversifying the resource portfolio to allow adaptation to a range of future outcomes,
- (e) managing loads to increase utility control over resource requirements,
- (f) encouraging the acquisition of resources through competitive processes,
- (g) incorporating consumer response to rate design into forecasting models,
- (h) providing for public involvement and education in resource decisions, and
- (i) maintaining a transparent integrated least cost resource planning and acquisition process (i.e., one which produces resource plans that can be reasonably understood by the public and the commission.) AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

RULE V. INITIAL RESOURCE SCREENING (1) A critical component of integrated least cost resource planning and acquisition is the initial screening of demand- and supply-side resource alternatives. This involves weighing, ranking, sizing, evaluating and selecting the individual resources which will

eventually form the resource plan. Utilities should use the best scientific and engineering methods available, their own judgment and public comment to weigh and rank the operation of existing resources and the acquisition of new resources based on consideration of multiple resource attributes. Resource attributes are variables that may affect (positively and negatively) the cost society incurs when the resource is acquired and allocated to the production of energy services. Some attributes may be accounted for in internal costs; others may represent externalities. Since efficient resource acquisition requires information about the societal resource cost, and since the societal resource cost will be a major determinant of a resource's initial suitability as a least cost resource, it is imperative that utilities ensure that the cost assigned to each resource reflects all relevant attributes. Attributes that may influence the societal cost of a resource include, but may not be limited to:

- (a) environmental externalities,
- (b) the overall efficiency with which the resource produces energy services,
- (c) administrative costs of acquisition programs,
- (d) the cost effectiveness of the resource, determined in the context of the utility system,
- (e) risk and uncertainty,
- (f) reliability, and
- (g) associated transmission costs. (The transmission costs, positive and negative, associated with the resource should be imputed based on relevant long run avoidable costs. The imputed costs should, to the extent possible, reflect the opportunity cost value of new or existing transmission capacity that would be consumed by the resource if that resource were acquired. This value should be added to the price of the resource.)

(2) Demand-side resources should be sized and evaluated consistent with the following guidelines.

(a) The impact of price-induced conservation, (i.e., conservation undertaken by customers in the absence of utility sponsored programs) should be accounted for either in the load forecast or as part of the total available resource. In designing programs to acquire cost effective resources a utility should estimate and pay the price necessary to achieve the resource at the time of acquisition, which may be less than the cost effective level due to customer or other contributions.

(b) The revenue impacts of decreased sales resulting from the implementation of demand-side resources should not be added to the cost of the resources acquired through such programs.

(c) A non-participant (no-losers) test considers utility-sponsored programs cost effective only if rates to customers that do not participate in the program are not affected by the program. A non-participant test should not be applied to demand-side resources just as it is not applied to any other resource choice. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-

3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

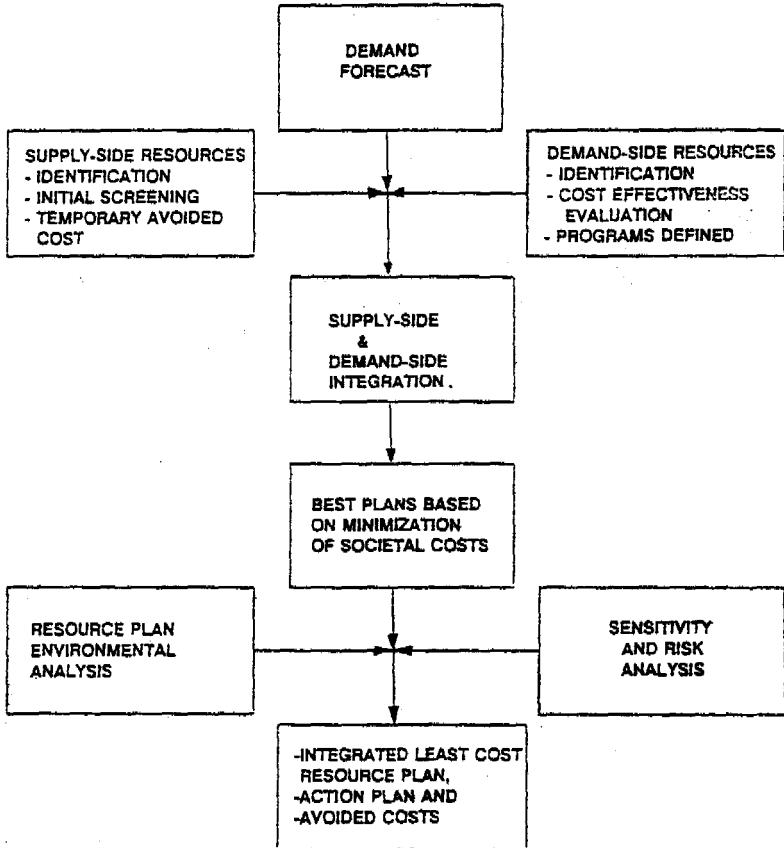
RULE VI. OPTIMIZATION OF SUPPLY AND DEMAND-SIDE RESOURCES (1) Utilities should optimize demand- and supply-side resources by applying process planning cycles such as those illustrated in Figure 1 below.

(2) The optimization process should extend to the utility's reserve requirement. Regardless of participation in reserve margin pooling groups, utilities should analyze their reserve margins as part of their least cost planning efforts.

(3) The utility's application of the process planning cycles should be thoroughly documented so that it can be reasonably understood by groups contributing to it, as well as by the commission and interested persons.

(4) Each utility should maintain a broad-based advisory body (e.g., customers and public interest organizations) to review, evaluate and recommend modifications to planning processes, resource plans, resource acquisition processes and efficiency programs. Maintaining an effective advisory body may require the utility to provide funding for member technical support. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

FIGURE 1
LEAST COST PLANNING OPTIMIZATION PROCESS EXAMPLE



RULE VII. LEAST COST RESOURCE PLANS (1) Plans which are consistent with the overall goal and definition of integrated least cost resource planning and acquisition will not concentrate solely on minimizing dollar costs, but will also consider the impacts on society and the environment over the long-term. Least cost resource plans should seek to provide the best balance of the following non-all-inclusive list of objectives:

(a) minimize the societal cost of producing energy services,

(b) minimize the costs of risk not incorporated into the formal cost analysis,

(c) minimize the environmental and other external costs not incorporated into the formal cost analysis,

(d) maintain economical levels of service reliability which incorporate consideration of customers' value of service reliability, and

(e) distribute costs and benefits in an equitable manner. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

RULE VIII. RATE DESIGN (1) Rate design is a key element in the integrated least cost planning process. A long-term resource planning process that is consistent with the guidelines will:

(a) explicitly recognize and utilize the ability of rate design to yield demand-side resources. (Although rate designs will be determined in contested case proceedings, on-going integrated least cost planning encompasses such proceedings. Therefore, utilities should keep resource planning in mind when proposing rate designs.);

(b) ensure that, to the extent possible, the goals and objectives of all rate design efforts are consistent with the goal and definition of integrated least cost planning, while recognizing other rate design objectives such as rate stability. (In considering rate design as it relates to integrated least cost resource planning and acquisition, the influence of externalities should be incorporated into prices proposed in rate case proceedings. Total marginal cost of service derived in rate case proceedings should reflect total societal cost as described in these guidelines.)

(2) If a utility is faced with the potential loss of a large industrial load and is considering a request for a retention rate, it should use least cost planning methodologies and tools to evaluate the impacts of retaining or losing the load and to consider alternatives such as efficiency improvements and pricing alternatives. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

any utility program encompassed by the least cost planning process.

(d) Resources identified through competitive solicitations should be evaluated with respect to the planning principles outlined in the guidelines.

(e) An all-source solicitation means requests for proposals are issued to the broadest practical group of potential demand- and supply-side resource providers, including, but not limited to: PURPA qualifying facilities (QFs), nonutility independent power producers, publicly- and investor-owned utilities, power marketing agencies, international suppliers, and organizations capable of providing demand-side resources, including efficiency improvements to the utility's system. Further, an all-source solicitation should also place utility resources selected in the least cost planning process in competition with solicited resources.

(f) The competitive solicitation and acquisition process should deter "cream skimming" on the part of bidders. Bid proposals which involve demand-side resources should not be allowed to develop only the least expensive and most readily obtainable resource potential while stranding other measures which would be cost effective only if acquired in conjunction with those higher return resources. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

RULE XI. REGULATORY AND MARKET BARRIERS TO INTEGRATED LEAST COST PLANNING AND ACQUISITION OF DEMAND-SIDE RESOURCES

(1) Integrated least cost resource planning and acquisition is an on-going process that may be continually refined and improved. Utilities should continually assess existing barriers which could impede and incentives which could encourage efforts to engage in integrated least cost planning and resource acquisition. These efforts should be thoroughly documented to facilitate efforts to remove the barriers and integrate the incentives.

(2) Utility directed demand-side programs should be focused on specific sectors where market barriers or other market failures prevent demand-side resources from being effectively and efficiently developed. Marginal investment in conservation on the customer's side of the meter should be considered cost effective up to 115 percent of the utility's long-term avoided costs. To be consistent with the guidelines, the long-term avoided cost calculation used for this cost effectiveness evaluation should be based on a resource supply curve that has been adjusted according to the provisions of rule V of these guidelines.

(3) Except when the entire resource would be lost as a result, utility directed demand-side programs should not be focused on "cream skimming." The least expensive and most readily obtainable resource potential should only be acquired if other measures, which would be cost effective only if they are acquired in conjunction with those higher return resources, are also acquired.

(4) The commission realizes that the concept of least cost planning embraced by these guidelines involves a certain amount of utility investment which may never be attributable to a particular resource acquisition. This investment is needed if the least cost planning process is to function properly. No guarantee can be given that utilities will recover all costs put under the heading of "planning costs" or "portfolio development costs." However, rate recovery of planning and portfolio development costs will be allowed if, upon commission review, the utility's investment in planning and portfolio development is found to be reasonable. AUTH: Sec. 69-3-103; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

RULE XII. SUBMITTING LEAST COST PLANS (1) Utilities shall file least cost plans with the commission on a two year cycle. In the intermediate year the utility should file any necessary updates to the plan filed the previous year. Montana power company should file its first plan on March 15, 1993 and on March 15 of each odd year thereafter. Montana-dakota utilities should file its first plan on September 15, 1993 and on September 15 of each odd year thereafter. Pacific power and light company should file its first plan on May 15, 1994 and on May 15 of each even year thereafter. All other electric utilities should file plans by March 15, 1994. Utility least cost plans and updates should be mailed to each person indicated on a service list to be compiled by the commission. In addition, utilities should make their plans available for public inspection at utility offices designated as follows: Montana power company - Butte, Missoula, Helena, Bozeman, Great Falls, Billings, Havre, Glasgow, Lewistown and Hamilton; Pacific power & light company - Kalispell and Libby; Montana-dakota utilities company - Glendive, Miles City and Billings. Utilities should also make their plans available for public inspection at each county library and each university, college, and junior college library in their Montana service territories.

(2) Persons wanting to comment in writing on a plan must do so within 30 days following the submission of the plan. Comments must be served on the commission, Montana consumer council, department of natural resources and conservation and on the utility. Opportunity to comment orally on a plan may be provided through informal hearings that will take place no later than 60 days following the close of the written comment period. Based on its review of the plan and consideration of the comments of others, the commission may issue a general statement indicating whether the plan conforms to the guidelines. A plan which conforms to the guidelines will not bind the commission in its review of utility resource plans in conjunction with a rate case nor will it bind the commission for purposes of setting rates. If a utility files a rate case in the same year as it is required to file a least cost plan, the least cost plan shall be the resource plan upon which the marginal cost of service and rate design studies are based. If a

utility files a rate case in an intermediate year, the least cost plan from the previous year, updated as necessary, shall be the resource plan upon which the marginal cost of service and rate design studies are based.

(3) Along with the least cost plan, each utility shall submit an action plan which illustrates how the plan will be implemented over the near-term under various load and resource scenarios.

(4) The forecasting process must be documented and reasonably understandable to the public and the commission. Although the commission may determine that a least cost plan conforms to these guidelines, it may not endorse the forecasting methods used by the utility or the results of the forecast; the commission will not transfer any risk associated with incorrect forecasts to ratepayers.

(5) At the request of an electric utility, and for good cause shown, the commission may waive the requirement to file a least cost plan. AUTH: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102, 69-3-106(1) and 69-3-201, MCA, and Commission policy adopted and described herein at Rule I.

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

38.5.1902 GENERAL PROVISIONS (1) through (4) Remain the same.

(5) All purchases and sales of electric power between a utility and a qualifying facility shall be accomplished according to the terms of a written contract between the parties or in accordance with the standard tariff provisions as approved by the commission. A long-term contract for purchases and sales of energy and capacity between a utility and a qualifying facility greater than 2 MW in size shall be contingent upon selection of the qualifying facility by a utility through an all-source competitive solicitation conducted in accordance with the provisions of ARM (Rules I-XII). Between competitive solicitations, purchases and sales of energy and capacity between a utility and a qualifying facility greater than 2 MW in size shall be accomplished in accordance with the short-term standard avoided cost tariff approved by the commission or through negotiation of a short-term written contract. The utility shall recompute the short-term standard tariffed avoided cost rates after each least cost plan filing, ARM (Rules I-XII). If the qualifying facility is not selected, or did not participate, in a competitive solicitation, purchases and sales of energy and capacity shall continue only according to the terms of a newly negotiated short-term written contract or in accordance with the newly computed, short-term standard tariffed avoided cost rates. Long-term contracts for purchases and sales of energy and capacity between a utility and a qualifying facility 2 MW or less may be accomplished according to standard tariffed rates as approved by the commission. The contract shall specify:

(a) through (j) Remain the same.

(6) All purchases and sales of electric power between a utility and a qualifying facility shall be compatible with the

goal of the commission's integrated least cost resource planning and acquisition guidelines, ARM (Rules I-XII). AUTH: Sec. 69-3-103, MCA; IMP, 69-3-102, MCA

38.5.1905 RATES FOR PURCHASES (1) Each utility shall submit to the commission by November 1, 1981, and on June 1st every year thereafter within 30 days of the filing of its integrated least cost resource plan, or an update to that plan, as required by ARM (Rules I-XII), the following cost data for use by the commission in determining avoided costs and standard rates therefrom.

(a) Remains the same.

(b) The electric utility's integrated least cost resource plan, developed with reference to the commission's guidelines in ARM (Rules I-XII), for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding ten years; and

(c) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases and shall reflect the societal cost considerations defined in the commission's integrated least cost resource planning and acquisition guidelines, ARM (Rules I-XII).

(2) through (5) (d) Remain the same.

(e) The full range of resource attributes listed in the commission's integrated least cost resource planning and acquisition guidelines, ARM (Rules I-XII).

(6) and (7) Remain the same. AUTH: Sec. 69-3-103, MCA; IMP, 69-3-102, MCA

4. Rationale: These rules are proposed following a lengthy process whereby the Commission solicited written and oral comments from interested persons on electric utility least cost planning in Montana. Section 69-3-201, MCA, provides that the charge for reasonably adequate utility service must be reasonable and just. Included in a determination of a just and reasonable charge is an analysis of the planning process by which utilities acquire resources. A reasonable charge will reflect a reasonable planning process. When utilities engage in the planning process it is important that they know the considerations that the Commission deems important to such a process. These rules are necessary to implement Commission policy to promote integrated least cost planning. They require the filing of least cost plans and provide guidelines for the preparation of the plans. These rules also provide a mechanism for comment on the plans (by the Commission and other interested persons) in advance of the formal contested case procedures wherein the plans, or parts of the plans, are considered for reflection in rates.

The amendments to ARM 38.5.1902 and 38.5.1905 are necessary to conform them to the Commission's proposed rules estab-

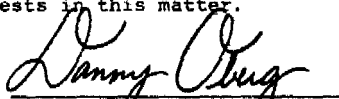
lishing policy guidelines on integrated least cost resource planning for electric utilities in Montana.

5. Interested parties may submit their data, views or arguments concerning the proposed adoption and amendment in writing to Robin A. McHugh, Public Service Commission, 1701 Prospect Avenue, Helena, Montana 59620-2601 no later than September 28, 1992. Persons submitting data, views or arguments should provide an original and nine (9) copies.

6. If a person who is directly affected by the proposed adoption and amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Robin A. McHugh, Public Service Commission, 1701 Prospect Avenue, Helena, Montana 59620-2601, no later than September 28, 1992.

7. If the agency receives requests for a public hearing on the proposed adoption and amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption and 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. Ten percent of those persons directly affected has been determined to be 30,000 based upon the number of electric ratepayers subject to the jurisdiction of the Montana Public Service Commission.

8. The Montana Consumer Counsel, 34 West Sixth Avenue, Helena, Montana, (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.


Danny Oberg, Chairman


Reviewed By

CERTIFIED TO THE SECRETARY OF STATE AUGUST 17, 1992.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

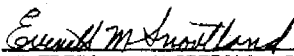
In the matter of the amendment)	NOTICE OF AMENDMENT
of existing rules pertaining)	OF ARM 4.5.109 AND
to the reporting procedures,)	4.5.112 PERTAINING
field evaluations and council)	TO THE REPORTING/MONITORING
appointments for the noxious)	PROCEDURES AND THE WEED
weed trust fund)	MANAGEMENT COUNCIL

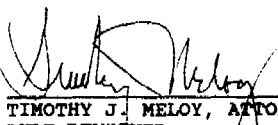
TO: All Interested Persons:

1. On July 16, 1992, the Department of Agriculture published a notice of a proposed amendment of existing rules pertaining to the reporting procedures, field evaluations and council appointments for the noxious weed trust fund, at page 1440 of the Montana Administrative Register, issue number 13.

2. The department received a total of 4 comments. Three were in support of the rules as proposed and the fourth was from the Administrative Code Committee correctly noting that the statutory section which 4.5.112 implements is 80-7-805 MCA, not 80-7-814 MCA.

3. As a result of the written comments received on the public record and the department's review of the comments and the proposed rules, the department has adopted the amendments as proposed.

BY: 
EVERETT M. SNORTLAND, DIRECTOR
DEPARTMENT OF AGRICULTURE


TIMOTHY J. MELOY, ATTORNEY
RULE REVIEWER
DEPARTMENT OF AGRICULTURE

Certified to the Secretary of State, August 17, 1992

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) CORRECTED NOTICE OF
of a rule pertaining to) 8.22.1802 REQUIREMENTS
requirements of licensee) OF LICENSEE

TO: All Interested Persons:

1. On May 28, 1992, the Board of Horse Racing published a notice of proposed amendment of the above-stated rule at page 1080, issue number 10, 1992 Montana Administrative Register and adopted the proposed amendment at page 1605, issue number 14, 1992 Montana Administrative Register.

2. Subsections (5) and (6) were previously deleted at page 315, issue number 4, 1992 Montana Administrative Register, therefore should not have been shown. The deletion of language in subsection (4) in issue 10 was adopted as proposed and is not affected by this corrected notice.

BOARD OF HORSE RACING
STEVE CHRISTIAN, CHAIRMAN

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 17, 1992.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the) NOTICE OF ADOPTION OF RULES
adoption of rules) PERTAINING TO BLOCK GRANT PAYMENT
pertaining to block) OF DAY CARE BENEFITS
grant payment of day)
care benefits.)

TO: All Interested Persons

1. On April 16, 1992, the Department of Family Services published notice of proposed adoption of Rule I [11.14.601], Rule II [11.14.602], Rule III [11.14.604], Rule IV [11.14.605], Rule V [11.14.607], Rule VI [11.14.608], Rule VII [11.14.609], Rule VIII [11.14.610], Rule IX [11.14.611] and Rule X [11.14.613] at page 751, issue number 7, of the 1992 Montana Administrative Register.

2. A public hearing was held on May 11, 1992, and was attended by department representatives, a representative from the Department of Social and Rehabilitation Services, and an individual appearing on behalf of a child care provider.

3. Rules V [11.14.607] through X [11.14.613] have been adopted as proposed. Rules I [11.14.601] through IV [11.14.605] have been adopted with the following changes from the text appearing in the notice of proposed adoption:

11.14.601 PURPOSE AND GENERAL LIMITATIONS (1) This subchapter of rules pertains to payment for child day care services provided to parents eligible for benefits funded under section 5082 of the Omnibus Reconciliation Act of 1990, Public Law 101-508, entitled "Child Care and Development Block Grant Act of 1990." These rules also pertain to subsequent re-funding of this program. In addition, this subchapter's requirements for certification and registration of legally unregistered providers under ARM 11.14.609, apply to all day care programs administered by the department where the department allows participation of legally unregistered providers.

Subsections (2) through (6) remain the same.

(7) Provision of benefits for child day care services under this subchapter, or under any other department day care program, shall not be deemed to obligate the department to pay employment-related benefits to day care providers.

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-704; 52-2-713, MCA.

11.14.602 DEFINITIONS Subsection (1) remains the same.

(2) A legally unregistered provider certified under this

subchapter, or under any day care program administered by the department allowing for participation of legally unregistered providers, may be a relative of the child, and may provide child day care in the home of the parents, notwithstanding the definition of supplemental parental care in ARM 11.14.102(5).

Subsections (3) through (6) remain the same.

(7) "Legally unregistered provider" means a person providing child day care under this subchapter, or under any day care program administered by the department allowing for legally unregistered providers, who is not required to be registered as a day care facility, including providers whose child day care services are provided in the home of the parent(s).

(8) "Monthly Income" means gross monthly income of the parent(s) residing with the child(ren) and the income of adults in the household who are included in the calculation of family size under this subchapter. The income of a parent not residing with the child(ren) shall be counted as monthly income under this subchapter only in cases where such parent's income is available to support the household of the child(ren). Any child support provided by a parent not residing with the child(ren) to the household of such child(ren) shall be counted as monthly income, and such child support shall be deemed to constitute the extent to which the non-residential parent's income is available to the household. The following will not be counted in determining gross monthly income:

- (a) Pell grants;
- (b) national merit scholarships;
- (c) Carl Perkins federal scholarships;
- (d) state student incentive grants;
- (e) national direct student loan program funds;
- (f) guaranteed student loan program, section 502 funds;
- (g) congressional teachers scholarships;
- (h) nursing student loans;
- (i) other needs-based scholarships;
- (j) earned income tax credit;
- (k) tribal per capita payments;
- (l) VISTA volunteer stipends;
- (m) work study grants for which no income is received (unless the work study recipient elects to count hours worked under the grant to meet the 15-hour-work-week requirement under ARM 11.14.604(1)). In such cases, the cash equivalent of the work study grant shall be counted as income;
- (n) independent living INC payments for youth; and
- (o) foster care support services.

Subsections (9) through (12) remain as proposed.

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-704; 52-2-713, MCA.

11.14.604 ELIGIBILITY OF PARENTS FOR PAYMENT (1) In addition to other requirements, to be eligible for payments under this subchapter, one parent (or other adult who is included in the calculation of family size) in the household

must be working at least 15 hours per week. The 15-hour-work-week requirement also applies to parents claiming payment under this subchapter for time spent at training, i.e., parents may receive benefits under this subchapter to cover child day care while at training only if a parent (or other adult who is included in the calculation of family size) in the household is employed a minimum of 15 hours per week. Hours worked under a work study grant shall be counted in meeting the 15-hour-work-week requirement if income is earned, or if the cash equivalent of benefits received is counted as income for purposes of computing the benefit amount under the sliding scale in ARM 11.14.605.

Subsections (2) through (6) remain as proposed.

(7) Parents receiving an AFDC grant are eligible for child day care under this subchapter only if all applicable requirements of this subchapter are met, and only after JOBS, self-initiated, or transitional day care benefits are found by the department to be unavailable. Any amount of an AFDC grant retained by the AFDC recipient eligible under this subchapter shall be counted as income in computing the benefits to be paid under ARM 11.14.605. However, such income may be used to fulfill the copayment requirements imposed under ARM 11.14.605.

Subsection (8) remains the same.

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-704; 52-2-713, MCA.

11.14.605 INCOME ELIGIBILITY AND COPAYMENTS Subsections (1) through (5) remain as proposed.

(6) Each family eligible under this subchapter may receive benefits covering hours/days of child day care for all eligible children in the household up to a maximum of two children. For purposes of calculating copayments only, a maximum of two children are counted as residing in the household.

Subsections (7) through (10) remain the same.

AUTH: Sec. 52-2-704, MCA. IMP: Sec. 52-2-704; 52-2-713, MCA.

3. The department has thoroughly considered all comments received:

COMMENT: Requirements for legally unregistered providers imposed through this rule-making on block grant benefits should apply to legally unregistered providers caring for children under other department programs, such as AFDC-related programs.

RESPONSE: The department agrees and has provided the requested amendment in this notice.

COMMENT: Employment of day care providers, especially in-home providers, may require payment of Social Security, payment of unemployment insurance, and withholding of taxes. Department rules should specify that the department is not responsible for

these expenses.

RESPONSE: The department agrees and has provided the requested amendment in this notice.

COMMENT: AFDC income disregard for income used to cover day care expenses should not be considered as a day care benefit program. Those eligible for AFDC income disregard should also be considered eligible for benefits under the block grant.

RESPONSE: Unlike the AFDC program which allows income used for certain expenditures to be disregarded for purposes of calculating the amount of an AFDC grant, these rules require consideration of income earned regardless of how such income is spent. However, the proposed rules failed to explain how the benefit of AFDC income disregard for child day care expenses would be considered and counted as income. In this notice, language has been added to Rule III [11.14.604], subsection (7), to clarify that AFDC benefits retained by AFDC recipients in work or training shall be counted as income. Except in regard to copayment amounts, receipt of benefits under the block grant by AFDC recipients will prevent AFDC recipients from claiming income disregard for services paid for by the benefits. No personal day care expenses exist when the department pays for such services. However, copayment amounts which may be required of AFDC recipients receiving block grant benefits may provide for a slight disregard of income under applicable rules and policy of the department of social and rehabilitation services.

COMMENT: The meaning of the phrase "legally unregistered providers must be registered" in Rule VI is not clear. If they are already legally unregistered, why must they be registered? Is "register" the correct term, or could a term such as enrolled be used in its place?

RESPONSE: Rule I [11.14.601] explains that there are two types of registration under the block grant rules. One meaning of "registration" is firmly embedded in DFS rules covering requirements for group and family day care homes. The other use of the term "registration" occurs in Federal block grant regulations. The regulations uniformly employ the term to denote enrollment of providers in the block grant benefits program. Rather than changing existing rules, the department has decided to use the term to describe both types of "registration". Readers of these rules may easily comprehend the context in which the term is used by noting whether it refers to legally unregistered providers, or to day care facilities operating as group and family day care homes. Legally unregistered providers are excluded by definition from rules covering registration requirements for group and family day care homes. Thus, where the term applies to legally unregistered providers, it means block grant registration under

Rule VII [11.14.609]. Where it is used in reference to requirements for licensing and registration of day care facilities, the department is referring to regulations covering registration for group and family day care homes in Title 11, Chapter 14, Subchapters 3 and 4 of the Administrative Rules of Montana.

COMMENT: If direct parental payment is made to AFDC recipients, there must be an absolute restriction on the payment. The restriction must mandate that the payment be used solely for day care expense.

RESPONSE: The rules as originally proposed, and as hereby adopted, provide that direct parental payment must be used to reimburse providers. See Rule IX [11.14.611]. Also in the original proposal, and adopted herein, is the statement that "[p]arents may be de-certified for benefits under this subchapter for failure to reimburse providers for child day care services the department has paid by direct payment to the parent(s)." Rule IX [11.14.611]. Thus, the rule already mandates payment to providers of funds received by direct parental payment.

COMMENT: Rule V [11.14.607], limits payment under this program to expenses for the care of a maximum of two children from each eligible family. Does the department intend to exclude payment of expenses for families with more than two children in care?

RESPONSE: The language of the rule has been clarified. The two child limit applies only to calculating maximum copayments of parents. Expenses of all eligible children in any eligible family may be covered.

COMMENT: Work study students should be allowed to count hours worked to meet the 15-hour-work-week requirement regardless of whether income is received.

RESPONSE: The department agrees and has amended the proposed rule in this notice to allow for such hours to count as long as the cash value of in-kind benefits are counted as income under the sliding scale.

DEPARTMENT OF FAMILY SERVICES


Tom Olsen, Director


John Melcher, Rule Reviewer

Certified to the Secretary of State, August 17, 1992.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION
of a New Rule concerning the	)	OF A NEW RULE
encroachment of mailboxes	)	AND THE AMENDMENT OF
and newspaper delivery boxes	)	RULE 18.7.105
on highway rights-of-way, and)	
amendment of Rule 18.7.105)	

TO: All Interested Persons.

1. On June 11, 1992, the Department of Transportation published notice of a proposed new rule pertaining to encroachments on highway rights-of-way, and a proposed amendment to Rule 18.7.105, at pages 1198-1201 of the Montana Administrative Register, issue number 11.

2. Only one comment was received. That comment, and the Department's response, will be set forth in a subsequent portion of this notice.

3. Rule 18.7.105 is amended as proposed.

4. The proposed new rule has been adopted with the following changes:

NEW RULE 1 (18.7.105A) MAILBOXES AND NEWSPAPER DELIVERY BOXES

- (1) Same as proposed rule.
- (2) Same as proposed rule.
 - (a) No mailbox will be permitted where access is obtained from the lanes or shoulders of limited access or controlled access facilities ~~a freeway~~ or where access is otherwise prohibited by law or regulation.
 - (b) - (e) Same as proposed rule.
 - (3) - (5) Same as proposed rule.

AUTH: Sec. 60-6-101, MCA; IMP: Sec. 60-6-101, MCA

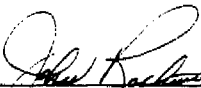
5. As was stated above, the Department received only one comment. That comment was from the Department itself and related to the proposed language of ARM 18.7.105A (2)(a).

COMMENT: The comment noted that the word "obtained" could be eliminated to more accurately reflect the intent of the proposed rule. Secondly, the word "freeway" is not defined, while the terms "limited access or controlled access facilities" have a specific meaning within this context.

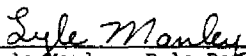
RESPONSE: The Department agrees with the comment, and has amended the proposed rule as set forth above.

6. As was stated in the June 11 notice, the primary purpose of the new rule is to strike a balance between the need for mail deliveries to be accomplished in an efficient manner and the need to protect the traveling public from unsafe encroachments upon the highway right-of-way. Because the

proposed rule accomplishes these purposes, the proposed rule and amendment are hereby adopted.



John Rothwell, Director
Department of Transportation



Lyle Manley, Rule Reviewer

Certified to the Secretary of State August 14, _____, 1992.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION OF
of rules pertaining to voting	)	NEW RULES I (44.3.1501)
by facsimile transmission for	)	through IX (44.3.1509) FOR
members of the United States	)	VOTING BY FACSIMILE
service.	)	TRANSMISSION FOR
	)	MEMBERS OF THE UNITED
	)	STATES SERVICE.

TO: All Interested Persons:

1. On July 16, 1992, the Secretary of State and the Election Advisory Council published notice of the proposed adoption of the rules for voting by facsimile transmission for members of the United States Service, at page 1461 of the Montana Administrative Register, issue no. 13.

The public hearing was held on August 5, 1992 at 10:00 a.m. in the conference room of the Secretary of State's office, Room 225 Capitol Building, Helena, Montana to consider the adoption of the above stated rules. No testimony was received at the hearing.

2. The Secretary of State and the Election Advisory Council adopted the rules as proposed.

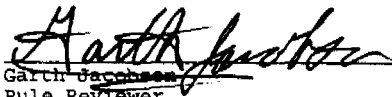
3. The Secretary of State and the Election Advisory Council has thoroughly considered all commentary received:

COMMENT: Legislative Council commented that the outlining form of the proposed rules was incorrect.

RESPONSE: The outlining form required by the Administrative Rules earmarks single paragraph rules; therefore earmarking remains as shown in the proposal.



MIKE COONEY
Secretary of State



Garth Jacobson
Rule Reviewer

Dated this 14th day of August, 1992.

16-8/27/92

Montana Administrative Register

BEFORE THE COMMISSIONER
OF POLITICAL PRACTICES
OF THE
STATE OF MONTANA

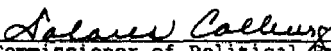
In the matter of the amendment	)	NOTICE OF AMENDMENT
of Rule 44.10.331 pertaining	)	OF ARM 44.10.331
to limitations on receipts)	
from political committees to)	
legislative candidates)	


TO: All Interested Persons.

1. On March 12, 1992, the Commissioner of Political Practices proposed to amend Rule 44.10.331 that pertains to limitations on receipts from political committees by legislative candidates at page 389 of The Montana Administrative Register, Issue Number 5.

2. The agency has adopted the amendment as proposed.

3. One comment was received from the Legislative Council pointing out that a sentence in the rationale spoke to a clarification that, in fact, was not required because it was not addressed in the proposed amendment. That sentence should have read as follows: The proposed amendment also is needed to clarify ~~that contribution limitations mean total monetary amounts exclusive of in-kind contributions and~~ that the limitations apply to the total campaign period embracing the 1992 elections. No other comments were received.


Commissioner of Political Practices
DOLORES COLBURG


Rule Reviewer
GARTH JACOBSON

Certified to the Secretary of State August 18, 1992.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of rules	)	RULES 46.12.801, 46.12.802
46.12.801, 46.12.802 and	)	AND 46.12.805 PERTAINING TO
46.12.805 pertaining to	)	DURABLE MEDICAL EQUIPMENT
durable medical equipment)	

1. On May 28, 1992, the Department of Social and Rehabilitation Services published notice of the proposed rules 46.12.801, 46.12.802 and 46.12.805 pertaining to durable medical equipment at page 1129 of the 1992 Montana Administrative Register, issue number 10.

2. The department has amended rules 46.12.801, 46.12.802 and 46.12.805 as proposed.

3. The department has thoroughly considered all commentary received:

COMMENT: Does the \$1,000 authorization limit apply per item or for the total amount of a claim? Many items have additional items needed to make them run or work.

RESPONSE: The authorization limit applies on a per line item basis.

COMMENT: The department should review multiple claims relating to the same device or equipment that have a total cost of \$1,000 or more when the provider lists components of the device or equipment as separate claims or line items so as to avoid the \$1,000 review requirement.

RESPONSE: The department does not have enough staff to review a large number of claims. The department is implementing the \$1,000 threshold for review because it is not efficient or cost effective to devote staff time to extensive reviews. The department considers the \$1,000 review limit per line item to be appropriate. While there may be circumstances where the threshold for review is evaded, the department does not believe that such evasions will warrant the attention of the limited staff resources which are available. The department retains the right to conduct post-payment reviews for medical necessity and other considerations.

COMMENT: Custom made shoes should be placed on a cost plus basis or some sort of limit should be placed on custom shoes.

RESPONSE: The department will take this issue under advisement for future consideration.

COMMENT: Does pre-authorization apply to rental items.

RESPONSE: Pre-authorization does not apply to rental items.

Dana Shin
Rule Reviewer

Julia E. Robinson
Director, Social and Rehabilitation Services

Certified to the Secretary of State August 17, 1992.

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, 1992. This table includes those rules adopted during the period July 1, 1992 through September 30, 1992 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, 1992, 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 1992 Montana Administrative Register.

ADMINISTRATION, Department of, Title 2

- 2.21.619 and other rules - Holidays, p. 351, 1004
- 2.21.803 and other rule - Sick Leave Fund, p. 353, 1005
- 2.21.908 and other rules - Disability and Maternity Leave - Sick Leave - Parental Leave for State Employees, p. 827
- 2.21.5007 Reduction in Work Force, p. 719
- 2.21.6607 and other rules - Record Keeping, p. 2516, 1232
(Public Employees' Retirement Board)
- 2.43.431 Purchase of Military Service in the Sheriffs' Retirement System, p. 466, 1132
(State Compensation Mutual Insurance Fund)
- I and other rules - Construction Industry Premium Credit Program - Classifications and Establishment of Premium Rates, p. 257, 907
- I-XVII Organization of the State Fund - Public Participation - Board Meetings - Establishment of Premium Rates, p. 2521, 300, 907

AGRICULTURE, Department of, Title 4

- 4.5.109 and other rule - Reporting Procedures - Field Evaluations - Council Appointments for the Noxious Weed Trust Fund, p. 1440

STATE AUDITOR, Title 6

- I-III Rules Implementing the Second Tier of the Limited Offering Exemption, p. 354, 1006

COMMERCE, Department of, Title 8

(Board of Alternative Health Care)

- I Licensing by Exam for Midwives, p. 1282

- I-IX New Rules Pertaining to the Practice of Alternative Health Care, p. 105, 555

(Board of Architects)

- 8.6.407 Examinations, p. 721, 1468

(Board of Chiropractors)

- 8.12.601 and other rules - Applications - Examination - Unprofessional Conduct - Definitions, p. 1542

(Board of Dentistry)

- 8.17.501 Fee Schedule, p. 725, 1469

- 8.17.808 and other rule - Prior Referral for Partial Dentures - Insert Immediate Dentures, p. 723, 1177

(Board of Hearing Aid Dispensers)

- 8.20.401 and other rules - Traineeship Requirements - Fees - Record Retention - Unethical Conduct - Complaints - Disciplinary Actions - Testing Procedures - Continuing Educational Requirements - Notification - Definitions - Forms of Bills of Sale - Contracts and Purchase Agreements - Inactive Status, p. 1284

(Board of Horse Racing)

- 8.22.601 and other rules - General Provisions - Racing Secretary - Veterinarians - General Requirements - General Rules - Duties of the Licensee - Breakage, Minus Pools and Commissions, p. 1077, 1605

- 8.22.710 and other rules - Trainers - General Requirements - Exacta Betting - Requirements of Licensee - Pick (N) Wagering, p. 1786, 315

(Board of Landscape Architects)

- 8.24.409 Fee Schedule, p. 265, 912

(Board of Medical Examiners)

- 8.28.402 and other rules - Definitions - Applications - Fees and Renewals - Reactivation of Inactive or Inactive Retired Licenses - Verifications - Fees, p. 356, 1607

(Board of Occupational Therapists)

- I Therapeutic Devices, p. 1, 1008

(Board of Outfitters)

- I Safety Provisions, p. 2539, 439

- 8.39.502 and other rules - Licensure Qualifications - Applications - Renewals - Transfer of License, p. 1292

(Board of Pharmacy)

- 8.40.404 and other rules - Fee Schedule - Wholesale Drug Distributors Licensing, p. 1178, 1754

- 8.40.404 and other rules - Fees - Pharmacy Technicians,
p. 267, 831, 1608
(Board of Physical Therapy Examiners)
I-III Use of Topical Medications, p. 174, 789
(Board of Private Security Patrol Officers and Investigators)
8.50.424 and other rules - Temporary Employment without
Identification - Type of Sidearm - Regulations of
Uniform, p. 178, 1236
(Board of Psychologists)
I-III Continuing Education Requirements, p. 2541, 558
(Board of Public Accountants)
8.54.402 and other rules - Examinations - Education
Requirements - Fees, p. 1184
8.54.904 and other rules - Reports - Alternatives and
Exemptions - Reviews and Enforcement, p. 1191
(Board of Radiologic Technologists)
8.56.608 Renewals, p. 180, 792
(Board of Real Estate Appraisers)
8.57.406 and other rules - Course Requirements - Fees -
Complaint Process - Reciprocity - License and
Certificate Upgrade and Downgrade, p. 1082, 1612
(Board of Realty Regulation)
8.58.406A Application for License - Salesperson and Broker,
p. 1545
(Board of Respiratory Care Practitioners)
I-XXII Respiratory Care Practitioners, p. 272, 813
(Board of Sanitarians)
8.60.406 and other rules - Employment Responsibilities -
Registration Certificates - Renewals and Fees -
Continuing Education - Sanitarian-In-Training -
Environmental Sanitation, p. 360, 1613
(Board of Speech-Language Pathologists and Audiologists)
8.62.402 and other rules - Definitions - Supervisor
Responsibility - Schedule of Supervision - Non-
Allowable Functions of Speech Aides - Functions of
Audiology Aides, p. 1295
(Board of Passenger Tramway Safety)
8.63.501 and other rule - ANSI Standard - Fee and Assessment
Schedule, p. 577
8.63.519 Fee and Assessment Schedule, p. 182, 793
(Building Codes Bureau)
8.70.101 and other rules - Incorporation by Reference of Codes
and Standards, p. 111, 1133, 1351
(Financial Division)
8.80.307 Dollar Amounts to Which Consumer Loan Rates Are to be
Applied, p. 968, 1353
(Board of Milk Control)
8.86.301 Pricing Rules - Class I Wholesale Prices, p. 1194
8.86.301 and other rules - Class I Wholesale Prices - Quota
Rules, p. 3, 563

(Board of County Printing)

- 8.91.101 and other rule - Organization of the Board - Official Publications and Legal Advertising, p. 184, 1012

(Local Government Assistance Division)

- I Administration of the 1992 Federal Community Development Block Grant Program, p. 14, 440
8.94.4001 and other rules - Implementation of the State Single Audit Act - Criteria for the Selection of an Independent Accountant/Auditor - Criteria for Executing a Contract with an Independent Accountant/Auditor - Audit and Reporting Standards, p. 727, 1354

(Board of Investments)

- 8.97.1410 and other rules - Commercial and Multi-Family Loan Programs - General Requirements - Terms and Loan Limits - Offering Checklist - Investment Policy, Criteria and Preferences Interest - Incentive to Financial Institution for Small Business Loan Participation, p. 2546, 1014, 1470

I-XXI

- and other rules - Municipal Finance Consolidation Act - Rules Implementing the INTERCAP Program, p. 1715

(Montana Board of Science and Technology Development)

- 8.122.604 Application Procedures for a Seed Capital Technology Loan - Board Action, p. 119, 918

EDUCATION, Title 10

(Superintendent of Public Instruction)

- 10.10.301 and other rules - Regular and Special Education Tuition, p. 832, 1365
10.10.301 and other rules - Special Accounting Practices, p. 2334, 209, 1238
10.16.1108 and other rules - Special Education Complaint Procedures, p. 1442
10.16.1705 Supervisors of Special Education Teachers, p. 1970, 2550, 1360
10.20.202 Foundation Payments, p. 1447
10.22.104 Spending and Reserve Limits, p. 1449
10.44.102 and other rules - Vo-Ed Weighted Cost Funding, p. 970, 1756
10.44.201 and other rules - Secondary Vocational Education Program Requirements, p. 1725

(Board of Public Education)

- 10.51.104 and other rule - Responsibility Assigned by Statute - Board Staff, p. 1451
10.55.601 Accreditation Standards: Procedures, p. 839, 1471
10.55.703 and other rules - Certification and Duties of Building Level Administrators - Administrative Personnel, p. 280, 1137
10.56.101 Student Assessment, p. 975, 1472
10.57.102 and other rules - Teacher Certification - Renewal Requirements, p. 2194, 230, 794

- 10.57.208 and other rules - Teacher Certification - Recency of Credit - Reinstatement, p. 2381, 795
- 10.57.210 Teacher Certification - Health Examination, p. 838, 1473
- 10.57.405 Class 5 Provisional Certificate, p. 846, 1474
- 10.58.528 Endorsement of Computer Science Teachers, p. 840, 1475
- 10.66.201 and other rules - External Diploma Program - Operations - Eligibility - Enrollment - Records - Non-Completion of Program - Annual Report, p. 842, 1476
- 10.67.102 Withholding of Funds for Non-accredited Status, p. 364, 1142

FAMILY SERVICES, Department of, Title 11

- I-X Block Grant Payment of Day Care Benefits, p. 751
- 11.2.212 Fair Hearings, p. 739, 1366
- 11.12.606 and other rule - Preschoolers in Foster Care - Day Care Benefits, p. 744, 1367
- 11.14.324 and other rule - Overlap Day Care Requirements, p. 285, 798
- 11.16.170 Adult Foster Care, p. 288, 800
- 11.18.107 and other rules - Licensing of Community Homes for the Developmentally and Physically Disabled, p. 741, 1197

FISH, WILDLIFE, AND PARKS, Department of, Title 12

- I-VI Shooting Range Development Grants, p. 290, 1143
- 12.6.901 Water Safety Regulations - Clearwater River, p. 1727
- 12.6.904 Emergency Amendment - Closing Flint Creek Below the Dam, p. 1757
- 12.6.1502 and other rules - Game Farms, p. 367, 1017

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

- I Categorical Exclusion from EIS Requirements for State Revolving Fund Loan Assistance for Wastewater Systems, p. 468, 1239
- I-VI Minimum Standards for On-Site Subsurface Wastewater Treatment, p. 513
- 16.8.1304 and other rules - Air Quality - Major Open Burning Source Restrictions - Air Quality Permit Application/Operation Fee Assessment Appeal Procedures - Air Quality Open Burning Fees, p. 1300, 1453
- 16.8.1307 and other rules - Air Quality - Open Burning Permit Fees for Conditional and Emergency Open Burning Permits, p. 1732
- 16.8.1903 Air Quality - Permit Fees, p. 1730

- 16.14.201 and other rules - Solid and Hazardous Waste - Junk Vehicles, p. 762, 1370
- 16.16.101 and other rules - Subdivision Review and Fees - Fee Requirements for Subdivision Applications, p. 1556
- 16.20.401 and other rules - Plan and Specification Review for Small Water and Sewer Systems and Review Fees - Drilling of Water Wells, p. 505
- 16.20.602 and other rules - Surface Water Quality Standards - Nondegradation Policy, p. 501
- 16.20.1303 and other rules - Montana Pollutant Discharge Elimination Systems and Pretreatment Rules, p. 471, 1241
- 16.24.101 and other rules - Handicapped Children - Eligibility for the Children's Special Health Services Program - Payment for Services - Covered Conditions - Record-keeping - Application Procedure - Advisory Committee - Fair Hearings, p. 378, 919
- 16.24.410 Setting Day Care Center Requirements for Care of Children Under Age Two, p. 121, 444
- 16.28.1005 Tuberculosis Control Requirements for Employees of Schools and Day Care Facilities, p. 1303
- 16.44.102 and other rules - Solid and Hazardous Waste - Wood Preserving Operations, p. 1547
- 16.44.102 and other rules - Solid and Hazardous Waste - Boiler and Industrial Furnace (BIF) Regulations, p. 2567, 445
- 16.44.202 and other rules - Hazardous Waste - Definitions Related to Hazardous Waste Regulation - Requirements for Counting Hazardous Wastes - Issuance and Effective Date of Permits, p. 1736

TRANSPORTATION. Department of. Title 18

- 18.7.105 and other rule - Encroachment of Mailboxes and Newspaper Delivery Boxes on Highway Rights-of-Way, p. 1198

CORRECTIONS AND HUMAN SERVICES. Department of. Title 20

- 20.3.202 and other rules - Definitions - Organization and Management - Personnel - Staff Development and Certification - Seven Treatment Component Requirements, p. 849, 1477
- 20.7.201 and other rules - Resident Reimbursement at Community Correctional Centers, p. 1454
- 20.7.1101 Conditions on Probation and Parole, p. 977, 1482
- 20.14.302 and other rules - Application for Voluntary Admissions to the Montana State Hospital, p. 979, 1483
- 20.14.501 and other rules - Certification of Mental Health Professional Persons, p. 865, 1485

JUSTICE, Department of, Title 23

- I-II Peace Officer Standards and Training - Public Safety Communications Officers, p. 1086
- 1.3.206 and other rules - Amendment of Model Rules and Forms Attached to the Model Rules, p. 770, 1242
- 23.7.105 and other rule - Adoption of the Uniform Fire Code, International Conference of Building Officials - 1991 Edition of the UFC Standards, p. 1202, 1759
- 23.14.101 and other rules - Montana Board of Crime Control Grant Procedures, p. 16, 567
- 23.14.402 and other rules - Peace Officers Standards and Training, p. 22, 802
- 23.17.314 Physical Performance Requirements for the Basic Course, p. 1457

LABOR AND INDUSTRY, Department of, Title 24

- (Office of the Workers' Compensation Judge)
- 24.5.303 and other rules - Procedural Rules of the Court - Service - Joining Third Parties - Subpoena - Findings of Fact and Conclusions of Law and Briefs - Attorney Fees - Petition for New Trial and/or Request for Amendment to Findings of Fact and Conclusions of Law - Certification of Decisions, Appeals to Supreme Court - Writ of Execution - Stay of Judgement Pending Appeal, p. 186, 922
- 24.5.316 and other rules - Procedural Rules - Motions - Interrogatories, p. 387, 921
- (Human Rights Commission)
- 24.11.333 and other rules - Unemployment Insurance, p. 25, 803
- 24.11.475 Unemployment Insurance - Approval of Training, p. 1570
- 24.11.814 and other rule - What is Classified as Wages for Purposes of Workers' Compensation and Unemployment Insurance, p. 1577
- 24.16.9007 Prevailing Wage Rates - Building Construction, p. 873
- 24.29.706 Exclusions from the Definitions of Employment in the Unemployment Insurance and Workers' Compensation Acts, p. 1573

STATE LANDS, Department of, Title 26

- I-XIV and other rule - Recreational Access Program for State Lands - Weeds, Pests, and Fire Protection on State Lands, p. 1986, 568

NATURAL RESOURCES AND CONSERVATION. Department of. Title 36

- 36.12.101 and other rules - Definitions - Forms - Application Special Fees, p. 874, 1615
- 36.12.1010 and other rule - Definitions - Rejection, Modification or Conditioning Permit Applications in the Musselshell River, p. 519, 1396
(Board of Oil and Gas Conservation)
- I-XVII Underground Injection Control Program for Class II Injection Wells Under the Federal Safe Drinking Water Act (SDWA), p. 521
- 36.22.302 and other rules - Issuance of Oil and Gas Drilling Permits - Drilling Procedures - Horizontal Wells - Drilling and Production Waste Disposal Practices - Filing of Reports, Logs and Other Information - Blow-out Prevention and Safety Requirements - Hydrogen Sulfide Gas Reporting Requirements - Other Environmental Requirements, p. 2386, 654, 806

PUBLIC SERVICE REGULATION. Department of. Title 38

- I Pictorial Information Requirements, p. 296, 1760
- I-XI Rate Filings for Electric, Gas, Water and Sewer Rates, p. 2004, 319
- 38.5.2405 Average Costs and Permissible Utility Charges to Accommodate House and Structure Moves, p. 294, 924
- 38.5.3345 Change In Customer's Interexchange Carriers - Deferring of Implementation Until January 1, 1993, p. 298, 1400

REVENUE. Department of. Title 42

- I Delinquent Tax Accounts and Non-Collection Actions, p. 532, 1243
- I Imposition of Generation-Skipping Transfer Tax, p. 535, 1246
- I-II Liquor Licenses, p. 778
- I-II and other rules - Liquor Licenses, p. 537, 1244
- I-IV Recycled Material as it Applies to Income Tax, p. 783
- I-V Forest Land Property Taxes, p. 1227
- 42.2.201 Taxpayer or Licensee Lists, p. 1460
- 42.12.122 and other rules - Suitability of a Premises for Liquor Licenses, p. 544
- 42.14.102 Accommodations Tax, p. 1739
- 42.15.116 Net Operating Loss Computations, p. 775, 1245
- 42.18.105 and other rules - Montana Appraisal Plan for Residential and Commercial Property, p. 1221
- 42.20.423 and other rules - Sales Assessment Ratio Study Rules for 1992, p. 123, 925
- 42.20.454 Market Value for Property, p. 1207, 1763
- 42.23.211 and other rules - Corporation License Tax Division, p. 1209, 1764

- 42.24.102 and other rules - Subchapter S, p. 1741
- 42.31.101 and other rules - Commercial Activities for Cigarettes and Tobacco Products for the Income and Miscellaneous Tax Division, p. 2583, 668
- 42.31.110 and other rules - Untaxed Cigarettes Under Tribal Agreements, p. 1217
- 42.32.104 and other rules - Resource Indemnity Trust Taxes, p. 1203, 1766
- 42.38.101 and other rules - Abandoned Property, p. 1744

SECRETARY OF STATE. Title 44

- I-IX Voting by Facsimile Transmission for Members of the United States Military Service, p. 1461
(Commissioner of Political Practices)
- 44.10.331 Limitations on Receipts for Political Committees to Legislative Candidates, p. 389

SOCIAL AND REHABILITATION SERVICES. Department of. Title 46

- I At-Risk Child Care Program, p. 1089, 1767
- I-VII and other rules - Targeted Case Management for Children and Adolescents, p. 548, 1248
- I-VIII Passport to Health Program, p. 998, 1231
- I-XIII Developmental Disabilities Entry Procedures, p. 1473, 266
- I-XL Medicaid Home and Community Services for Persons Who are Developmentally Disabled, p. 880, 1490
- 46.2.201 and other rules - Hearing Procedures for Medicaid Providers, p. 1094, 1496
- 46.6.102 and other rules - Vocational Rehabilitation - Extended Employment and Independent Living Programs, p. 1306
- 46.10.105 and other rules - Aid to Families with Dependent Children Disqualification for Fraud, p. 1464
- 46.10.302 Aid to Families with Dependent Children Provision for Living with a Specified Relative, p. 899, 1247
- 46.10.403 AFDC Standards of Assistance, p. 985, 1494
- 46.10.409 Transitional Child Care, p. 1750
- 46.10.409 Transitional Child Care, p. 400, 933
- 46.10.510 Excluded Earned Income, p. 391, 934
- 46.10.803 and other rules - Alternative Work Experience Program, p. 396, 935
- 46.10.823 Self-Initiated Services, p. 2256, 322
- 46.12.501 and other rule - Exclusion of Medicaid Coverage of Infertility Treatment Services, p. 982, 1105, 1401
- 46.12.515 and other rule - Medicaid Coverage of Respiratory Care - Chemical Dependency and Chiropractic Services for Children in Kids/Count/Early and Periodic Screening Diagnosis and Treatment (EPSDT) Program, p. 902, 1402
- 46.12.570 and other rules - Medicaid Payments to Mental Health Centers, p. 991, 1404

- 46.12.801 and other rules - Durable Medical Equipment, p. 1129
- 46.12.1222 and other rules - Medicaid Nursing Facility Reimbursement, p. 1106, 1617
- 46.12.1607 Medicaid Reimbursement to Rural Health Clinics, p. 394, 937
- 46.12.3803 Medically Needy Income Standards, p. 905, 1256, 1405
- 46.12.4008 and other rule - Post-Eligibility Application of Patient Income to Cost of Care, p. 191, 673
- 46.12.4101 Qualified Medicare Beneficiaries, p. 194, 674
- 46.13.201 and other rules - Low Income Energy Assistance Program, p. 1580
- 46.15.102 and other rule - Refugee Assistance, p. 196, 675
- 46.25.727 and other rule - General Relief Assistance - General Relief Medical, p. 896, 1407
- 46.25.742 Eligibility Requirements for General Relief Medical, p. 787, 1257
- 46.30.1501 and other rules - Child Support, p. 403, 1648

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, 1992, are published. Vacancies scheduled to appear from September 1, 1992, through November 30, 1992, 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 5, 1992.

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, 1992			Appointment/End Date
Appointee	Appointed by	Succeeds	
Aging Advisory Council (Governor)			
Father Carl Erickson	Governor	reappointed	7/18/1992
Fort Benton			7/18/1995
Qualifications (if required):	representative of Region III		
Mr. R.H. (Buff) Hultman	Governor	reappointed	7/18/1992
Drummond			7/18/1995
Qualifications (if required):	representative of Region V		
Ms. Dorothea C. Neath	Governor	Rehbein	7/18/1992
Helena			0/0/0
Qualifications (if required):	none specified		
Ms. Fern Prather	Governor	Aber	7/18/1992
Big Timber			7/18/1995
Qualifications (if required):	representative from Region II		
Ms. Ena D. Simpson	Governor	reappointed	7/18/1992
Polson			7/18/1995
Qualifications (if required):	representative of Region VI		
Agricultural Development Council (Agriculture)			
Mr. P.L. "Joe" Boyd	Governor	Witte	7/1/1992
Billings			7/1/1995
Qualifications (if required):	active in agriculture		
Mr. Larry Johnson	Governor	reappointed	7/1/1992
Kremlin			7/1/1995
Qualifications (if required):	active in agriculture		
Mr. Charles A. Brooke	Governor	reappointed	7/1/1992
Helena			7/1/1995
Qualifications (if required):	Director of Department of Commerce		

BOARD AND COUNCIL APPOINTEES: JULY, 1992

Appointee	Appointed by	Succeeded	Appointment/End Date
Alfalfa Leaf Cutting Bee Advisory Council (Agriculture)			
Dr. Gary Jensen	Governor	reappointed	7/1/1992
Bozeman			7/1/1995
Qualifications (if required):	representative of MT cooperative Extension Service		
Mr. Allen Whitmer	Governor	reappointed	7/1/1992
Bloomfield			7/1/1995
Qualifications (if required):	representative of a seed association		
Board of Architects (Commerce)			
Ms. Shirley Pappin	Governor	reappointed	7/1/1992
Great Falls			7/1/1995
Qualifications (if required):	public member		
Board of Banking (Commerce)			
Mr. Lynn D. Grobel	Governor	reappointed	7/1/1992
Glasgow			7/1/1995
Qualifications (if required):	officer at National Bank		
Mr. Gary Rebal	Governor	Kolstad	7/1/1992
Great Falls			7/1/1995
Qualifications (if required):	public member		
Board of Barbers (Commerce)			
Ms. Donna Elaine Buska	Governor	reappointed	7/1/1992
Billings			7/1/1995
Qualifications (if required):	licensed barber		
Board of Cosmetologists (Commerce)			
Ms. Mary Brown	Governor	reappointed	7/1/1992
Helena			7/1/1996
Qualifications (if required):	licensed cosmetologist		

BOARD AND COUNCIL APPOINTEES: JULY, 1992

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Health and Environmental Sciences Ms. Verna Green Helena Qualifications (if required): public member	Governor	(Health and Environmental Sciences) Simpson	7/28/1992 1/1/1993
Dr. Raymond W. Gustafson Conrad Qualifications (if required): none specified	Governor	Simpson	7/28/1992 0/0/0
Board of Hearing Aid Dispensers Ms. Patricia Ingalls Butte Qualifications (if required): hearing aid dispenser	(Commerce) Governor	reappointed	7/1/1992 7/1/1995
Board of Landscape Architects Mr. Ted Wirth Billings Qualifications (if required): licensed landscape architect	(Commerce) Governor	Fischer	7/1/1992 7/1/1996
Board of Morticians (Commerce) Mr. John A. Anderson Superior Qualifications (if required): public member	Governor	Severns	7/1/1992 7/1/1997
Mr. Dale M. Stevenson Miles City Qualifications (if required): mortician	Governor	Clayton	7/1/1992 7/1/1997

BOARD AND COUNCIL APPOINTEES: JULY, 1992

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Nursing (Commerce)			
Ms. Jean E. Ballantyne	Governor	Long	7/1/1992
Billings			7/1/1996
Qualifications (if required): registered nurse and an educator			
Ms. Denise Hochberger	Governor	Evans	7/1/1992
Chester			7/1/1996
Qualifications (if required): licensed practical nurse			
Board of Pharmacy (Commerce)			
Ms. Judy Coldwell	Governor	Glatz	7/1/1992
Jordan			7/1/1997
Qualifications (if required): public member			
Board of Physical Therapy Examiners (Commerce)			
Mr. Thomas K. Meagher	Governor	reappointed	7/1/1992
Cut Bank			7/1/1995
Qualifications (if required): physical therapist			
Board of Public Accountants (Commerce)			
Ms. Elizabeth Hallowell	Governor	reappointed	7/1/1992
Helena			7/1/1997
Qualifications (if required): public member			
Board of Radiologic Technologists (Commerce)			
Dr. Michael E. Richards	Governor	reappointed	7/1/1992
Great Falls			7/1/1995
Qualifications (if required): radiologist			
Mr. Jim Winter	Governor	reappointed	7/1/1992
Great Falls			7/1/1995
Qualifications (if required): radiologic technologist			

BOARD AND COUNCIL APPOINTEES: JULY, 1992

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Sanitarians (Commerce)			
Ms. Melissa Tuemmler	Governor	Kalatat	7/1/1992
Ulm			7/1/1995
Qualifications (if required): registered sanitarian			
Board of Water Well Contractors (Commerce)			
Mr. Pat Byrne, Jr.	Governor	Osborne	7/1/1992
Great Falls			7/1/1995
Qualifications (if required): water well contractor			
Child Care Advisory Council (Social and Rehabilitation Services)			
Mr. David Lockie	Governor	Baar	7/30/1992
Bozeman			6/30/1994
Qualifications (if required): parent member			
Committee on Telecommunication Services for the Handicapped (Social and Rehabilitation Services)			
Mr. John Delano	Governor	reappointed	7/1/1992
Helena			7/1/1995
Qualifications (if required): 1 of 4 handicapped members, 2 must be deaf or hard of hearing			
Mr. Ben Havdahl	Governor	reappointed	7/1/1992
Helena			7/1/1995
Qualifications (if required): 1 of 4 handicapped members, 2 must be deaf or hard of hearing			
Mr. Floyd J. McDowell	Governor	reappointed	7/1/1992
Great Falls			7/1/1995
Qualifications (if required): 1 of 2 non-handicapped, not from telecommunications business			

BOARD AND COUNCIL APPOINTEES: JULY, 1992

Appointee	Appointed by	Succeeded	Appointment/End Date
Electrical Board (Commerce)			
Ms. Louise Glimm	Governor	Justesen	7/1/1992
Conrad			7/1/1997
Qualifications (if required): public member			
Historical Society Board of Trustees (Education)			
Ms. Jeanne Eder	Governor	Roeder	7/1/1992
Dillon			7/1/1997
Qualifications (if required): historian			
Ms. Virginia Lucht	Governor	Erickson	7/1/1992
Bigfork			0/0/0
Qualifications (if required): public member			
Mr. Harold L. Poulsen	Governor	reappointed	7/1/1992
Great Falls			7/1/1997
Qualifications (if required): public member			
Mr. Ward Shanahan	Governor	reappointed	7/1/1992
Helena			7/1/1997
Qualifications (if required): public member			
Montana Mint Committee (Agriculture)			
Mr. Dale Sonstelle	Governor	reappointed	7/1/1992
Kalispell			7/1/1995
Qualifications (if required): active mint grower			

BOARD AND COUNCIL APPOINTEES: JULY, 1992

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Lottery Commission (Commerce)			
Mr. David Kasten	Governor	Rebal	7/1/1992
Brockway			1/1/1994
Qualifications (if required): public member			
Ms. Sandra Guedes	Governor	Attwood	7/17/1992
Helena			0/0/0
Qualifications (if required): None specified			
Teachers' Retirement Board (Administration)			
Mr. James E. Cowan	Governor	reappointed	7/1/1992
Seeley Lake			7/1/1996
Qualifications (if required): public member			
Tourism Advisory Council (Commerce)			
Ms. Maureen Averill	Governor	reappointed	7/1/1992
Bigfork			7/1/1995
Qualifications (if required): represents Glacier Country			
Ms. Diane Brandt	Governor	reappointed	7/1/1992
Glasgow			7/1/1995
Qualifications (if required): represents Missouri River Country			
Mr. Alan G. Elliott	Governor	reappointed	7/1/1992
Billings			7/1/1995
Qualifications (if required): represents Custer Country			
Mr. Kenneth Mickel	Governor	reappointed	7/1/1992
Billings			7/1/1995
Qualifications (if required): represents Montana Chamber of Commerce			

BOARD AND COUNCIL APPOINTEES: JULY, 1992

<u>Appointee</u>	<u>Appointed by</u>	<u>Successor</u>	<u>Appointment/End Date</u>
Tourism Advisory Council Ms. Edythe McCleary Hardin	(Commerce) Governor	reappointed	7/1/1992 7/1/1995
Qualifications (if required): represents Custer Country			

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1992 through November 30, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term and</u>
Board of Medical Examiners (Commerce)		
Dr. Richard W. Beighle, Missoula	Governor	9/1/1992
Qualifications (if required): had degree of doctor of medicine		
Mr. Jack Billingsley, Glasgow	Governor	10/1/1992
Qualifications (if required): licensed outfitter from District 2		
Mr. Raymond Craig Madsen, Great Falls	Governor	10/1/1992
Qualifications (if required): licensed outfitter from District 2		
Board of Psychologists (Commerce)		
Dr. Barbara Ann Looby, Livingston	Governor	9/1/1992
Qualifications (if required): licensed psychologist in private sector		
Mr. Neil McCaslin, Bozeman	Governor	9/1/1992
Qualifications (if required): public member not involved in psychology or related field		
Council for Montana's Future (Governor)		
Mr. John Bailey, Livingston	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Kurt Baltrusch, Glendive	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Jerry Black, Shelby	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Anne Boothe, Malta	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Robert Brown, Bozeman	Governor	9/15/1992
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1992 through November 30, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Council for Montana's Future (Governor) cont.		
Mr. Tony Colter, Deer Lodge	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Jim Crane, Helena	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Carol Daly, Kalispell	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Alan G. Elliott, Billings	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Michael Grove, White Sulphur Springs	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Constance Jones, Sheridan	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Alyce Kuehn, Sidney	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Debbie Leeds, Havre	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Jane Lopp, Kalispell	Governor	9/15/1992
Qualifications (if required): none specified		
Mr. Russ Ritter, Helena	Governor	9/15/1992
Qualifications (if required): none specified		
Ms. Lynn Robson, Bozeman	Governor	9/15/1992
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1992 through November 30, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Council for Montana's Future (Governor) cont. Ms. Valerie Running Fisher, Missoula Qualifications (if required): none specified	Governor	9/15/1992
Mr. Daniel Smith, Missoula Qualifications (if required): none specified	Governor	9/15/1992
Mr. Alan Solum, Kalispell Qualifications (if required): none specified	Governor	9/15/1992
Mr. David Spencer, Willow Creek Qualifications (if required): none specified	Governor	9/15/1992
Mr. L. Herman Wessell, Billings Qualifications (if required): none specified	Governor	9/15/1992
Mr. Craig Wilson, Billings Qualifications (if required): none specified	Governor	9/15/1992
Mr. Robert Wuttke, Jr., Missoula Qualifications (if required): none specified	Governor	9/15/1992
Historic Preservation Review Board (Education) Mr. Paul H. Gleye, Bozeman Qualifications (if required): architectural historian	Governor	10/1/1992
Mr. James R. McDonald, Missoula Qualifications (if required): none specified	Governor	10/1/1992

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1992 through November 30, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Rock Creek Advisory Council (Natural Resources and Conservation)		
Ms. Lorraine Gillies, Philipsburg	Director	9/3/1992
Qualifications (if required): none specified		
Mr. Chris Marchion, Anaconda	Director	9/3/1992
Qualifications (if required): none specified		
Mr. Greg Munther, Missoula	Director	9/3/1992
Qualifications (if required): none specified		
Mr. Jim Posewitz, Helena	Director	9/3/1992
Qualifications (if required): none specified		
Ms. Tracy Stone Manning, Missoula	Director	9/3/1992
Qualifications (if required): none specified		
Mr. Greg Tollefson, Missoula	Director	9/3/1992
Qualifications (if required): none specified		
Mr. Wayne Wetzel, Helena	Director	9/3/1992
Qualifications (if required): none specified		
Science and Technology Advisory Council (Commerce)		
Dr. William Wiley, Richland	Governor	10/22/1992
Qualifications (if required): none specified		
Mr. Bud Wonsiewicz, Englewood	Governor	10/22/1992
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1992 through November 30, 1992

Board/current position holder	Appointed by	Term end
State Employee Sick Leave Advisory Council (Governor)	Governor	9/24/1992
Mr. Jim Currie, Helena Qualifications (if required): none specified	Governor	9/24/1992
Ms. Dorothy M. Farrell, Helena Qualifications (if required): none specified	Governor	9/24/1992
Ms. Valencia Lane, Helena Qualifications (if required): none specified	Governor	9/24/1992
Ms. Patricia C. Lopach, Helena Qualifications (if required): none specified	Governor	9/24/1992
Ms. Judith Meadows, Helena Qualifications (if required): None specified	Governor	9/24/1992
Ms. Pam Wintrode, Helena Qualifications (if required): none specified	Governor	9/24/1992
Water and Waste Water Operators Advisory Council (Health and Environmental Sciences)	Governor	10/16/1992
Mr. Gary M. Smith, Cut Bank Qualifications (if required): none specified	Governor	10/16/1992