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MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are inserted at the back of each register.

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BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the adoption)
of proposed rules relating to) NOTICE OF PUBLIC HEARING
the establishment and)
implementation of Family Law)
Orders splitting and paying)
Montana public retirement)
benefits)

TO: All Interested Persons.

1. On August 30, 1993 at 9:00 am in the Board Meeting Room of the Public Employees' Retirement Division, 1712 Ninth Avenue, Helena, Montana, a public hearing will be held to consider the adoption of the following proposed rules pertaining to the establishment and implementation of Family Law Orders established by SB 173 enacted by the 1993 Legislature.

2. The rules as proposed provide as follows:

RULE I FAMILY LAW ORDER -- CONTENTS AND DURATION

(1) The division will make available to the public a checklist of required and optional Family Law Order characteristics and representative model forms approved for inclusion in a proposed Family Law Order (FLO).

(2) A FLO may order the splitting and payment of the sums payable to specific participants from a retirement system. Specific designations of participant(s) in a FLO may include:

(a) For all systems, an individual "member" (active, inactive or retired).

(b) For the public employees', judges', sheriffs', and game wardens' retirement systems, "primary" and/or "contingent beneficiary(ies)" eligible to receive lump sum payment(s) upon the death of an active or inactive member of the system and "contingent annuitants" designated by the member to receive continuing retirement benefits upon the death of the retired member.

(c) For the highway patrol officers', municipal police officers', and firefighters' unified retirement systems, "survivors" (i.e., surviving spouses and/or surviving dependent children of the member) and named "contingent beneficiary(ies)" eligible to receive lump sum payments upon the death of a member leaving no "survivors."

(d) If a specific designation of participant is not utilized in any section of a FLO, the statutory definition of the term participant will be construed. In such case, retirement benefits or amounts payable to another upon the death of any and all participants will be allocated according to the terms of the FLO.

(3) Payments under a FLO must be the same type and form as, and for no greater amount or duration than those available to any participant from the account being assigned. A benefit, option or payment available for another at the discretion of the participant may be subject to a FLO. (For example, if a participant may choose

a beneficiary, the FLO may require the alternate payee be named as a beneficiary or require that a portion of the named beneficiary's payment be paid to the alternate payee.)

(4) If benefits are currently payable to the participant(s), the FLO may specify a future effective date. However, no FLO may provide for payments to an alternate payee prior to the date on which the participant first becomes eligible for payment from the retirement system.

(5) Unless otherwise specified in the FLO, payments to an alternate payee will continue only until benefits cease to be paid to any participant. Payments to an alternate payee may be further limited in the FLO to:

(a) the life of the participant whose payment rights are being transferred,

(b) a specified maximum time,

(c) the life of the alternate payee, or

(d) the life of a designated participant.

(6) Two basic types of payment distributions are allowed to alternate payees: "defined sum" and "proportionate payments."

(a) A "defined sum" must designate a specific total dollar amount to be paid to the alternate payee in the form of a fixed dollar amount payable for a designated maximum number of months. (For example: "A sum of \$9,000 to be paid at a rate of \$150 per month for 60 monthly payments or until benefits cease, whichever comes first".) If the fixed monthly payment designated is more than the total monthly benefit or payment to the participant, the lesser amount will be paid for the designated number of months, or until any benefits cease. The defined sum, the designated monthly dollar amount, and the designated number of months will not be increased by subsequent conditions or events.

(b) "Proportionate payments" may be ordered by designating either a fixed percentage of benefits payable or a formula describing how the percentage must be calculated at the time payments begin. The fixed percentage must indicate a specific percentage of each payment to be paid to the alternate payee, either as a percentage or as a fraction for which the numerator and denominator are indicated. (For example: "50% of any withdrawal of member contributions.") A formula calculating a fixed percentage may use either years or dollar amounts to establish a proportionate benefit for an alternate payee. (For examples: "a fixed percentage of benefits which is equal to 50% of 7 years divided by the total number of years of service used to calculate the participant's benefit"; or "a fixed percentage of benefits which is described by dividing \$150 per month by the total monthly benefit amount payable for service retirement when participant's payments begin".) All proportionate payments to the alternate payee will include the same proportion of any guaranteed annual benefit allowance, cost of living allowance, post retirement adjustment or similar increase payable to the participant in any month during which the FLO is in effect. AUTH: 19-2-403, MCA IMP: 19-2-907, MCA

RULE II FAMILY LAW ORDERS -- APPROVAL AND IMPLEMENTATION

(1) Information concerning a participant's account will only be released subject to the terms of ARM 2.43.303.

(2) A participant or alternate payee must submit a certified copy of a proposed Family Law Order (FLO) to the division for board approval. The board may delegate authority for approval of a proposed FLO to the division.

(3) No FLO is effective prior to October 1, 1993. The effective date for a required change in form of benefit payment or beneficiary designation will be the date the participant properly executes and files the appropriate form with the division. Unless a later date is specified in the proposed FLO, the effective date for purposes of refunds of member contributions is the date of receipt of a proposed FLO and, for purposes of all other payments, the effective date is the 1st day of the month following receipt.

(4) Beginning on the appropriate effective date, payments to the participant will be adjusted as directed in the proposed FLO and payments to be received by the alternate payee(s) will be retained by the division. If the proposed FLO is approved, the retained payments will be paid to the alternate payee(s); if not approved, to the participant.

(5) The board's decision to approve or not approve a proposed FLO is final unless the participant or alternate payee files a request for an administrative contested case hearing within 10 days from the date the division sends notice of the decision. If an administrative hearing is properly requested, the final administrative decision constitutes the board's decision.

(6) Upon receipt of a certified copy of a stay from the issuing court or the Montana Supreme Court, the division and board will suspend further consideration or implementation of a proposed FLO. Unless otherwise directed by court order, the division will retain payments withheld prior to receipt of the stay and simultaneously resume making payments of participant(s) full benefit(s). The division will take further action only on receipt of a certified copy of an order directing such action. If the stay is lifted, the division will proceed with recognition, approval and implementation procedures as outlined herein. Any amount owing the alternate payee may be paid out of any payments owing the participant.

(7) Costs of reviewing and administering the FLO, including actuarial analysis and attorneys' fees, may be assessed by the board and billed to the party filing the FLO with the board, unless otherwise designated in the FLO. Amounts owing plus interest thereon at an annualized effective rate of 8% may be offset against payments to be received by the appropriate party.

(8) An alternate payee may receive payment by electronic fund transfer upon submission of a properly executed form required by the division.

(9) An alternate payee must promptly inform the division of any change of name or address.

AUTH: 19-2-403, MCA

IMP: 19-2-907, MCA

3. The rules are proposed in order to provide guidance to members and practitioners in complying with new legislation which allows payments to alternate payees if directed by a Family Law Order pursuant to Title 40, Montana Code Annotated. Family Law Orders are particularized in their scope and impact. These rules clarify what the contents of a Family Law Order must and can be, and how

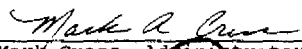
such orders will be approved and implemented by the Public Employees' Retirement Division.

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted no later than August 30, 1993 to:


Mark Cress, Administrator
Public Employees' Retirement Division
1712 Ninth Avenue,
Helena, Montana 59620

5. Keith McCallum, Administrative Specialist, Public Employees' Retirement Division, Department of Administration, has been designated to preside over and conduct the hearing.

By:



Mark Cress, Administrator
Public Employees' Retirement Board



Dal Smilie, Chief Legal Counsel
Rule Reviewer

Certified to the Secretary of State on July 19, 1993.

BEFORE THE TEACHERS' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the adoption of)	NOTICE OF PUBLIC
new rules implementing the)	HEARING ON PROPOSED
provisions of Senate Bill 173 as)	NEW RULES, RELATING
passed by the 1993 legislature)	TO THE TEACHERS'
relating to the Teachers')	RETIREMENT SYSTEM
Retirement System)	

TO: All Interested Persons.

1. On August 30, 1993 at 1:30 pm in the Board Meeting Room of the Teachers' Retirement System, 1500 6th Avenue, Helena, Montana, a public hearing will be held to consider the proposed rules pertaining to the establishment and implementation of Family Law Orders.

2. The proposed new rules are as follows:

RULE I FAMILY LAW ORDER -- CONTENTS AND DURATION

(1) The board will make available to the public a checklist of required and optional Family Law Order characteristics and representative model forms approved for inclusion in a proposed Family Law Order (FLO).

(2) A FLO may order the splitting and payment of the sums payable to specific participants from a retirement system. Specific designations of participant(s) in a FLO may include:

(a) An individual "member" (active, inactive or retired).

(b) "Primary" and/or "contingent beneficiary(ies)" eligible to receive lump sum payment(s) upon the death of an active or inactive member of the system and "contingent annuitants" designated by the member to receive continuing retirement benefits upon the death of the retired member.

(c) The term participant will be construed to include any and all possible participants of the Teachers' Retirement System unless otherwise defined in the FLO. In such case, retirement benefits or amounts payable to another upon the death of any and all participants will be allocated according to the terms of the FLO.

(3) Payments under a FLO must be the same type and form as, and for no greater amount or duration than those available to any participant from the account being assigned. A benefit, option or payment available for another at the discretion of the participant may be subject to a FLO. (For example, if a participant may choose a beneficiary, the FLO may require the alternate payee be named as a beneficiary or require that a portion of the named beneficiary's payment be paid to the alternate payee.)

(4) If benefits are currently payable to the

participant(s), the FLO may specify a future effective date. However, no FLO may provide for payments to an alternate payee prior to the date on which the participant first becomes eligible for payment from the retirement system.

(5) Unless otherwise specified in the FLO, payments to an alternate payee will continue only until benefits cease to be paid to any participant. Payments to an alternate payee may be further limited in the FLO to:

(a) the life of the participant whose payment rights are being transferred,

(b) a specified maximum time,

(c) the life of the alternate payee, or

(d) the life of a designated participant.

(6) Two basic types of payment distributions are allowed to alternate payees: "defined sum" and "proportionate payments."

(a) A "defined sum" must designate a specific total dollar amount to be paid to the alternate payee in the form of a fixed dollar amount payable for a designated maximum number of months. (For example: "A sum of \$9,000 to be paid at a rate of \$150 per month for 60 monthly payments or until benefits cease, whichever comes first".) If the fixed monthly payment designated is more than the total monthly benefit or payment to the participant, the lesser amount will be paid for the designated number of months, or until any benefits cease. The defined sum, the designated monthly dollar amount, and the designated number of months will not be increased by subsequent conditions or events.

(b) "Proportionate payments" may be ordered by designating either a fixed percentage of benefits payable or a formula describing how the percentage must be calculated at the time payments begin. The fixed percentage must indicate a specific percentage of each payment to be paid to the alternate payee, either as a percentage or as a fraction for which the numerator and denominator are indicated. (For example: "50% of any withdrawal of member contributions.") A formula calculating a fixed percentage may use either years or dollar amounts to establish a proportionate benefit for an alternate payee. (For examples: "a fixed percentage of benefits which is equal to 50% of 7 years divided by the total number of years of service used to calculate the participant's benefit"; or "a fixed percentage of benefits which is described by dividing \$150 per month by the total monthly benefit amount payable for service retirement when participant's payments begin".) All proportionate payments to the alternate payee will include the same proportion of any guaranteed annual benefit allowance, cost of living allowance, post retirement adjustment or similar increase payable to the participant in any month during which the FLO is in effect.

AUTH: 19-4-201, MCA IMP: Title 19, Section 4, MCA

RULE II FAMILY LAW ORDERS -- APPROVAL AND IMPLEMENTATION

(1) A participant or alternate payee must submit a certified copy of a proposed Family Law Order (FLO) to the board for approval. The board may delegate authority for approval of a proposed FLO to the Executive Director.

(2) No FLO is effective prior to October 1, 1993. The

effective date for a required change in form of benefit payment or beneficiary designation will be the date the participant properly executes and files the appropriate form with the board. Unless a later date is specified in the proposed FLO, the effective date for purposes of refunds of member contributions is the date of receipt of a proposed FLO and, for purposes of all other payments, the effective date is the 1st day of the month following receipt.

(3) Beginning on the appropriate effective date, payments to the participant will be adjusted as directed in the proposed FLO and payments to be received by the alternate payee(s) will be retained by the board. If the proposed FLO is approved, the retained payments will be paid to the alternate payee(s); if not approved, to the participant.

(4) The board's decision to approve or not approve a proposed FLO is final unless the participant or alternate payee files a request for an administrative contested case hearing within 10 days from the date the board sends notice of the decision. If an administrative hearing is properly requested, the final administrative decision constitutes the board's decision.

(5) Upon receipt of a certified copy of a stay from the issuing court or the Montana Supreme Court, the board will suspend further consideration or implementation of a proposed FLO. Unless otherwise directed by court order, the board will retain payments withheld prior to receipt of the stay and simultaneously resume making payments of participant(s) full benefit(s). The board will take further action only on receipt of a certified copy of an order directing such action. If the stay is lifted, the board will proceed with recognition, approval and implementation procedures as outlined herein. Any amount owing the alternate payee may be paid out of any payments owing the participant.

(6) Costs of reviewing and administering the FLO, including actuarial analysis and attorneys' fees, may be assessed by the board and billed to the party filing the FLO with the board, unless otherwise designated in the FLO. Amounts owing plus interest thereon at an annualized effective rate of 8% may be offset against payments to be received by the appropriate party.

(7) An alternate payee may receive payment by electronic fund transfer upon submission of a properly executed form required by the board.

(8) An alternate payee must promptly inform the board of any change of name or address.

AUTH: 19-4-201, MCA IMP: Title 19, Section 4, MCA

3. The rules are proposed in order to provide guidance to practitioners in complying with new legislation which allows payment to alternate payees if directed by a Family Law Order pursuant to Title 40, Montana Code Annotated. Family Law Orders are particularized in their scope and impact. These rules clarify what the contents of a Family Law Order must and can be, and how such orders will be approved and implemented by the Teachers' Retirement Board.


4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted no later than August 30, 1993 to:

David L. Senn, Administrator
Teachers' Retirement System
1500 Sixth Avenue, Helena, MT 59620-0139

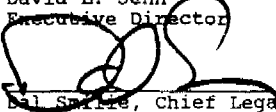
5. David L. Senn, Executive director, has been designated to preside over and conduct the hearing.

6. The authority of the Board to make the proposed rules is based on section 19-4-201, MCA. and the rules implement Title 19, Section 4, MCA.

By:



David L. Senn
Executive Director



Dal Smith, Chief Legal Counsel
Rule Reviewer

Certified to the Secretary of State on July 19, 1993.

BEFORE THE DEPARTMENT OF AGRICULTURE
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PROPOSED
adoption of New Rules on civil)	ADOPTION OF NEW RULES
penalties relating to beekeeping))	ON CIVIL PENALTIES RE-
in Montana, and designating)	LATING TO BEEKEEPING IN
regulated bee diseases; amending))	MONTANA, AND DESIGNATING
ARM 4.12.105 clarifying the)	REGULATED BEE DISEASES;
apiary registration forfeiture)	AMENDING ARM 4.12.105
procedure; and repealing ARM 4.)	CLARIFYING THE APIARY
12.101 relating to restrictions)	FORFEITURE PROCEDURE; AND
on apiary registration.)	REPEALING ARM 4.12.101
)	RELATING TO RESTRICTIONS
)	ON APIARY REGISTRATION.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 30, 1993, the Department of Agriculture proposes to adopt new rules on civil penalties relating to beekeeping in Montana and designating regulated honey bee diseases; amend ARM 4.12.105 clarifying procedure to void the registration of an apiary because of non-use; and repealing ARM 4.12.101 relating to apiary registration limitations.

2. The proposed new rules will read as follows:

RULE 1 CIVIL PENALTIES - ENFORCEMENT (1) Whenever the department has reason to believe that a violation of Title 80, Chapter 6, Parts 1 through 3, MCA, or any adopted rule thereunder has occurred and the department finds it in the public interest to assess a civil penalty, it may initiate a civil penalty action pursuant to the Administrative Procedure Act.

(2) Each violation shall be considered a separate offense and is subject to a separate penalty not to exceed \$1,000. A repeat violation shall be considered a first violation if it occurred two or more years after the previous violation.

(3) The penalty matrixes set forth in this rule establish the basic penalty value for each offense. Factors dealing with the violation may cause the matrix penalty to increase or decrease. Examples of such factors would be the firm's history of compliance or non-compliance, or the extent of the harm to agriculture or environment.

AUTH: 80-6-201 (f), MCA

IMP: 80-6-303, MCA

RULE II CIVIL PENALTIES - MATRIX

<u>Type of Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Subsequent Offenses</u>
Failure to register an apiary after notification of requirement. Each unregistered apiary may be considered a separate offense.	\$300	\$600	\$1,000
Falsifying or misrepresenting information submitted with apiary registration application.	\$300	\$600	\$1,000
Failure to move an illegally placed apiary to a registered or registrable site after due process notification. Each apiary may be considered a separate offense.	\$500	\$750	\$1,000
Failure to abate bee diseases or pests pursuant to 80-6-201 after legal notification.	\$500	\$750	\$1,000
Failure to meet bee hive importation requirements specified in 80-6-202.	\$500	\$750	\$1,000

AUTH: 80-6-201 (f), MCA

IMP: 80-6-303, MCA

RULE III REGULATED BEE DISEASES (1) Bee diseases regulated under Title 80, Chapter 6, Parts 1 through 3, MCA, are as follows:

(a) American Foulbrood (*Bacillus larvae*).

(2) The department may conduct inspections for other bee diseases for export certification purposes based on requirements of destination states.

AUTH: 80-6-201 (f), MCA

IMP: 80-6-101, MCA

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

4.12.105 DELINEATING HONEY PRODUCING SEASONS AND REGISTRATION PERIODS (1) The normal buildup or honey producing season shall consist of the months of April through September.

(2) The regular registration time shall consist of the months of February through April.

(3) The procedure to void the registration of an apiary because of non-use shall be as follows:

(a) A written request to void the registration of an apiary because of non-use, and related evidence, must be submitted to the department. The established way for voiding the registration of an apiary must be initiated and completed between October 1 and January 31, during the same registration year that the apiary was not in use.

(b) The evidence must include, but is not limited to signed statements from the landowner indicating that there were no bee hives in the apiary during the last buildup or honey producing season. Landowners are as defined in 80-6-101 (12). However, the department may consider other evidence based upon its own investigation.

(c) The department shall follow contested case provisions of the Montana Administrative Procedure Act when determining if an apiary registration is to be voided because of non-use.

AUTH: 80-6-201 (f), MCA

IMP: 80-6-104, MCA

4. 4.12.101 REGISTRATION OF APIARIES AND LIMITATIONS OF REGISTRATION Is hereby repealed. This rule is found on pages 4-351, 4-352, and 4-353 of the ARM.

AUTH: 80-6-201, MCA

IMP: 80-6-201, MCA

Reasons: The reason for new rules I and II is to adopt a civil penalty matrix required upon passage of House Bill 181 during the 1993 session of the Montana Legislature. The civil penalty matrix establishes specific fines for specific violations of Montana's beekeeping law and rules.

The adoption of new rule III designating regulated bee diseases is also required upon passage of House Bill 181. In a letter dated July 6, 1993, the Montana State Beekeepers Association recommended that the department only regulate American Foulbrood, with the provision that the department may conduct inspections for other bee diseases for export certification purposes. The department agrees with the recommendation in that significant bee diseases other than American Foulbrood can be readily controlled with medication.

ARM 4.12.105 is amended to clarify the procedure to void an apiary registration because of non-use as provided for in 80-6-104. The previous rule did not define the "established way" of voiding an apiary registration. The amendment specifies the dates between which the request for forfeiture and evidence must be received by the department. It also specifies what type of evidence is required.

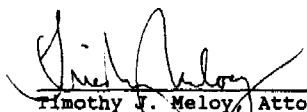
ARM 4.12.101 which established by rule apiary registration restrictions such as the three mile limit is repealed in its entirety. The rule is redundant and unnecessary since the provisions of this rule were incorporated into sections 80-6-111, MCA through 80-6-115, MCA of the beekeeping law in 1981.

5. Interested persons may present their data, views, or arguments either orally or in writing to Willard A. Kissinger, Administrator, Plant Industry Division, Montana Department of Agriculture, P.O. Box 200201, Helena, MT. 59620-0201, no later than August 26, 1993.

6. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Willard A. Kissinger, Administrator, Plant Industry Division, Montana Department of Agriculture, P.O. Box 200201, Helena, MT. 59620-0201, no later than August 26, 1993.

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


W. Ralph Peck
Deputy Director


Timothy J. Meloy, Attorney
Rule Reviewer
Department of Agriculture

Certified to the Secretary of State Office July 16, 1993.

BEFORE THE BOARD OF CHIROPRACTORS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining	)	OF 8.12.601 APPLICATIONS,
to applications, and the	)	AND THE PROPOSED ADOPTION OF
proposed adoption of a rule	)	NEW RULE I INTERNS AND
pertaining to interns and pre-	)	PRECEPTORS
ceptors)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 28, 1993, the Board of Chiropractors proposes to amend and adopt the above-stated rules.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.12.601. APPLICATIONS. EDUCATIONAL REQUIREMENTS

~~(1) The admission to examination for licensure shall be based upon proof that the applicant has completed 2 years of college in addition to graduation from an approved chiropractic college that has status with the council on chiropractic education (CCE). As part of either the two years of college or the education program at the chiropractic college, each applicant must have had 120 classroom hours of instruction in physiotherapy.~~

(1) Before being admitted to the chiropractic examination, all applicants shall:

(a) cause to be provided to the board official transcripts from all colleges and national boards;

(b) provide proof of graduation from an approved chiropractic college that has status with the council on chiropractic education (CCE);

(c) provide proof of 120 classroom hours of instruction in physiotherapy;

(d) submit a photocopy of applicant's chiropractic college diploma;

(e) successfully complete Parts I, II, III and physiotherapy of the national board examinations and cause a certified copy of scores to be submitted directly to the board.

~~(2) Official transcripts from all colleges and chiropractic college diploma shall be submitted directly to the office of the board.~~

~~(3) In addition, all applicants, including reciprocal applicants, must provide a certified copy of the national board scores, parts I & II including physiotherapy and part III, written clinical competency exam, shall be supplied to the board prior to examination.~~

(2) The application fee shall accompany the application.

(4) will remain the same but will be renumbered (3)."

Auth: Sec. 37-1-131, 37-1-134, 37-12-201, MCA; IMP, Sec. 37-1-131, 37-1-134, 37-12-302, 37-12-304, 37-12-305, 37-12-307, MCA

REASON: This amendment is being proposed to implement House Bill 148, to allow for the Board to utilize the examinations of the National Board of Chiropractic Examiners.

"9.12.615. FEE SCHEDULE (1) through (9) will remain the same.

(10) Application fee for student/interns 25.00

(11) Application fee for practitioners 25.00

proposing to serve as preceptors

Auth: Sec. 37-1-134, 37-12-201, MCA; IMP, Sec. 37-1-134, Sec. 1, Ch. 275, L. 1993, 37-12-302, 37-12-303, 37-12-304, 37-12-307, MCA

REASON: This fee schedule is being amended to allow the Board to assess fees for the intern/preceptorship program recently enacted by the Legislature. The fees are commensurate with program area costs.

3. The proposed new rule will read as follows:

"I. INTERNS AND PRECEPTORS (1) No student intern will be allowed to practice under the direction and supervision of a licensed chiropractor (the "preceptor") in the state of Montana unless the student has provided a letter from the chiropractic college the student is attending, listing the student's date of matriculation and expected graduation.

(2) A student intern must complete an application form provided by the board and furnish current transcripts from chiropractic college attended.

(3) Student interns may not sign insurance claims, workers' compensation claims, medicare claims, birth or death certificates, or other documents that require the signature of a licensed chiropractor.

(4) The student intern shall follow the laws and rules of the board, the same as if he or she were licensed as a chiropractor.

(5) The sponsoring preceptor and the student intern must submit a signed conditions statement, along with the application.

(6) The preceptor must be in good standing with the board.

(7) The preceptor must provide malpractice insurance, if coverage over and above that which is provided by the chiropractic college is required.

(8) The preceptor must have a minimum of five (5) years of practice in the state of Montana.

(9) The preceptor must be present within the practice environment at all times when an intern is seeing patients.

(10) The preceptor must comply with the guidelines on involving an intern in the care of patients of the field doctor as required by the chiropractic college.

(11) All applications for intern/preceptor programs must be approved by the board prior to starting the program."

Auth: Sec. 1, C. 275, L. 1993; IMP, Sec. 1, C. 275, L. 1993

REASON: This new rule will allow for registration of preceptors and interns and require a fee for filing. Recent legislation requires the board to adopt rules to implement such a program, which would allow chiropractic students with practical experience as part of their educations.

3. Interested persons may present their data, views or arguments concerning the proposed amendment and adoption in writing to the Board of Chiropractors, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., August 26, 1993.

4. If a person who is directly affected by the proposed amendment and adoption 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 Chiropractors, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., August 26, 1993.

5. If the Board receives requests for a public hearing on the proposed amendment and adoption from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendment and adoption, 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 38 based on the 380 licensees in Montana.

BOARD OF CHIROPRACTORS
DWAYNE BORGSTRAND, D.C.,
PRESIDENT

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, July 19, 1993.

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining) OF RULES PERTAINING TO THE
to licenses issued for conduct-) HORSE RACING INDUSTRY
ing parimutuel wagering, daily)
double feature, requirements of)
licensee, and pool calculations)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 28, 1993, the Board of Horse Racing
proposes to amend rules pertaining to the horse racing
industry.

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

"8.22.502 LICENSES ISSUED FOR CONDUCTING PARIMUTUEL
WAGERING ON HORSE RACING MEETINGS (1) through (10)(n) will
remain the same.

(11) Every track licensee shall have on file with the
board at least ten (10) days prior to the opening of any race
meeting, a copies copy of the following:

~~(a) An adequate public liability insurance contract
covering all persons who may be in attendance at the race
meeting.~~

~~(b) An adequate accident insurance contract covering
jockeys and exercise persons.~~

~~(c) An adequate accident insurance contract covering all
employees working on the starting gate or working in the
paddock area.~~

(12) through (36) will remain the same.

(37) Each color assigned to a post position must be
indicated directly below the number of the post position in
the official program. A horse may start in owner or stable
silks in any race, providing the colors have been registered
with the racing secretary at the race office prior to the
start of the race meet and are printed in the official
program. Any stable colors so registered shall then be used
consistently throughout the race meet, without reverting to
the standard state colors listed above. Helmet covers shall
remain the standard colors listed above at all race meets. No
person shall start a horse in racing colors other than those
~~approved by the board registered with the racing secretary, or
set as standard colors above,~~ except in case of emergency a
temporary change from a standard color of a post position may
be approved by the stewards; such a change must be posted by
the clerk of the scales on the bulletin board together with
the number of the horses as exhibited after weighing out. The
use of colors which are not neat, clean and proper in all
respects shall not be permitted.

(38) through (59) will remain the same."

Auth: Sec. 23-4-104, 23-4-201, 23-4-202, 37-1-131, MCA;
IMP, Sec. 23-4-104, 23-4-201, 23-4-202, MCA

REASON: The proposed amendment to subsection (11) will delete the requirement of any separate liability insurance contracts for jockeys, exercise persons, starting gate employees and paddock area employees, as these groups are all covered by their employer's statutorily required workers' compensation insurance, and the Board will only require proof of an adequate liability insurance contract for the race meet in general.

The proposed amendment to subsection (37) will allow the use of stable silks where owners desire to furnish their own racing silks. The standard colors will remain where an owner does not provide silks. The stable silk colors will be registered, and printed in the program for ease in identifying horses during the race.

"8.22.1616 DAILY DOUBLE FEATURE (1) Only one Two daily doubles will be permitted during a single race day at tracks licensed by the board.

(2) through (15) will remain the same."

Auth: Sec. 23-4-202, MCA; IMP, Sec. 23-4-301, 23-4-302, 23-4-303, MCA

REASON: The proposed amendment will allow two daily doubles to be offered on any single race day, as this type of feature generates more handle for the race track.

"8.22.1802 REQUIREMENTS OF LICENSEE (1) will remain the same.

(2) No entries or field horses in a race comprising the trifecta are allowed except interstate simulcast races. Entry horses will be allowed in a trifecta race in which there are at least five other betting interests.

(a) No licensee shall offer trifecta wagering on any race in which there is a double entry (example: 1, 1A, 1B) or a triple entry (example: 1, 1A, 2, 2B).

(3) and (4) will remain the same."

Auth: Sec. 23-4-401, MCA; IMP, Sec. 23-4-104, MCA

REASON: The proposed amendment will allow trifecta wagering on races in which horses are teamed as an entry (1,1A), as the present parimutuel equipment is capable of calculating a trifecta pay-out with this combination, and there is therefore no reason to prohibit trifecta wagering in races with an entry.

"8.22.1803 POOL CALCULATIONS (1) and (2) will remain the same.

(3) The order of finish to be paid with one entry shall be calculated as follows:

(a) if the entry horses finish first and second, the third and fourth place horses become second and third.

respectively (example: order of finish 1, 1A, 2, 3: trifecta winner becomes 1, 2, 3):

(b) if the entry horses finish first and third, the fourth place horse becomes third (example: order of finish 1, 2, 1A, 3: trifecta winner becomes 1, 2, 3):

(c) if the entry horses finish second and third, the fourth place horse becomes third (example: order of finish 2, 1, 1A, 3: trifecta winner becomes 2, 1, 3):

(3) through (18) will remain the same but will be renumbered (4) through (19)."

Auth: Sec. 23-4-104, MCA; IMP, Sec. 23-4-104, MCA

REASON: The proposed amendment will set forth the proper order of finish in trifecta races with an entry so the proper pay-out may be calculated.

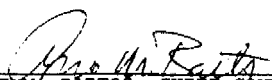
3. Interested persons may present their data, views or arguments concerning the proposed amendments in writing to the Board of Horse Racing, Rm. 50, Lee Metcalf Building, 1520 E. 6th, Helena, Montana 59620, to be received no later than 5:00 p.m., August 26, 1993.


4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Horse Racing, Rm. 50, Lee Metcalf Building, 1520 E. 6th, Helena, Montana 59620, to be received no later than 5:00 p.m., August 26, 1993.

5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative 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 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 70, based on the 700 licensed owners and trainers in Montana.

BOARD OF HORSE RACING
MALCOLM ADAMS, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, July 19, 1993.

BEFORE THE BOARD OF OCCUPATIONAL THERAPY PRACTICE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED REPEAL OF
repeal of a rule pertaining to) 8.35.414 THERAPEUTIC DEVICES
therapeutic devices)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 28, 1993, the Board of Occupational Therapy Practice proposes to repeal the above-stated rule.

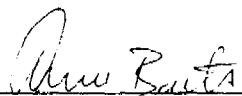
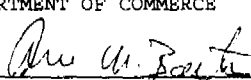
2. The rule proposed to be repealed is 8.35.414 and is located at pages 8-1059 and 8-1060, Administrative Rules of Montana. The authority sections were 37-24-103 and 37-24-201, MCA, and the implementing sections were 37-24-103 and 37-24-202, MCA. This rule is being repealed because the statute states that the rule terminated on July 1, 1993.

3. Interested persons may submit their data, views or arguments concerning the proposed repeal in writing to the Board of Occupational Therapy Practice, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., August 26, 1993.

4. If a person who is directly affected by the proposed repeal 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 Occupational Therapy Practice, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., August 26, 1993.

5. If the Board receives requests for a public hearing on the proposed repeal from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed repeal, from a governmental agency or subdivision or from an association having no less than 25 members who will be directed 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 20 based on the 202 licensees in Montana.

BOARD OF OCCUPATIONAL THERAPY
PRACTICE
DEPARTMENT OF COMMERCE

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

Certified to the Secretary of State, July 19, 1993.

BEFORE THE FINANCIAL DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed)
amendment of a rule pertaining)
to banks - reserve require-)
ments and the adoption of new)
rules pertaining to investment)
in corporate stock, investments)
of financial institutions,)
limitations on loans and loans)
to a managing officer, officer,)
director or principal share-)
holder, and corporate credit)
unions)

) NOTICE OF PUBLIC HEARING ON
) PROPOSED AMENDMENT OF 8.80.101
) BANKS - RESERVE REQUIREMENTS AND
) THE ADOPTION OF NEW RULES
) PERTAINING TO INVESTMENTS AND
) LOANS

TO: All Interested Persons:

1. On August 20, 1993, at 10:30 a.m., a public hearing will be held in the Glacier Room, Lee Metcalf Building, 1520 East 6th Avenue, Helena, Montana, to consider the proposed amendment and adoption of rules pertaining to investments and loans.

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

"8.80.101 BANKS - RESERVE REQUIREMENTS (1) ~~Pursuant to and in compliance with section 32-1-155, MCA, as amended, all Montana state banks which are not members of the federal reserve system shall maintain reserves in percentages of time and demand deposits as prescribed by the director of the Montana department of commerce.~~

(2) ~~Notification of the applicable reserve percentage requirements as set by the director will be provided to affected banks in the form of supplements to this rule. These supplements shall include the applicable percentages, their effective dates and the form in which reserves must be maintained. Current supplements may be obtained by writing or calling the Director, Department of Commerce, 1424 Ninth Avenue, Helena, Montana, 59620 (telephone (406) 444-2091).~~

(3) ~~Definitions.~~

(a) ~~As used in this rule, the term "demand deposit" means all deposits except "time deposits" as defined in paragraph (b) below, and includes outstanding officer's checks, certified checks, money orders, and letters of credit sold for cash.~~

(b) ~~As used in this rule, the term "time deposits" means:~~

(1) ~~a deposit with respect to which the depositor has contracted not to withdraw any portion of the deposit before maturity, and such maturity is thirty (30) days or more after the deposit is made; and~~

--

~~(ii) a deposit with respect to which the bank reserves the right to require thirty (30) days written notice from the depositor before withdrawal is made.~~

~~(4) Non member state banks designated as reserve banks must maintain, in addition to the percentages of all demand deposits required by supplements issued pursuant to paragraph (2) above, additional reserves of 10 percent of all deposits of other banks.~~

~~(5) Reserves shall be in the form of U.S. currency and coin on hand, and funds on demand deposit in banks approved by the director as reserve banks or in such other forms as may be allowed by the director and prescribed in supplements to this rule.~~

~~(6) A reserve deficiency existing on any day of a week may be offset by excess reserves of the previous or succeeding day of the same week, but the total daily reserves maintained during any week must be equal to or in excess of the required reserve percentages applied to the total daily deposits during such week. For the purpose of reserve requirements, a week shall consist of the seven days commencing with Wednesday and ending of the following Tuesday.~~

(1) No bank shall act as a reserve bank unless:

(a) the bank has unimpaired paid up capital and surplus of at least \$1,000,000. For purposes of this rule,

"unimpaired paid up capital and surplus" shall mean the aggregate of the bank's capital stock account(s) and its surplus account, as defined in section 32-1-109, minus any deficit balance existing after aggregating the bank's undivided profits account, profit and loss (or similar) account, capital reserve account(s), valuation reserve account(s), and allocated or specific reserve account(s); and

(b) the bank has received written approval from the department in response to the bank's written request to act as a reserve bank.

(2) In addition to maintaining a reserve in the amount required by federal reserve board regulations, approved reserve banks shall maintain an additional reserve balance equal to at least 10% of bank deposits.

(3) The reserve shall be held in the form(s) and manner(s) established by federal reserve board regulations, or deposits in a federal home loan bank in the district in which the bank is located."

Auth: Sec. 32-1-455, MCA; IMP, Sec. 32-1-455, MCA

REASON: This rule is being proposed to implement changes in law made during the 1993 legislative session, and specifically to implement Chapter 395, Section 32, Laws of 1993.

3. The proposed new rules will read as follows:

"I. INVESTMENT IN CORPORATE STOCK (1) Ownership of stock in a bank service corporation is subject to the following conditions:

(a) A bank service corporation owned, wholly or partially, by one or more state chartered banks, will be subject to review and supervision by the department.

(b) Services which may be provided by a bank service corporation include, but are not limited to:

- (i) electronic data processing;
- (ii) accounting services;
- (iii) clearinghouse functions;
- (iv) investment services for the account(s) of bank(s);
- (v) advertising and marketing services;
- (vi) communications services;
- (vii) audit services;
- (viii) loan review and collateral inspections;
- (ix) retention of bank records, including data backup retention;
- (x) safekeeping services, including vault and safe deposit box facilities;
- (xi) courier services.

(2) As provided by section 32-1-422, MCA, a bank may invest in the stock of certain corporations. The investment in any approved corporation shall be limited to:

- (a) the minimum number of shares of stock, or
- (b) the minimum dollar value of such shares necessary for the bank to participate in the services or programs offered by the corporation.

(3) In addition to the federal national mortgage association, the federal home loan mortgage corporation, and the federal agricultural mortgage corporation, the department has determined that it is in the public interest for banks to be able to invest in the following corporations, subject to the restrictions listed above:

- (a) federal home loan banks."

Auth: Sec. 32-1-422, MCA; IMP, Sec. 32-1-422, MCA

REASON: This rule is being proposed to implement changes in law made during the 1993 legislative session, and specifically to implement chapter 395, Section 26, Laws of 1993.

"II INVESTMENTS OF FINANCIAL INSTITUTIONS (1) A bank, trust company, investment company or other financial institution operating under the laws of this state may invest in the following United States government obligations, subject to the restrictions contained in section 32-1-424, MCA:

- (a) United States treasury bills,
- (b) United States treasury notes,
- (c) United States treasury bonds,
- (d) United States treasury notes or bonds in the form of separate trading of registered interest and principal of securities (STRIPS)."

Auth: Sec. 32-1-424, MCA; IMP, Sec. 32-1-424, MCA

REASON: This rule is being proposed to implement changes in law made during the 1993 legislative session, and specifically to implement Chapter 395, Section 28, Laws of 1993.

"III LIMITATIONS ON LOANS In the context of the following rule, the following definitions apply:

(1) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(a) "Person" means an individual or an organization.

(b) "Control" means one or more persons acting in concert, who directly or indirectly own, control, or have the power to vote 25% or more of the voting or nonvoting stock of an organization or common enterprise. This may be further construed to include any other circumstances whereby a controlling influence is exercised over an organization.

(i) The department's decisions concerning control will be based on analysis of information obtained during or from bank examinations; from requests from a bank, individual or organization; from official documents of the organization; or from any other reliable sources that are available.

(c) "Common enterprise" - A common enterprise will exist if the expected source of repayment for each loan or extension of credit is the same for each person, where the persons are related through common control of the organization; or where separate persons borrow from a bank for the purpose of acquiring the same enterprise, which they will mutually control.

(2) For the purpose of this rule, loans and extensions of credit to separate persons will be combined for lending limit purposes when it is deemed that a common enterprise exists, or when ownership or control of an organization by those persons is apparent. Loans and extensions of credit to corporations, partnerships, joint ventures, and associations will be considered to be loans or extensions of credit to corporate stockholders with controlling interests, general partners of a partnership, venture principals, and primary members of associations, respectively. The portion of loans or extensions of credit to a firm, partnership, or unincorporated association for which a person individually is legally responsible will be considered a loan or extension of credit to the person.

(3) All loans, extensions of credit, and commitments to lend or extend credit, including, but not limited to:

(a) direct loans,

(b) letters of credit,

(c) undisbursed portions of construction, operating, or other lines of credit, not to exceed limits established by written agreement,

(d) undisbursed portions of credit lines established to cover overdrafts,

(e) undisbursed portions of credit card plans,

(f) loans, extensions of credit, or participations in loans or extensions of credit sold with recourse to or guaranteed by the bank,

(g) other written commitments to lend or extend credit will be included in calculating a persons' liability to a bank for lending limit purposes. The calculation of a person's liability will exclude loans or portions of loans specifically exempted by provisions of section 32-1-432, MCA.

(4) The amount of loans or extensions of credit guaranteed wholly or partially, in writing, by a person will be included when calculating that person's liability to a bank for lending limit purposes."

Auth: Sec. 32-1-432, MCA; IMP, Sec. 32-1-432, MCA

REASON: This rule is being proposed to implement changes in law made during the 1993 legislative session, and specifically to implement Chapter 395, Section 29, Laws of 1993.

"IV LOANS TO A MANAGING OFFICER, OFFICER, DIRECTOR OR PRINCIPAL SHAREHOLDER (1) The definitions of capital and unimpaired surplus are as follows:

(a) "Capital" shall mean the aggregate of the bank's outstanding capital stock account(s) minus any deficit balance existing in an impaired surplus account.

(b) "Surplus" is defined in section 32-1-109, MCA. "Unimpaired surplus" shall mean surplus minus any deficit balance existing after aggregating the bank's undivided profits account, profit and loss (or similar) account, capital reserve account(s), valuation reserve account(s), and allocated or specific reserve account(s).

(2) Any loan to a managing officer, officer, director, employee or principal shareholder which was made before October 1, 1993, and which was in compliance with state law at the time, shall be considered legal throughout its term unless:

(a) the loan is renewed, or
(b) the terms of the loan are modified in any way, except for specified periodic interest rate adjustments, or
(c) security for the loan is changed in any way, except for substitutions or deletions agreed upon at the origination of the loan.

(i) If (a), (b) or (c) occur on or after October 1, 1993, the loan shall be restructured to comply with the provisions of sections 32-1-465 and 32-1-467, MCA, as amended.

(3) The following types of loans will not be included in the 2.5% of capital and unimpaired surplus aggregate loan limitation:

(a) loans or portions of loans guaranteed by a department, bureau, board, commission, or establishment of the United States, including a corporation wholly owned, directly or indirectly, by the United States;

(b) loans or portions of loans guaranteed by or covered by a commitment or agreement to take over or purchase, issued by an agency or board of the state of Montana;

(c) loans or portions of loans sold without recourse to a federally insured depository institution;

(d) loans or portions of loans secured by pledged deposits in the lending bank."

Auth: Sec. 32-1-465, 32-1-467, MCA; IMP, Sec. 32-1-467

REASON: This rule is being proposed to implement changes in law made during the 1993 legislative session, and specifically to implement Chapter 395, Sections 33 and 34, Laws of 1993.

"V. CORPORATE CREDIT UNIONS (1) In the context of a voting representative and conflicts of interest that may arise relating to the director, committee member, officer, agent or employees' pecuniary interests, the following definitions apply:

(a) "Determination" means those actions pertaining to the discovery of pertinent circumstances, the analyses of those circumstances, the process of reporting and presenting the matters to others, or any participation in the decision making process, relating to a director, committee member, officer, agent, or employee's pecuniary interests. These pecuniary interests may be personal, or related to organizations the director, committee member, officer, agent, or employee directly or indirectly owns or controls; or where the director, committee member, officer, agent, or employee exerts an otherwise controlling influence over an organization.

(b) "Material" means, for the purposes of this section, an item that has an impact upon report form National Credit Union Administration 5300, or that is greater than or equal to \$5,000. A copy of report form National Credit Union Administration 5300 may be obtained from the Department of Commerce, Financial Division, Room 50, Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana 59620, at cost plus postage and handling.

(c) The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 12(c).

(2) The following applies to a corporate credit union's additional rights and powers:

(a) A corporate credit union shall develop a strategic business plan that identifies how the members' needs will be met, while maintaining the credit union's safety and soundness. The plan shall cover three years from inception, with annual updates made in those years following the first year of the plan. The plan should address existing potential for growth, future staff needs, and the adequacy of the credit union's data processing. The plan should include, but not be limited to, management's intentions regarding the control and containment of risk. In addition, the plan should contain steps to achieve the credit union's goals. A management system for monitoring the plan should include an annual board review of the plan.

(b) Corporate credit unions must adopt flexible capital goals, objectives, and strategies that include a budgetary process. The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 5.

(c) The corporate reserve requirements of 12 CFR 704.11 are incorporated for use as minimum standards for the purpose of this section. This includes, but is not limited to, those provisions pertaining to risk-weighted assets, and the components of risk-weighted capital. The financial division of the department of commerce adopts and incorporates by

reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, appendices "A", "B", and "C" of 12 CFR 704. These appendices address risk weights and risk categories, off balance sheet risk weighting, and investments, respectively.

(d) The credit union shall develop and implement comprehensive funds management policies. Monthly monitoring reports should be prepared for management's analyses, decisions, and recommendations to the board.

(e) A corporate credit union shall develop written loan policies which address origination, underwriting, and administration of loans to credit unions, members that are not credit unions, and credit unions that are not members of the corporate credit union. The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 7.

(f) The board of directors of a corporate credit union shall adopt an investment policy that will meet the needs of the corporate credit union. The policy will address risk diversification, funds management, approved investment vehicles, approval of broker/dealers, identification and authorizations for the credit union's investment officer(s) and/or its investment committee, and procedures for review and monitoring of performance. Investments permitted by this section shall generally include the issues of those agencies and government sponsored corporations and enterprises listed in the NCUA's Rules and Regulations at 12 CFR 704, Appendix "C". The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 6(b)(2).

(g) The investment in credit union service organizations shall be limited in the aggregate to 15% of a corporate credit union's capital. Such investments shall be further conditioned and limited by the provisions contained in 12 CFR 704.6(b)(1). The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 6(b)(1).

(h) A corporate credit union may provide services to its members that are customarily defined in the ordinary course of business to be "correspondent services." The services provided for in 12 CFR 704.9 may also be provided to members, unless prohibited by the state of Montana.

(i) "Correspondent services" means those activities related to the business of the credit union but which may legally be provided by others. It includes, but is not necessarily limited to:

- (A) investment services,
- (B) safekeeping services,
- (C) funds management services,
- (D) payment system services,
- (E) audit services,

- (F) management consulting and advisory services,
- (G) operational consulting and advisory services,
- (H) education and training services,
- (I) currency and coin supply services.

(i) A corporate credit union will be permitted to borrow up to a multiple of ten times its capital, or up to fifty percent of its shares and capital, whichever is greater. The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 8.

(j)(i) The expanded rights and powers listed in section 32-3-804, MCA, are deemed to include those provisions of 12 CFR 704.6 (investments), 12 CFR 704.7 (lending), 12 CFR 704.8 (borrowing), 12 CFR 704.9 (services), and 12 CFR 704.12 (membership). The financial division of the department of commerce adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, section 6, 7, 8, 9 and 12.

(ii) The financial division of the department of commerce adopts and incorporates by reference the following National Credit Union Administration's Rules: 12 CFR 704.1 (regarding authorities), 12 CFR 704.2 (certain definitions), 12 CFR 704.5 (capital goals, objectives and strategies), 12 CFR 704.9 (services), 12 CFR 704.10 (fixed assets), 12 CFR 704.11 (corporate reserves), 12 CFR 704.12 (representation), 12 CFR 704.13 (annual audit), and 12 CFR 704.14 (contracts and written agreements).

(3) A copy of the National Credit Union Administration's Rules and Regulations may be obtained from the Financial Division, Department of Commerce, Room 50, Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana 59620."

Auth: Sec. 32-3-803, 32-3-804, MCA IMP, Sec. 32-3-803, 32-3-804, Ch. 66, Sec. 3, 4, 5, 6, 7, MCA

REASON: This rule is proposed to implement changes in law made during the 1993 legislative session, and specifically implement Chapter 66, Sections 3, 4, 5, 6, and 7.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Financial Division, Room 50, Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana 59620, to be submitted no later than August 26, 1993.

5. Annie M. Bartos, attorney, will preside over and conduct the hearing.

FINANCIAL DIVISION
DON HUTCHISON
FINANCIAL COMMISSIONER

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

Certified to the Secretary of State, July 19, 1993.

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

In the matter of the amendment of)	NOTICE OF
rules 16.44.202 and 16.44.803)	PROPOSED AMENDMENT
dealing with underground injection)	OF RULES
wells)	
)	NO PUBLIC HEARING
)	CONTEMPLATED
	(Hazardous Waste)

To: All Interested Persons

1. On August 28, 1993, the department proposes to amend the above-captioned rules concerning hazardous waste underground injection wells.

2. The rules, as proposed to be amended, appear as follows (new material is underlined; material to be deleted is interlined):

16.44.202 DEFINITIONS In this chapter, the following terms shall have the meanings or interpretations shown below:

(1)-(76) Remains the same.

(77) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR part 146, or unit eligible for a research, development, and demonstration permit under ARM 16.44.126.

(78)-(135) Remain the same.

AUTH: 75-10-405, MCA; IMP: 75-10-405, 75-10-406, MCA

16.44.803 DEFINITIONS (1) Remains the same.

(2) The following terms are used in the specification for the financial tests for closure, post-closure care, and liability coverage as provided in ARM 16.44.811 and 16.44.817. The definitions are intended to assist in the understanding of these rules and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

(a)-(c) Remain the same.

(d) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c).

(d)-(h) Remain the same but are renumbered (e)-(i).

(3)-(4) Remain the same.

AUTH: 75-10-405, MCA; IMP: 75-10-405, MCA

3. The department is proposing these amendments to the rules because they are necessary to meet the standards of the

U.S. EPA for a hazardous waste program, thereby continuing Montana's eligibility to receive federal funding for and have primary responsibility for enforcing that program within the state.

4. Interested persons may submit their written data, views, or arguments concerning these amendments to J. Mark Stahly, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than August 26, 1993.

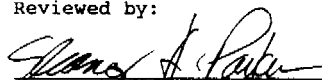
5. If a party who is directly affected by the proposed amendments wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to J. Mark Stahly, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than August 26, 1993.

6. If the department receives requests for a public hearing under Section 2-4-315, MCA, on the proposed amendments, from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not fewer 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 zero, based on the apparent fact that there are no underground injection wells in the state of Montana.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State July 19, 1993.

Reviewed by:


Eleanor Parker, DHES Attorney

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PUBLIC HEARING
of NEW RULE I relating to the)	ON PROPOSED ADOPTION OF
issuance of a seasonal)	RULE I relating to the
commercial driver's license.)	issuance of a seasonal
)	commercial driver's license.

TO: All Interested Persons.

1. On September 2, 1993 at 10 a.m., a public hearing will be held in the auditorium of the Scott Hart Building at 303 North Roberts at Helena, Montana, to consider the adoption of new rule I.

2. The proposed new rule provides as follows:

NEW RULE I SEASONAL CDL (1) Notwithstanding all other rule provisions concerning commercial driver's licenses, the department will issue a seasonal commercial driver's license (CDL) to those qualified employees working in farm-related service industries. A person seeking a seasonal CDL must be employed in one of the following farm-related service areas:

- (a) custom harvesters;
- (b) farm retail outlets and suppliers;
- (c) agri-chemical businesses;
- (d) livestock feeders.

This seasonal CDL will be issued without the knowledge and skill testing normally required of any applicant for a CDL. The specific requirements for obtaining a seasonal CDL are detailed within this rule and take the place of the normal knowledge and skill testing requirements.

(2) The requirements for a seasonal CDL which, in effect, substitute for the knowledge and skills tests, are as follows:

(a) Applicants must have a "good driving record" in accordance with the federal requirements found in 49 CFR 383.77. These specific requirements are found in subsection (3) of this rule. Drivers who have not held any motor vehicle operators license for at least one year will not be eligible for the seasonal CDL. Drivers who have between one and two years of driving experience must demonstrate the "good driving record" requirements for their entire driving history. Drivers with more than two years of driving experience must meet the "good driving record" requirements for the two most recent years. All applicants for a seasonal CDL must possess a Montana driver's license.

(b) Seasonal CDL's will have the same renewal cycle (four years) as a regular CDL but will only be valid for the operation of a commercial motor vehicle for the time period of March 15 through September 11 in any given calendar year. The seasonal CDL must be revalidated each year for seasonal use by confirming

the "good driving record" requirements. The seasonal CDL may be used throughout the year for the operation of motor vehicles not defined as commercial motor vehicles.

(c) Seasonal CDL holders are limited to operating class B and C vehicles only.

(d) Seasonal CDL holders may not drive vehicles carrying any placarded quantities of hazardous materials, except for diesel fuel in quantities of 1000 gallons or less; liquid fertilizers (i.e., plant nutrients) in vehicles or implements of husbandry with total capacities of 3,000 gallons or less; and solid fertilizers (i.e., solid plant nutrients) that are not transported with any organic substance.

(e) Seasonal CDL holders may not operate a commercial motor vehicle beyond 150 miles from the place of business or the farm currently being served.

(f) Applicants intending to operate wholly in intrastate commerce must meet the eligibility requirements found in ARM 23.3.505, 23.3.506 and 23.3.507. Applicants intending to operate in interstate commerce must meet the eligibility requirements found in ARM 23.3.503 and 23.3.504.

(g) The fee for a seasonal CDL is \$14.00.

(3) The "good driving record" requirements are:

(a) No multiple licenses;

(b) No driver's license suspensions, revocations, or cancellations of any kind;

(c) No convictions in any type of motor vehicle for driving under the influence of alcohol or drugs, leaving the scene of an accident, or committing any felony involving a motor vehicle;

(d) No convictions whatsoever (in any type of motor vehicle for serious traffic violations (i.e., speeding at 15 miles per hour greater than the posted limit; reckless driving; improper or erratic lane changes; following too closely);

(e) No convictions for accident-connected traffic law violations, and no record of at-fault accidents.

(4) Applicants must provide the department with a driving record sufficient to verify the "good driving record" requirements.

(5) Seasonal CDL holders will be subject to disqualification and license suspension or revocation under the same terms and conditions as any other CDL holder. These terms and conditions are found in MCA Title 61, chapter 8, part 8. In addition, any violation of the "good driving record" requirements will result in the immediate suspension of the seasonal CDL.

AUTH: 61-5-112; 61-5-117; 61-5-125; IMP: 61-5-102; 61-5-110; 61-5-112.

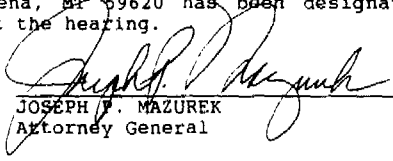
3. Adoption of the new rule is necessary because the federal Department of Transportation, in April 1992, authorized states to issue seasonal CDLs under the conditions detailed in the proposed rule. Although such issuance is a state option, the Department has decided to propose a rule providing for seasonal CDLs because of the large volume of farm-related

service business within the state. The Montana Agricultural Business Association has also asked the Department to consider the adoption of such a rule.

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Anita Drews, Field Operations Bureau Chief, Motor Vehicle Division, Department of Justice, Scott Hart Building, 303 North Roberts, Helena, MT 59620, and must be received no later than September 2, 1993.

5. Anita Drews, Field Operations Bureau Chief, Motor Vehicle Division, Department of Justice, Scott Hart Building, 303 North Roberts, Helena, MT 59620 has been designated to preside over and conduct the hearing.

By:


JOSEPH P. MAZUREK
Attorney General


Kathy Seelley
Rule Reviewer

Certified to the Secretary of State July 19, 1993.

In the matter of the proposed amendment of rules related to groups of employers that self-insure for workers' compensation purposes) NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT OF 24.29.702G, INITIAL ELECTION - GROUP OF EMPLOYERS; AND 24.29.702K, RENEWAL - GROUP OF EMPLOYERS

1. On August 23, 1993, at 10:00 a.m., a public hearing will be held in the first floor conference room at the Walt Sullivan Building (Dept. of Labor Building), 1327 Lockey Street, Helena, Montana, to consider the amendment of rules related to groups of employers that self-insure for workers' compensation purposes.

2. The Department of Labor and Industry proposes to amend the rules as follows: (new matter underlined, deleted matter interlined)

(iv) provision for power of attorney between the individual employers and the self-insurance group;

(v) agreement to be bound by the by-laws and by the group's decisions; and,

(vi) provisions for assessment for deficits;

(e) a copy of the last two at least the most recent year's audited financial statements of each individual employer participating in the group, and such copy must be submitted for any individual employer joining the group at any time after the group's mutual election; The department or the guaranty fund may require copies of additional years' audited financial statements for each individual employer. When approved by the department and the guaranty fund, the submission of these financial statements may be to an independent certified public accounting firm;

(f) evidence that each employer in the group has been in business for a period of not less than five (5) years;

(g) evidence that the group had a combined minimum of ~~100~~ 200 employees per year over the preceding two (2) years;

(h) a loss run and claims summary from insurance carriers who provided coverage to each employer in for individual employers in the group during the preceding four (4) years, showing each individual claim, date of injury, type of injury, compensation and medical benefits paid to date and amount reserved for future liability; The claims summary shall provide by policy year the number of accidents, number of claims for compensation, compensation and medical benefits paid and the amount reserved for future liabilities. The department may also require a loss run showing each individual claim, date of injury, type of injury, compensation and medical benefits paid to date, and the amount reserved for future liability;

(i) evidence that it has an insurance policy of specific excess and aggregate excess insurance with policy limits and retention amounts acceptable to the division department; as required in ARM 24-29-702E--Excess insurance must be managed by a third party administrator--Evidence must include the administrator's approved specific and aggregate self insurance retention and maximum policy limits;

(j) a surety bond deposit in an amount as required in ARM 24-29-702E- by the department, with the concurrence of the guaranty fund;

(k) evidence of its internal or contracted claims adjustment service in compliance with ARM 24.29.804;

(l) identification of the financial institution the group will use to deposit and withdraw funds for purposes of paying compensation;

(m) an explanation of how claims reserves will be established on each case and the method of review to assure accuracy and adequacy of the amount of the reserves;

(n) a composite listing of the estimated annual gross premium to be paid by each member of the association;

(o) a projection of administrative expenses for the first year of operation as an amount and as a percentage of the annual premium;

(p) evidence that the group has an effective written safety and loss control program;

(q) evidence that internal policies and procedures are satisfactory to operate a group self-insurance program;

(r) resolution by each member authorizing participation in the program;

(s) resolution designating authorized signatures for participation in the program;

(t) a feasibility study conducted by a certified actuary to include an actuarial forecasting of losses;

(u) a general plan of operation;

(v) pro forma financial statements for the first 2 years of the group's operation, to include any assumptions made;

(w) copies of any contracts including contracts with the administrative service company, claims adjuster and fiscal agency; and

(x) for private employer group applicants, proof of membership in the Montana self-insurers guaranty fund.

(2) An employer electing to be bound as a member of an existing group self-insurer must provide the following at least 30 days prior to joining the group:

(a) a completed application on forms provided by the department;

(b) resolution designating authorized signatures for participation in the program;

(c) a copy of a signed agreement showing:

(i) agreement to accept joint and several liability for all obligations incurred by the group;

(ii) provisions for addition of a new member to the self-insurance group;

(iii) provisions for withdrawal and expulsion of a member from the self-insurance group;

(iv) provision for power of attorney between the individual employer and the self-insurance group;

(v) agreement to be bound by the by-laws and by the group's decisions; and,

(vi) provisions for assessment for deficits.

(d) a copy of the last two years' audited or reviewed financial statements, if required by the department or the guaranty fund;

(e) the group may admit an employer who provides financial statements reviewed by an independent certified public accountant, provided the total premiums payable to the group from employers having only reviewed financial statements shall not constitute more than 10% of the group's total normal premium for the year the employer joins the group, or for any year thereafter;

(f) claims summary from insurance carriers who provided coverage to the employer during the preceding four (4) years. The claims summary shall provide by policy year the number of accidents, number of claims for compensation, compensation and medical benefits paid and the amount reserved for future liabilities. The department may also require a loss run showing each individual claim, date of injury, type of injury, compensation and medical benefits paid to date, and the amount reserved for future liability; and

(q) evidence that the employer's risks have been accepted for coverage by the group's excess insurance carrier.

AUTH: Sec. 39-71-203, MCA IMP: Sec. 39-71-403, 39-71-2101, 39-71-2102, 39-71-2103 and 39-71-2106, MCA

24.29.702K RENEWAL -- GROUP OF EMPLOYERS (1) A group of employers renewing an election to be bound as a group self-insurer must provide the following by April 30th within 120 days of the end of the group's policy each year, or on such other date as determined by the department:

(a) a completed application on forms provided by the division department;

(b) a list of all individual employers making up the group;

(c) a copy of the group's latest year's audited financial statement;

(d) evidence that the group had a combined minimum of at least 100 200 employees over the preceding year;

(e) a loss-run and claims summary for the preceding year. The claims summary shall provide by policy year the number of accidents, number of claims for compensation, total compensation and total medical benefits paid and the total amount reserved for future liabilities. The department may also require a loss run showing each individual claim, date of injury, type of injury, compensation and medical benefits paid to date, and the amount reserved for future liability;

(f) a composite listing of the estimated annual gross premium to be paid by each member of the association group;

(g) a projection of administrative expenses for the coming year's operation as an amount and as a percentage of the annual premium;

(h) an actuarial study conducted by a certified actuary which includes an examination of the group's loss experience, an opinion of the adequacy of the group's reserves, and a recommendation on the required premium for the upcoming year;

(i) proof of excess insurance as required in ARM 24.29.702E;

(j) for private employer groups, proof of continuing membership in the Montana self-insurers guaranty fund;

(k) evidence that internal policies and procedures are satisfactory to administer a self-insurance program;

(l) evidence that it has an effective written safety program;

(m) a security deposit in an amount as may be required by the department, with the concurrence of the guaranty fund;

(n) evidence that its internal or contracted claims adjustment service is in compliance with ARM 24.29.804; and

(o) evidence that no more than 10% of the group's premium for the current policy year is due from employers providing only reviewed financial statements.

AUTH: Sec. 39-71-203, MCA IMP: Sec. 39-71-403 and 39-71-2104, MCA

REASON: The Department proposes to amend the rules relating to group self-insurers in order to better reflect the needs of the Department and Montana employers. The Department has a need to obtain accurate information upon which to evaluate the appropriateness of self-insured employer groups. Increasing numbers of Montana employer groups wish to self-insure for workers' compensation purposes. Those employers desire an application and renewal process that is as speedy and inexpensive as practical, while remaining consistent with the proper exercise of the Department's regulatory functions. These amendments are designed to provide the Department with the information it needs while accommodating legitimate business concerns about confidentiality and cost.

These amendments also make technical adjustments in the rules to reflect the role of the Montana self-insurers guaranty fund in concurring with certain decisions related to approval of self-insured employers.

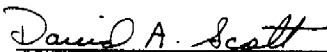
3. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to:

Dennis Zeiler, Bureau Chief
Standards Bureau
Employment Relations Division
Department of Labor and Industry
P.O. Box 8011
Helena, Montana 59604-8011

and must be received by no later than 5:00 p.m., August 30, 1993.

4. The Department proposes to make these amendments effective October 1, 1993.

5. The Hearing Unit of the Legal Services Division of the Department has been designated to preside over and conduct the hearing.



David A. Scott
Rule Reviewer



Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: July 19, 1993.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rules	)	THE PROPOSED AMENDMENT OF
46.13.203, 46.13.301,	)	RULES 46.13.203, 46.13.301,
46.13.302, 46.13.303,	)	46.13.302, 46.13.303,
46.13.304 and 46.13.401 and	)	46.13.304 AND 46.13.401 AND
the repeal of rule 46.13.402	)	THE REPEAL OF RULE
pertaining to low income	)	46.13.402 PERTAINING TO LOW
energy assistance program	)	INCOME ENERGY ASSISTANCE
(LIEAP)	)	PROGRAM (LIEAP)

TO: All Interested Persons

1. On August 18, 1993, at 10:00 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the proposed amendment of rules 46.13.203, 46.13.301, 46.13.302, 46.13.303, 46.13.304 and 46.13.401 and the repeal of rule 46.13.402 pertaining to low income energy assistance program (LIEAP).

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

46.13.203. PLACE OF APPLICATION Subsections (1) and (2) remain the same.

(3) Applications may be filed only during the period of October 1 through April 30.

AUTH: Sec. 53-2-201 MCA

IMP: Sec. 53-2-201 MCA

46.13.301. DEFINITIONS Subsections (1) through (8) remain the same.

(9) "~~Dependent care deductions expenses~~" means all ~~dependent payments for care payments made by~~ provided to a ~~dependent~~ household member in the 12 months immediately preceding the month of application ~~for purposes of to enable a household member to maintaining or seeking employment or educational opportunities activities.~~

(10) "Member receiving supplemental security income (SSI), aid to families with dependent children (AFDC), or general assistance (GA)" means any member of a household whose needs are included in the SSI, AFDC or GA grant or any person whose income and resources are considered in determining eligibility for those programs.

AUTH: Sec. 53-2-201 MCA

IMP: Sec. 53-2-201 MCA

46.13.302 ELIGIBILITY REQUIREMENTS FOR CERTAIN TYPES OF INDIVIDUALS AND HOUSEHOLDS

(1) Except as provided below, households which consist solely of members receiving supplemental security income, aid to families with dependent children, or general assistance are automatically financially eligible for ~~100%~~ low income energy assistance benefit awards. ~~"Members receiving SSI, AFDC, or general assistance" includes any financially responsible relative or individual whose income and resources were considered in determining eligibility for these programs.~~

Subsections (2) through (5) remain the same.

(6) Current and future benefits may be denied any applicant or recipient who, having been prioritized for weatherization services as a high excess energy user, according to the criteria set forth in ARM 46.14.301 and 401, refuses, ~~for from~~ reasons within his control, energy conservation services for the weatherization assistance program (WAP). ~~The applicant or recipient may become eligible for benefits again by accepting the WAP energy conservation services.~~

AUTH: Sec. 53-2-201 MCA

IMP: Sec. 53-2-201 MCA

46.13.303 TABLES OF GROSS RECEIPTS AND INCOME STANDARDS

(1) The income standards in the table in subsection (2) below are the ~~1992~~ 1993 U.S. government office of management and budget poverty levels for households of different sizes. This table applies to all households, including self-employed households.

(a) Households with annual gross income at or below 125% of the ~~1992~~ 1993 poverty level are financially eligible for low income energy assistance. Households with an annual gross income above 125% of the ~~1992~~ 1993 poverty level are ineligible for low income energy assistance.

(2) Annual ~~Income~~ standards for all households:

Family Size	Poverty Guideline	50 Percent	125 Percent	150 Percent
One	\$ 6,810 <u>6,970</u>	\$ 3,405 <u>3,485</u>	\$ 8,513 <u>8,713</u>	\$ 10,215 <u>10,455</u>
Two	9,190 <u>9,430</u>	4,595 <u>4,715</u>	11,488 <u>11,788</u>	13,785 <u>14,145</u>
Three	11,570 <u>11,890</u>	5,785 <u>5,945</u>	14,463 <u>14,863</u>	17,355 <u>17,835</u>
Four	13,950 <u>14,350</u>	6,975 <u>7,175</u>	17,438 <u>17,938</u>	20,925 <u>21,525</u>
Five	16,330 <u>16,810</u>	8,165 <u>8,405</u>	20,413 <u>21,013</u>	24,495 <u>25,215</u>
Six	18,710 <u>19,270</u>	9,355 <u>9,635</u>	23,388 <u>24,088</u>	28,065 <u>28,905</u>
Additional member add	2,380 <u>2,460</u>	1,190 <u>1,230</u>	2,975 <u>3,075</u>	3,570 <u>3,690</u>

AUTH: Sec. 53-2-201 MCA

IMP: Sec. 53-2-201 MCA

46.13.304 CALCULATING INCOME Subsections (1) through (1)(h) remain the same.

(i) all monies awarded to Indian tribes by the Indian claims commission or court of claims ~~shall be excluded~~ as authorized by P.L. 93-134, 92-254, 94-540 and 94-114;

Subsections (1)(j) through (1)(p) remain the same.

(q) payments to individual volunteers under Title I (VISTA) of P.L. 93-113, pursuant to section 404(g) of that law; and

(r) proceeds from sale of the family home; and

(2g) ~~Excluded from income~~ are one-time insurance payments or compensation for injury which do not exceed \$10,000.

(32) ~~Deducted from income~~ are out-of-pocket nonreimbursable dependent care expenses as defined in ARM 46.13.301 (32) may be deducted from income only if: All dependent care expenses must be verified by receipt of payment by a nonrelated individual.

(ab) ~~Dependent care deduction shall not include payments by the household which the expenses are not reimbursable by a third party; and~~

(ba) ~~Dependent care deductions shall be subtracted from the household's annual gross income that is between 125% and 150% of the 1992 1993 U.S. government office of management and budget poverty level for the particular household size;~~

(c) ~~Households meeting the income standards in ARM 46.13.303(2) after this adjustment are eligible for 75% of the benefit award matricees as defined in ARM 46.13.401(2). the dependent care was provided by a person not related by blood or marriage to any member of the household.~~

(43) ~~Allowable medical and dental costs are may be deducted from income only if:~~

(a) ~~Medical and dental deductions can only be subtracted from the household's annual gross income that is between 125% and 150% of the 1992 U.S. government office of management and budget poverty level for the particular household size; Households meeting the income standards in ARM 46.13.303(2) after this adjustment are eligible for benefits.~~

(b) the costs are not reimbursable by a third party; and

(c) they are expended for:

Subsection (4)(a)(i) remains the same in text but is renumbered (3)(c)(i).

(ii) hospitalization or outpatient treatment, nursing care, and nursing home care provided by a facility recognized by the state, including payments treatment or care paid for by the household for an individual who was a household member immediately prior to entering such a facility;

Subsections (4)(a)(iii) and (iv) remain the same in text but are renumbered (3)(c)(iii) and (iv).

(v) health and hospitalization insurance policy premiums, except ~~that the costs of premiums for health and~~

accident policies, such as those payable in lump sum settlements for death or dismemberment, or other income maintenance policies, such as those that continue mortgage or loan payments while the beneficiary is disabled, are not deductible;

Subsections (4)(a)(vi) through (viii) remain the same in text but are renumbered (3)(c)(vi) through (viii).

(ix) seeing eye or hearing dogs, including the cost of securing and maintaining such dogs; or

Subsection (4)(a)(x) remains the same in text but is renumbered (3)(c)(x).

AUTH: Sec. 53-2-201 MCA

IMP: Sec. 53-2-201 MCA

46.13.401 BENEFIT AWARD MATRICES Subsections (1) through (1)(d) remain the same.

(2) The benefit award matrices which follow in subsections (2)(d) and (2)(e) are used to establish the maximum benefit available payable to an eligible household for a full winter heating season (October thru April). The maximum benefit varies by household income level, ~~(100% if at or below 50% of OMB poverty, 75% if between 51% - 125% of OMB poverty level)~~ type of primary heating fuel, and in certain cases by ~~vendor~~, the type of dwelling (single family unit, multi-family unit, mobile home), and the number of bedrooms in the dwelling, a shelter or rental unit. Applicants may claim no more bedrooms than household members except that single elderly and handicapped households are entitled to two bedrooms benefit designation if the home contains more than one bedroom. The maximum benefit also varies by local contractor and the heating districts in which the household is located, to account for climatic differences across the state.

(a) Except as provided in (2)(b), the benefit payable to an eligible household will be computed by multiplying the applicable amount in the table of base benefit levels found in (2)(d) by the applicable matrix amount in the table of income/climatic adjustment multipliers found in (2)(e).

(b) A household whose gross annual income is above 125% of the 1993 poverty level but is eligible for benefits because of dependent care deductions and/or medical and dental deductions provided in ARM 46.13.304(3) and (4) will receive a benefit which is 40% of the maximum benefit.

(c) Applicants may claim no more bedrooms than household members except that single elderly and handicapped households are entitled to claim two bedrooms if their dwelling unit contains more than one bedroom.

(d) The following table of base benefit levels takes into account the number of bedrooms in a house, the type of dwelling structure, and the type of fuel used as a primary source of heating:

TABLE OF BENEFIT LEVELS

SINGLE FAMILY

# BEDROOMS	<u>NATURAL</u>					
	<u>GAS</u>	<u>ELECTRIC</u>	<u>PROPANE</u>	<u>FUEL OIL</u>	<u>WOOD</u>	<u>COAL</u>
<u>ONE</u>	<u>\$264</u>	<u>\$372</u>	<u>\$408</u>	<u>\$318</u>	<u>\$248</u>	<u>\$227</u>
<u>TWO</u>	<u>\$384</u>	<u>\$541</u>	<u>\$594</u>	<u>\$463</u>	<u>\$361</u>	<u>\$330</u>
<u>THREE</u>	<u>\$523</u>	<u>\$737</u>	<u>\$809</u>	<u>\$630</u>	<u>\$492</u>	<u>\$450</u>
<u>FOUR</u>	<u>\$720</u>	<u>\$1,104</u>	<u>\$1,113</u>	<u>\$867</u>	<u>\$677</u>	<u>\$618</u>

MULTI FAMILY

# BEDROOMS	<u>NATURAL</u>					
	<u>GAS</u>	<u>ELECTRIC</u>	<u>PROPANE</u>	<u>FUEL OIL</u>	<u>WOOD</u>	<u>COAL</u>
<u>ONE</u>	<u>\$223</u>	<u>\$315</u>	<u>\$345</u>	<u>\$338</u>	<u>\$210</u>	<u>\$192</u>
<u>TWO</u>	<u>\$336</u>	<u>\$474</u>	<u>\$520</u>	<u>\$509</u>	<u>\$316</u>	<u>\$289</u>
<u>THREE</u>	<u>\$493</u>	<u>\$695</u>	<u>\$763</u>	<u>\$747</u>	<u>\$464</u>	<u>\$424</u>
<u>FOUR</u>	<u>\$576</u>	<u>\$812</u>	<u>\$892</u>	<u>\$873</u>	<u>\$542</u>	<u>\$495</u>

MOBILE HOME

# BEDROOMS	<u>NATURAL</u>					
	<u>GAS</u>	<u>ELECTRIC</u>	<u>PROPANE</u>	<u>FUEL OIL</u>	<u>WOOD</u>	<u>COAL</u>
<u>ONE</u>	<u>\$222</u>	<u>\$313</u>	<u>\$344</u>	<u>\$281</u>	<u>\$209</u>	<u>\$191</u>
<u>TWO</u>	<u>\$325</u>	<u>\$458</u>	<u>\$503</u>	<u>\$411</u>	<u>\$306</u>	<u>\$280</u>
<u>THREE</u>	<u>\$431</u>	<u>\$608</u>	<u>\$667</u>	<u>\$545</u>	<u>\$406</u>	<u>\$371</u>
<u>FOUR</u>	<u>\$481</u>	<u>\$678</u>	<u>\$745</u>	<u>\$608</u>	<u>\$453</u>	<u>\$414</u>

(e) The following table is based upon the household's income as a percentage of the federal poverty index and adjusted for climatic differences in the ten human resource development council service areas in the state of Montana:

TABLE OF INCOME/CLIMATIC ADJUSTMENT MULTIPLIERS

PERCENT OF POVERTY	AEM	IV	V	VI	VII	VIII	IX	X	XI	XII
0 - 10	1.00	1.08	0.98	0.99	0.93	1.02	1.08	0.90	0.92	1.09
11 - 20	0.95	1.02	0.94	0.94	0.89	0.97	1.03	0.86	0.87	1.04
21 - 30	0.90	0.97	0.89	0.89	0.84	0.92	0.98	0.81	0.82	0.98
31 - 40	0.85	0.92	0.84	0.84	0.79	0.87	0.92	0.77	0.78	0.93
41 - 50	0.80	0.86	0.79	0.79	0.75	0.82	0.87	0.72	0.73	0.87
51 - 60	0.75	0.81	0.74	0.74	0.70	0.77	0.81	0.68	0.69	0.82
61 - 70	0.70	0.75	0.69	0.69	0.65	0.71	0.76	0.63	0.64	0.76
71 - 80	0.65	0.70	0.64	0.64	0.61	0.66	0.70	0.59	0.60	0.71
81 - 90	0.60	0.65	0.59	0.59	0.56	0.61	0.65	0.54	0.55	0.65
91 - 100	0.55	0.59	0.54	0.54	0.51	0.56	0.60	0.50	0.50	0.60
101 - 110	0.50	0.54	0.49	0.49	0.47	0.51	0.54	0.45	0.46	0.55
111 - 120	0.45	0.48	0.44	0.44	0.42	0.46	0.49	0.41	0.41	0.49
121 - 125	0.40	0.43	0.39	0.39	0.37	0.41	0.43	0.36	0.37	0.44

(a) DISTRICT 1, 2 & 3

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$182	\$452	\$285	\$299	\$137	\$127
2-BEDROOMS	\$222	\$552	\$347	\$356	\$171	\$158
3-BEDROOMS	\$251	\$637	\$394	\$416	\$206	\$190
4-BEDROOMS	\$282	\$703	\$442	\$465	\$240	\$221

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$158	\$393	\$248	\$260	\$119	\$110
2-BEDROOMS	\$193	\$480	\$302	\$318	\$149	\$138
3-BEDROOMS	\$218	\$546	\$343	\$362	\$179	\$165
4-BEDROOMS	\$246	\$611	\$386	\$405	\$209	\$193

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$169	\$420	\$265	\$278	\$128	\$118
2-BEDROOMS	\$206	\$513	\$323	\$340	\$159	\$147
3-BEDROOMS	\$233	\$583	\$367	\$386	\$191	\$177
4-BEDROOMS	\$263	\$663	\$411	\$433	\$223	\$206

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$136	\$339	\$213	\$225	\$103	\$-95
2-BEDROOMS	\$166	\$414	\$260	\$274	\$129	\$119
3-BEDROOMS	\$188	\$470	\$296	\$312	\$154	\$142
4-BEDROOMS	\$212	\$527	\$332	\$349	\$180	\$166

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$118	\$295	\$186	\$195	\$-89	\$-83
2-BEDROOMS	\$145	\$360	\$226	\$239	\$112	\$103
3-BEDROOMS	\$164	\$409	\$257	\$271	\$134	\$124
4-BEDROOMS	\$184	\$458	\$289	\$304	\$157	\$145

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$127	\$315	\$198	\$209	\$-96	\$-88
2-BEDROOMS	\$155	\$385	\$242	\$255	\$120	\$110
3-BEDROOMS	\$175	\$438	\$275	\$290	\$143	\$132
4-BEDROOMS	\$193	\$490	\$308	\$325	\$167	\$154

(b) DISTRICT 4

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$168	\$377	\$312	\$390	\$146	\$134
2-BEDROOMS	\$206	\$460	\$380	\$477	\$182	\$168

3-BEDROOMS	\$233	\$523	\$132	\$543	\$219	\$202
4-BEDROOMS	\$262	\$536	\$485	\$607	\$255	\$235

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$147	\$328	\$271	\$339	\$127	\$117
2-BEDROOMS	\$179	\$400	\$331	\$415	\$158	\$146
3-BEDROOMS	\$203	\$455	\$376	\$471	\$190	\$176
4-BEDROOMS	\$228	\$510	\$422	\$528	\$223	\$205

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$157	\$350	\$290	\$363	\$135	\$125
2-BEDROOMS	\$191	\$428	\$354	\$443	\$169	\$156
3-BEDROOMS	\$217	\$486	\$402	\$504	\$203	\$188
4-BEDROOMS	\$244	\$545	\$451	\$564	\$237	\$219

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$126	\$282	\$234	\$293	\$109	\$101
2-BEDROOMS	\$154	\$345	\$285	\$357	\$137	\$126
3-BEDROOMS	\$175	\$392	\$324	\$406	\$164	\$151
4-BEDROOMS	\$197	\$439	\$363	\$455	\$191	\$176

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$110	\$246	\$204	\$255	\$95	\$88
2-BEDROOMS	\$134	\$300	\$248	\$311	\$119	\$110
3-BEDROOMS	\$152	\$341	\$282	\$353	\$143	\$132
4-BEDROOMS	\$171	\$382	\$316	\$396	\$166	\$154

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$118	\$263	\$218	\$272	\$102	\$94
2-BEDROOMS	\$144	\$321	\$265	\$332	\$127	\$117
3-BEDROOMS	\$162	\$365	\$302	\$378	\$152	\$141
4-BEDROOMS	\$183	\$409	\$338	\$423	\$178	\$164

(*)-----DISTRICT 5

100%

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
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1-BEDROOM	\$152	\$344	\$264	\$300	\$133	\$123
2-BEDROOMS	\$187	\$421	\$322	\$366	\$166	\$154
3-BEDROOMS	\$212	\$478	\$366	\$416	\$200	\$184
4-BEDROOMS	\$238	\$535	\$411	\$466	\$233	\$215

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$133	\$299	\$230	\$261	\$116	\$107
2-BEDROOMS	\$163	\$366	\$280	\$318	\$145	\$134
3-BEDROOMS	\$184	\$416	\$319	\$362	\$174	\$160
4-BEDROOMS	\$207	\$466	\$357	\$405	\$203	\$187

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$142	\$320	\$246	\$279	\$124	\$114
2-BEDROOMS	\$174	\$391	\$300	\$340	\$155	\$143
3-BEDROOMS	\$197	\$445	\$341	\$387	\$186	\$171
4-BEDROOMS	\$221	\$498	\$382	\$433	\$217	\$200

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$115	\$258	\$198	\$225	\$100	\$-92
2-BEDROOMS	\$140	\$316	\$242	\$275	\$126	\$115
3-BEDROOMS	\$159	\$359	\$275	\$312	\$150	\$138
4-BEDROOMS	\$179	\$402	\$308	\$349	\$175	\$161

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$100	\$225	\$172	\$196	\$-87	\$-80
2-BEDROOMS	\$122	\$274	\$210	\$239	\$109	\$100
3-BEDROOMS	\$138	\$312	\$239	\$271	\$130	\$120
4-BEDROOMS	\$155	\$349	\$268	\$304	\$152	\$140

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$107	\$240	\$184	\$209	\$-93	\$-86
2-BEDROOMS	\$130	\$293	\$225	\$255	\$116	\$107
3-BEDROOMS	\$148	\$333	\$256	\$290	\$139	\$129
4-BEDROOMS	\$166	\$373	\$286	\$325	\$163	\$150

(4) DISTRICT 6

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
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1-BEDROOM	\$154	\$345	\$269	\$353	\$134	\$123
2-BEDROOMS	\$189	\$422	\$338	\$433	\$167	\$154
3-BEDROOMS	\$214	\$479	\$372	\$490	\$200	\$185
4-BEDROOMS	\$240	\$537	\$417	\$548	\$234	\$216

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$124	\$200	\$234	\$207	\$116	\$107
2-BEDROOMS	\$164	\$267	\$285	\$275	\$145	\$134
3-BEDROOMS	\$186	\$417	\$324	\$426	\$174	\$161
4-BEDROOMS	\$209	\$467	\$363	\$477	\$203	\$188

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$144	\$221	\$250	\$228	\$124	\$115
2-BEDROOMS	\$176	\$292	\$305	\$401	\$155	\$143
3-BEDROOMS	\$190	\$446	\$346	\$455	\$186	\$172
4-BEDROOMS	\$223	\$499	\$388	\$510	\$217	\$201

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$116	\$259	\$201	\$265	\$100	\$-92
2-BEDROOMS	\$143	\$316	\$246	\$323	\$125	\$116
3-BEDROOMS	\$160	\$360	\$279	\$367	\$150	\$129
4-BEDROOMS	\$180	\$403	\$313	\$411	\$175	\$163

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$101	\$225	\$175	\$230	\$-87	\$-80
2-BEDROOMS	\$123	\$275	\$214	\$281	\$109	\$101
3-BEDROOMS	\$139	\$313	\$243	\$319	\$121	\$121
4-BEDROOMS	\$157	\$350	\$272	\$359	\$152	\$141

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$100	\$241	\$187	\$246	\$-93	\$-86
2-BEDROOMS	\$122	\$294	\$228	\$301	\$116	\$107
3-BEDROOMS	\$149	\$334	\$260	\$342	\$140	\$129
4-BEDROOMS	\$168	\$375	\$291	\$383	\$163	\$150

(6) DISTRICT 7

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$165	\$322	\$272	\$325	\$124	\$115
2-BEDROOMS	\$201	\$393	\$331	\$398	\$156	\$144

3-BEDROOMS	\$228	\$447	\$377	\$452	\$187	\$172
4-BEDROOMS	\$256	\$501	\$422	\$506	\$218	\$204

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$143	\$280	\$236	\$293	\$188	\$180
2-BEDROOMS	\$175	\$342	\$288	\$346	\$235	\$125
3-BEDROOMS	\$198	\$389	\$328	\$393	\$162	\$150
4-BEDROOMS	\$223	\$436	\$367	\$440	\$190	\$176

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$153	\$299	\$253	\$303	\$116	\$107
2-BEDROOMS	\$187	\$366	\$308	\$370	\$145	\$134
3-BEDROOMS	\$212	\$416	\$360	\$420	\$174	\$160
4-BEDROOMS	\$238	\$466	\$393	\$471	\$203	\$187

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$124	\$241	\$204	\$244	\$-93	\$-86
2-BEDROOMS	\$151	\$295	\$248	\$298	\$117	\$108
3-BEDROOMS	\$171	\$335	\$282	\$339	\$140	\$129
4-BEDROOMS	\$192	\$375	\$317	\$380	\$163	\$151

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$108	\$210	\$177	\$212	\$-81	\$-76
2-BEDROOMS	\$131	\$267	\$216	\$269	\$103	\$-94
3-BEDROOMS	\$149	\$299	\$246	\$295	\$122	\$112
4-BEDROOMS	\$167	\$327	\$275	\$330	\$142	\$131

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$115	\$224	\$189	\$227	\$-87	\$-80
2-BEDROOMS	\$141	\$274	\$231	\$277	\$109	\$100
3-BEDROOMS	\$159	\$313	\$263	\$315	\$130	\$120
4-BEDROOMS	\$179	\$349	\$294	\$363	\$152	\$140

(F) DISTRICT-8

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL-OIL	PROPANE	WOOD	COAL
1-BEDROOM	\$160	\$367	\$241	\$426	\$138	\$127
2-BEDROOMS	\$196	\$426	\$294	\$520	\$173	\$159
3-BEDROOMS	\$221	\$496	\$335	\$592	\$207	\$191
4-BEDROOMS	\$248	\$556	\$375	\$663	\$242	\$223

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$139	\$211	\$210	\$371	\$139	\$111
2 BEDROOMS	\$170	\$280	\$256	\$453	\$160	\$139
3 BEDROOMS	\$192	\$431	\$291	\$515	\$180	\$166
4 BEDROOMS	\$216	\$483	\$326	\$576	\$210	\$194

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$148	\$332	\$225	\$396	\$128	\$119
2 BEDROOMS	\$181	\$406	\$274	\$484	\$161	\$148
3 BEDROOMS	\$205	\$461	\$211	\$550	\$193	\$178
4 BEDROOMS	\$231	\$516	\$349	\$616	\$225	\$207

75%

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$120	\$268	\$181	\$320	\$104	\$-96
2 BEDROOMS	\$146	\$327	\$221	\$390	\$129	\$119
3 BEDROOMS	\$166	\$372	\$251	\$444	\$155	\$143
4 BEDROOMS	\$186	\$416	\$281	\$497	\$181	\$167

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$104	\$233	\$158	\$278	\$-90	\$-83
2 BEDROOMS	\$127	\$285	\$193	\$340	\$113	\$104
3 BEDROOMS	\$144	\$323	\$219	\$386	\$135	\$125
4 BEDROOMS	\$162	\$362	\$245	\$432	\$158	\$146

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$111	\$249	\$168	\$291	\$-96	\$-89
2 BEDROOMS	\$136	\$304	\$205	\$363	\$120	\$111
3 BEDROOMS	\$154	\$346	\$233	\$413	\$144	\$133
4 BEDROOMS	\$173	\$387	\$262	\$462	\$169	\$156

(9) DISTRICT 9

100%

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$148	\$331	\$285	\$386	\$128	\$118
2 BEDROOMS	\$181	\$404	\$348	\$471	\$160	\$148
3 BEDROOMS	\$204	\$459	\$395	\$535	\$192	\$177
4 BEDROOMS	\$230	\$514	\$443	\$600	\$224	\$207

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$129	\$288	\$248	\$235	\$111	\$103
-2 BEDROOMS	\$157	\$352	\$302	\$410	\$139	\$128
-3 BEDROOMS	\$178	\$399	\$344	\$466	\$167	\$154
-4 BEDROOMS	\$200	\$447	\$385	\$522	\$195	\$180

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$138	\$307	\$265	\$359	\$119	\$110
-2 BEDROOMS	\$168	\$376	\$323	\$438	\$149	\$137
-3 BEDROOMS	\$190	\$427	\$368	\$498	\$178	\$165
-4 BEDROOMS	\$214	\$478	\$412	\$558	\$208	\$192

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$111	\$248	\$214	\$289	\$-96	\$-89
-2 BEDROOMS	\$136	\$303	\$261	\$353	\$120	\$111
-3 BEDROOMS	\$153	\$344	\$296	\$401	\$144	\$133
-4 BEDROOMS	\$173	\$386	\$332	\$450	\$168	\$155

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$-96	\$216	\$186	\$252	\$-93	\$-77
-2 BEDROOMS	\$118	\$264	\$227	\$307	\$104	\$-96
-3 BEDROOMS	\$133	\$300	\$258	\$349	\$125	\$116
-4 BEDROOMS	\$150	\$336	\$289	\$391	\$146	\$135

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$103	\$231	\$199	\$269	\$-89	\$-82
-2 BEDROOMS	\$126	\$283	\$242	\$329	\$111	\$103
-3 BEDROOMS	\$143	\$320	\$276	\$373	\$134	\$124
-4 BEDROOMS	\$160	\$359	\$309	\$418	\$156	\$144

(h) DISTRICT 10

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$141	\$258	\$275	\$365	\$122	\$113
-2 BEDROOMS	\$173	\$316	\$336	\$446	\$153	\$141
-3 BEDROOMS	\$196	\$369	\$382	\$507	\$183	\$169
-4 BEDROOMS	\$220	\$402	\$428	\$568	\$214	\$198

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$123	\$225	\$239	\$318	\$106	\$-98

-2 BEDROOMS	\$150	\$276	\$292	\$388	\$133	\$123
-3 BEDROOMS	\$170	\$312	\$332	\$441	\$160	\$147
-4 BEDROOMS	\$191	\$350	\$372	\$494	\$186	\$172

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$132	\$240	\$256	\$340	\$114	\$105
-2 BEDROOMS	\$161	\$294	\$312	\$415	\$142	\$131
-3 BEDROOMS	\$182	\$334	\$355	\$471	\$171	\$157
-4 BEDROOMS	\$205	\$374	\$398	\$528	\$199	\$184

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$106	\$194	\$206	\$274	\$-92	\$-85
-2 BEDROOMS	\$130	\$237	\$252	\$334	\$115	\$106
-3 BEDROOMS	\$147	\$269	\$286	\$380	\$138	\$127
-4 BEDROOMS	\$165	\$301	\$321	\$426	\$161	\$146

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$-92	\$169	\$180	\$238	\$-80	\$-74
-2 BEDROOMS	\$113	\$206	\$219	\$291	\$100	\$-92
-3 BEDROOMS	\$128	\$234	\$249	\$331	\$120	\$110
-4 BEDROOMS	\$144	\$262	\$279	\$370	\$140	\$129

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$-99	\$180	\$192	\$255	\$-85	\$-79
-2 BEDROOMS	\$121	\$220	\$234	\$311	\$107	\$-98
-3 BEDROOMS	\$136	\$250	\$266	\$353	\$128	\$118
-4 BEDROOMS	\$153	\$280	\$298	\$396	\$149	\$138

(1) DISTRICT 11

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$143	\$220	\$263	\$243	\$124	\$114
-2 BEDROOMS	\$175	\$292	\$321	\$419	\$156	\$143
-3 BEDROOMS	\$198	\$345	\$365	\$477	\$186	\$172
-4 BEDROOMS	\$223	\$408	\$409	\$534	\$217	\$200

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$125	\$279	\$229	\$299	\$108	\$100
-2 BEDROOMS	\$152	\$341	\$279	\$366	\$135	\$124
-3 BEDROOMS	\$172	\$387	\$317	\$415	\$162	\$149
-4 BEDROOMS	\$194	\$434	\$355	\$464	\$189	\$174

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$133	\$298	\$245	\$319	\$115	\$106

2 BEDROOMS	\$163	\$264	\$298	\$290	\$144	\$123
3 BEDROOMS	\$184	\$414	\$339	\$443	\$173	\$160
4 BEDROOMS	\$207	\$464	\$380	\$496	\$202	\$186

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$108	\$240	\$197	\$257	\$-93	\$-86
2 BEDROOMS	\$131	\$294	\$240	\$314	\$116	\$107
3 BEDROOMS	\$149	\$334	\$273	\$357	\$139	\$129
4 BEDROOMS	\$167	\$374	\$306	\$400	\$162	\$150

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$-94	\$209	\$172	\$224	\$-81	\$-76
2 BEDROOMS	\$114	\$256	\$209	\$274	\$101	\$-93
3 BEDROOMS	\$129	\$290	\$238	\$311	\$121	\$112
4 BEDROOMS	\$146	\$326	\$267	\$348	\$142	\$131

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$100	\$224	\$183	\$239	\$-86	\$-80
2 BEDROOMS	\$122	\$273	\$224	\$292	\$108	\$100
3 BEDROOMS	\$138	\$310	\$254	\$332	\$130	\$120
4 BEDROOMS	\$156	\$348	\$285	\$372	\$151	\$140

(+) DISTRICT 12

1004

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$174	\$388	\$323	\$471	\$150	\$139
2 BEDROOMS	\$212	\$474	\$394	\$575	\$188	\$173
3 BEDROOMS	\$240	\$539	\$448	\$654	\$235	\$208
4 BEDROOMS	\$270	\$604	\$502	\$732	\$262	\$243

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$161	\$338	\$281	\$410	\$131	\$121
2 BEDROOMS	\$185	\$413	\$343	\$501	\$163	\$151
3 BEDROOMS	\$209	\$469	\$390	\$569	\$196	\$181
4 BEDROOMS	\$235	\$525	\$437	\$627	\$229	\$211

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
1 BEDROOM	\$161	\$361	\$301	\$438	\$140	\$129
2 BEDROOMS	\$197	\$441	\$367	\$535	\$175	\$161
3 BEDROOMS	\$223	\$501	\$417	\$608	\$209	\$193
4 BEDROOMS	\$251	\$562	\$467	\$681	\$244	\$226

754

SINGLE FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$130	\$291	\$242	\$353	\$112	\$104
-2 BEDROOMS	\$159	\$356	\$296	\$431	\$141	\$130
-3 BEDROOMS	\$180	\$404	\$336	\$490	\$169	\$156
-4 BEDROOMS	\$203	\$453	\$373	\$549	\$197	\$182

MULTI FAMILY	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$113	\$253	\$211	\$307	\$-98	\$-90
-2 BEDROOMS	\$138	\$310	\$257	\$375	\$122	\$113
-3 BEDROOMS	\$157	\$352	\$292	\$427	\$147	\$136
-4 BEDROOMS	\$176	\$394	\$328	\$478	\$171	\$158

MOBILE HOME	NATURAL GAS	ELECTRIC	FUEL OIL	PROPANE	WOOD	COAL
-1 BEDROOM	\$121	\$271	\$226	\$329	\$105	\$-97
-2 BEDROOMS	\$148	\$331	\$275	\$401	\$131	\$121
-3 BEDROOMS	\$167	\$376	\$313	\$456	\$157	\$145
-4 BEDROOMS	\$188	\$421	\$350	\$511	\$183	\$169

AUTH: Sec. 53-2-201 MCA
IMP: Sec. 53-2-201 MCA

3. The rule 46.13.402 as proposed to be repealed is on page 46-5885 of the Administrative Rules of Montana.

AUTH: Sec. 53-2-201 MCA
IMP: Sec. 53-2-201 MCA

4. The amendment of ARM 46.13.401 is necessary to implement a new method of computing benefits for the Low Income Energy Assistance Program (LIEAP) which is more sensitive to the incomes of recipients and hence to their need for assistance. Under the current method, households whose income is at or below 50% of the federal poverty level receive the maximum benefit, and households whose income is above 50% of the poverty level receive only 75% of the maximum benefit.

The department is now replacing this two-tier method with a system of 13 income groupings which provides the maximum benefit for households with an income which is 0 to 10% of poverty and the lowest benefit, 40% of the maximum benefit, for households with income at 121 to 125% of poverty. This system, which provides a proportionally larger benefit for lower income households, is based on the premise that households with lower income spend a larger proportion of their income for heating and therefore need more assistance.

The 13 income grouping matrix consists of 72 base benefit levels (depending on household size, household type, and fuel type) and a table of 130 multipliers which account for differences in household income and severity of climate. This

system produces 9,360 possible benefit levels rather than the current 1,440. For administrative ease and to take advantage of automated benefit determination features of the LIEAP computer system, the 9,360 benefit levels contained in the new system are expressed as base benefit levels and income/climate multipliers rather than in tables such as those containing the current 1,440 levels.

The amendment of ARM 46.13.303, 46.13.304, and 46.13.401 is also necessary to provide that the 1993 U.S. Office of Management and Budget poverty levels are to be used rather than the 1992 poverty levels to determine eligibility for LIEAP benefits and benefit amount.

Changes have been made to the language of ARM 46.13.301(9) regarding dependent care expenses to make its meaning clearer without changing the department's policy. Similarly, ARM 46.13.304 pertaining to the calculation of income has been re-written and re-organized for clarity. There is no change in policy.

The definition of "member receiving supplemental security income (SSI), aid to families with dependent children (AFDC), or general assistance (GA)" has been deleted from ARM 46.13.302(1) and inserted in the definitions rule, ARM 46.13.301, as it is preferable to have all definitions in one place.

ARM 46.13.302(6) is being amended to state that a person who is ineligible for LIEAP benefits due to refusing weatherization services can become eligible again by accepting those services. The department's policy in this regard has not changed but is now being specifically addressed in this rule.

ARM 46.13.402 is being repealed because its contents were combined with ARM 46.13.203(3) and 46.13.401(2).

5. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than August 26, 1993.

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


Rule Reviewer


Director, Social and Rehabilitation Services

Certified to the Secretary of State _____ July 19, 1993.

BEFORE THE BOARD
OF THE STATE COMPENSATION INSURANCE FUND
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF REPEAL OF
of rules relating to the	)	RULES 2.55.101, 2.55.201,
organization of the State	)	2.55.301, 2.55.302, 2.55.303,
Fund, open meetings and the	)	2.55.304, 2.55.305, 2.55.309,
establishment of premium	)	2.55.310, 2.55.315, 2.55.316
rates.)	

TO: All Interested Persons:

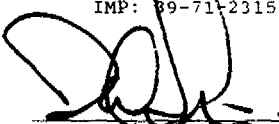
1. On May 13, 1993, the State Compensation Insurance Fund published notice of proposed repeal of rules referenced above at pages 748-749 of the 1993 Montana Administrative Register, Issue Number 9.


2. No public hearing was held nor was one requested. No comments or testimony were received.

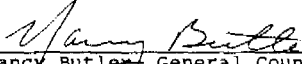
3. The State Compensation Insurance Fund Board hereby repeals the rules as proposed.

AUTH: 39-71-2316, MCA

IMP: 39-71-2315, MCA


Dal Smille, Chief Legal Counsel
Rule Reviewer


Rick Hill
Chairman of the Board


Nancy Butler, General Counsel
Rule Reviewer

Certified to the Secretary of State July 19, 1993.

BEFORE THE DEPARTMENT OF AGRICULTURE
STATE OF MONTANA

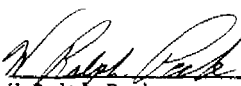
In the matter of the adoption)	NOTICE OF ADOPTION OF NEW
of new rules on civil penal-)	RULES 4.12.1425 - 4.12.1429;
ties inspection fees,)	4.12.2205; 4.12.2206;
assessment fees, and produce)	4.12.2310 AND 4.12.2311
grades relating to the)	RELATING TO THE
distribution of produce in)	DISTRIBUTION OF PRODUCE IN
Montana; amend ARM 4.12.2615)	MONTANA; AMEND ARM
on verification of produce)	4.12.2615 ON VERIFICATION
grown in Montana; repealing)	OF PRODUCE GROWN IN
Title 4, Chapter 12, Sub-)	MONTANA; REPEALING TITLE 4,
Chapter 18 Commodity Grade and)	CHAPTER 12, SUB-CHAPTER 18
Charges; repealing Title 4,)	COMMODITY GRADE AND
Chapter 12, Sub-Chapter 22)	CHARGES; REPEALING TITLE 4,
Control of Apples; repealing)	CHAPTER 12, SUB-CHAPTER 22
Title 4, Chapter 12, Sub-)	CONTROL OF APPLES;
Chapter 23 Grading of Cherries)	REPEALING TITLE 4, CHAPTER
and repealing Title 4, Chapter)	12, SUB-CHAPTER 23 GRADING
12, Sub-Chapter 26 Wholesalers)	OF CHERRIES AND REPEALING
and Itinerant Merchants except)	TITLE 4, CHAPTER 12, SUB-
for ARM 4.12.2607 and ARM)	CHAPTER 26 WHOLESALERS AND
4.12.2615)	ITINERANT MERCHANTS EXCEPT
	FOR ARM 4.12.2607 AND ARM
	4.12.2615

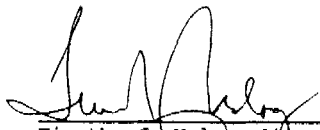
TO: All Interested Persons:

1. On June 10, 1993, the Department of Agriculture published notice to adopt, amend, and repeal rules pertaining to the distribution and sale of produce in Montana at page 1163 of the 1993 Montana Administrative Register, issue number 11.

2. The department has amended, adopted and repealed the rules as proposed.

3. No comments or testimony were received.


W. Ralph Peck
Deputy Director


Timothy J. Meloy, Attorney
Rule Reviewer
Department of Agriculture

Certified to the Secretary of State July 14, 1993.

14-7/29/93

Montana Administrative Register

BEFORE THE DEPARTMENT OF AGRICULTURE
STATE OF MONTANA

In the matter of the repeal	) NOTICE OF THE REPEAL OF
of ARM 4.12.1503 pertaining	) ARM 4.12.1503 FIELD
to field inspection; and	) INSPECTION; AND AMENDING
amending ARM 4.12.1504	) 4.12.1504 PERTAINING TO
pertaining to mint oil fee	) MINT OIL FEE

TO: All Interested Persons:

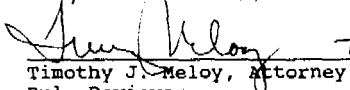
1. On May 13, 1993, the Montana Department of Agriculture published notice to repeal ARM 4.12.1503 and amend ARM 4.12.1504 at page 753 of the 1993 Montana Administrative Register, issue 9.

2. The Department of Agriculture has repealed and adopted the amendment as proposed.

3. No comments or testimony were received.

MONTANA DEPARTMENT OF AGRICULTURE


Leo A. Giacchetto, Director

 7/8/93
Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State, July 8, 1993.

BEFORE THE CLASSIFICATION AND RATING COMMITTEE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF ADOPTION OF
adoption of temporary rules	)	TEMPORARY RULES
on matters subject to notice)	
and hearing before the)	
classification and rating)	
committee.)	

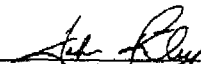
TO: All Interested Persons:

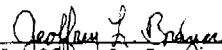
1. On June 10, 1993, the classification and rating committee published notice of the proposed adoption of temporary rules pertaining to matters subject to notice and hearing at page 1173, of the 1993 Montana Administrative Register, Issue No. 11.

2. The committee adopts the temporary rules as proposed.

3. The committee received written comments from the State Compensation Mutual Insurance Fund. At the request of the State Compensation Mutual Insurance Fund, consideration of such written comments occur in connection with the adoption of permanent rules on matters subject to notice and hearing before the classification and rating committee. The committee also received comments from the Montana Health Care Association. With the permission of the Montana Health Care Association, such written comments will also be considered in connection with the adoption of permanent rules.

4. The temporary action is effective July 12, 1993.

By: 
John Riley, Chairperson
Classification and Rating Committee

By: 
Geoffrey L. Brazier, Rule Reviewer
State Auditor's Office

Certified to the Secretary of State July 12, 1993.

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

In the matter of the amendment	)	NOTICE OF AMENDMENT OF
of rules pertaining to fees,	)	8.4.301 FEES, 8.4.501
licensing by examination, and	)	LICENSING BY EXAMINATION,
direct entry midwife apprentice-	)	AND 8.4.503 DIRECT ENTRY
ship requirements and the	)	MIDWIFE APPRENTICESHIP
adoption of new rules pertaining	)	REQUIREMENTS AND THE
to unprofessional conduct, high	)	ADOPTION OF NEW RULES
risk conditions, consultation	)	PERTAINING TO UNPROFESSIONAL
or transfer conditions, and	)	CONDUCT, HIGH RISK CONDI-
required reporting	)	TIONS, CONSULTATION OR
	)	TRANSFER CONDITIONS, AND
	)	REQUIRED REPORTING

TO: All Interested Persons:

1. On May 27, 1993, the Board of Alternative Health Care published a notice of proposed amendment of the above-stated rules at page 1055, 1993 Montana Administrative Register, issue number 10.

2. The Board has amended ARM 8.4.301 and adopted new rules I (8.4.303) and IV (8.4.507) exactly as proposed. The Board has amended ARM 8.4.501 and 8.4.503 and adopted new rules II (8.4.505) and III (8.4.506) as proposed but with the following changes:

"8.4.501. LICENSING BY EXAMINATION (1) through (1)(d) will remain the same as proposed.

(i) documentation of fifteen continuous care births must show at least 5 prenatal visits beginning on or before the 28th week of gestation, AS DETERMINED BY LAST MENSTRUAL PERIOD OR SONOGRAM, and include one post-natal visit. Ten of the fifteen continuous care births must have occurred under the personal supervision of a qualified supervisor.

(2) through (3) will remain the same as proposed."

Auth: Sec. 37-27-105, MCA; IMP, Sec. 37-27-201, 37-27-202, 37-27-203, MCA

"8.4.503. DIRECT ENTRY MIDWIFE APPRENTICESHIP REQUIREMENTS (1) through (5)(a) will remain the same as proposed.

(i) documentation of fifteen continuous care births must show at least 5 prenatal visits beginning on or before the 28th week of gestation, AS DETERMINED BY LAST MENSTRUAL PERIOD OR SONOGRAM, and include one post-natal visit. Ten of the fifteen continuous care births must have occurred under the personal supervision of a qualified supervisor.

(b) through (6) will remain the same as proposed.

(a) documentation of fifteen continuous care births must show at least 5 prenatal visits beginning on or before the 28th week of gestation, AS DETERMINED BY LAST MENSTRUAL PERIOD OR SONOGRAM, and include one post-natal visit. Ten of the fifteen continuous care births must have occurred under the personal supervision of a qualified supervisor.

(7) through (7) (e) will remain the same as proposed."
Auth: Sec. 37-27-105, MCA; IMP, Sec. 37-27-201, 37-27-205, 37-27-210, 37-27-213, 37-27-321, MCA

"8.4.505 HIGH RISK PREGNANCY: CONDITIONS REQUIRING PRIMARY CARE BY A PHYSICIAN (1) through (1)(a)(ii) will remain the same as proposed.

(iii) essential hypertension (greater than 140/90 Hg₁ NOT CONTROLLED BY MEDICATION);

(iv) will remain the same as proposed.

~~(v) severe chronic anemia (hemoglobin less than 10 percent, hematocrit less than 30 percent, unresponsive to treatment);~~

(vi) through (ix) will remain the same as proposed but will be renumbered (v) through (viii).

~~+~~ ~~(ix) active: tuberculosis, syphilis, gonorrhea, STREP B, hepatitis, AIDS, genital herpes at onset of labor;~~

(xi) through (xiii) will remain the same as proposed but will be renumbered (x) through (xii).

(b) through (b)(v) will remain the same as proposed.

~~(vi) gestational diabetes not controlled by diet;~~

(vii) and (viii) will remain the same as proposed but will be renumbered (vi) and (vii).

(c) through (c)(ii) will remain the same as proposed."

Auth: Sec. 37-27-105, MCA; IMP, Sec. 37-27-105, MCA

"8.4.506 CONDITIONS WHICH REQUIRE PHYSICIAN CONSULTATION OR TRANSFER OF CARE (1) and (1)(a) will remain the same as proposed.

(i) severe hyperemesis

(ii) through (x) will remain the same as proposed.

(xi) KNOWN serious maternal viral/bacterial infection at term;

(xii) through (b)(vi) will remain the same as proposed.

~~(vii) lack of progress in active labor;~~

(viii) through (xiii) will remain the same as proposed but will be renumbered (vii) through (xii).

(c) through (xv) will remain the same as proposed."

Auth: Sec. 37-27-105, MCA; IMP, Sec. 37-27-105, MCA

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

COMMENT NO. 1: ARM 8.4.501 and 8.4.503 do not state how the 28th week of gestation is to be determined, which could lead to confusion on how the 28th week will be evaluated.

RESPONSE: The Board will amend the rule as shown above.

COMMENT NO. 2: New Rule II(1)(a)(iii) should include provision for hypertension that is controlled by medication, allowing the woman to be accepted as a client.

New Rule II(1)(a)(v) should not be included in the high risk pregnancy requiring a physician care rule, as it is already included in the rule requiring physician consultation.

New Rule II(1)(a)(ix) should include strep B as a

condition which requires physician care, as this condition is equally as serious as the other listed at (ix).

New Rule II(1)(b)(vi) should not be included in the high risk pregnancy rule requiring physician care, as it is not a condition for which a direct entry midwife birth is not indicated.

RESPONSE: The Board will amend the rule as shown above.

COMMENT NO. 3: New Rule III(1)(a)(i) has "hyperemesis" misspelled.

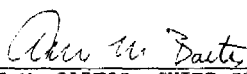
New Rule III(1)(a)(xi) should include the word "known," as many infections are not obvious, and no consultation would be possible without the knowledge of the existence of the condition.

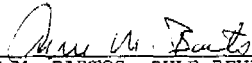
New Rule III(1)(b)(vii) should be deleted, as the progress of labor varies greatly from client to client, and this section is therefore too vaguely worded to be enforceable.

RESPONSE: The Board will amend the rule as shown above.

BOARD OF ALTERNATIVE HEALTH CARE
MICHAEL BERGKAMP, N.D., CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, July 19, 1993.

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

In the matter of the amendment) NOTICE OF AMENDMENT OF
of rules pertaining to defini-) 8.57.401 DEFINITIONS AND
tions and experience require-) 8.57.405 EXPERIENCE
ments) REQUIREMENTS

TO: All Interested Persons:

1. On April 15, 1993, the Board of Real Estate Appraisers published a notice of public hearing on the proposed amendment of the above-stated rules, at page 501, 1993 Montana Administrative Register, issue number 7. The hearing was held on May 13, 1993, at 10:00 a.m. in Helena, Montana.

2. The Board has amended the rules as proposed but with the following changes:

"8.57.405 EXPERIENCE REQUIREMENTS (1) will remain the same as proposed.

(2) A certified residential appraiser must present evidence of 2000 hours of appraisal experience ~~spread of~~ DISTRIBUTED OVER a minimum of 24 months.

(3) A certified general appraiser must present evidence of 2000 hours of appraisal experience, ~~spread~~ DISTRIBUTED over a minimum of 24 months, 1000 hours of which must be experience claimed in the appraisal of non-residential real estate.

(4) will remain the same as proposed."

Auth: Sec. 37-54-105, MCA; IMP, Sec. 37-54-105, 37-54-202, MCA

"8.57.401 DEFINITIONS (1) through (2)(a) will remain the same as proposed.

(b) at least 2000 hours of appraisal activity distributed over a MINIMUM OF 24 months ~~period of time~~, for a certified residential or certified general appraiser level.

(3) through (6) will remain the same as proposed."

Auth: Sec. 37-54-105, MCA; IMP, Sec. 37-54-105, MCA

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

COMMENT NO. 1: Five comments were received in support of the rule amendments in general.

RESPONSE: The Board acknowledges receipt of the comments.

COMMENT NO. 2: The proposed amendments to ARM 8.57.401 and 8.57.405 will not correct the original problem of entry into the field, but will make it more difficult.

RESPONSE: The amendments will allow the licensing level to be achieved in less amount of time, as a full 24 months will not be required for that level of licensure, making entry into the field less restrictive and not more difficult.

COMMENT NO. 3: The proposed amendments do not address physically disabled applicants.

RESPONSE: The rule amendments were not intended to address any aspect of physical disabilities, however, the proposed amendments do not discriminate against the physically disabled in any way.

COMMENT NO. 4: Two comments were received stating the rules should state the exact same experience requirement for two thousand hours of appraisal experience as Title XI of FIRREA.

RESPONSE: The proposed rule amendments will be in keeping with FIRREA standards, and will not exceed that authority.

COMMENT NO. 5: The proposed amendment to ARM 8.57.401(2) should delete the phrase "distributed over any amount of time," as it would simplify the rule.

RESPONSE: The Board specifically added that phrase for clarity in the rule, and to avoid confusion when determining the time frames for the different levels of licensure and certification.

COMMENT NO. 6: Two comments were received stating the proposed amendments to ARM 8.57.401 and 8.57.405 which requires 24 months of experience for certified residential and certified general appraisers is beyond the specifications of the Appraisal Qualifications Board for a minimum period of time. The experience requirement could instead be accomplished in an 18 month period of time.

RESPONSE: The Board's information from AQB states "two years" is intended to mean a 24 month period, and not an 18 month period or any shorter amount of time, as the comment states. The Board can also be more stringent than FIRREA if it so chooses, those are merely the minimum requirements for the certification level. The licensing level requirements are not more stringent than FIRREA. However, the Board's interpretation of AQB criteria is a 24-month period for the certification levels.

COMMENT NO. 7: The proposed amendment to ARM 8.57.405 should not use the phrase "distributed over" if it intends the 24-month period to include a certain number of hours per month to total 2000 hours after 24 months have elapsed.

RESPONSE: The Board does not intend to be more restrictive by stating the 2000 hours must be "spread over," or divided equally among the 24 months, as the amendments are not intended to be a certain amount of hours per month.

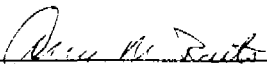
COMMENT NO. 8: The proposed amendment to ARM 8.57.401 and 8.57.405 should be consistent in using "spread over" or "distributed over," as the intent may be misconstrued to conclude the 2000 hours can be achieved in less than two full years.

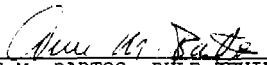
RESPONSE: The Board concurs with the comment and will amend the rules as shown above. The rules will state

"distributed over" and "minimum of 24 months" to make the language consistent throughout the rule amendments. The Board intends that 2000 hours be distributed proportionately over 24 months.

BOARD OF REAL ESTATE APPRAISERS
PATRICK ASAY, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, July 19, 1993.

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

In the matter of the amendment of) NOTICE OF ADOPTION
rules 16.14.501-505, 508, 509, 514,) AND AMENDMENT OF RULES
516, 520-521, 526, 701-708, 710-)
711, 713-715, 717 and new rules)
I-IV dealing with solid waste)
management)

(Solid Waste)

To: All Interested Persons

1. On May 13, 1993, the department published notice of the proposed adoption of new rules I-IV, and amendment to the above-captioned rules concerning solid waste management at page 814 of the 1993 Montana Administrative Register, Issue No. 9.

2. The department has amended the rules as proposed with the following changes (new material is underlined; material to be deleted is interlined):

16.14.501 PURPOSE AND APPLICABILITY Same as proposed.

16.14.502 DEFINITIONS Same as proposed.

16.14.503 WASTE GROUPS Same as proposed.

16.14.504 DISPOSAL FACILITY CLASSIFICATIONS Same as proposed.

16.14.505 STANDARDS FOR SOLID WASTE MANAGEMENT FACILITIES
Same as proposed.

16.14.508 APPLICATION FOR SOLID WASTE MANAGEMENT SYSTEM
LICENSE Same as proposed.

16.14.509 OPERATION AND MAINTENANCE PLAN REQUIREMENTS
Same as proposed.

16.14.514 APPEAL OF DENIAL OR REVOCATION Same as proposed.

16.14.516 DURATION OF LICENSE (1)-(3) Same as proposed.

(4) Facilities must be constructed and operated within five years of the original date of license issuance or else re-apply for a new license must be subject to review and reapproval by the department prior to construction or operation, regardless of whether license renewal fees have been paid.

16.14.520 GENERAL OPERATIONAL AND MAINTENANCE REQUIREMENTS
-- SOLID WASTE MANAGEMENT SYSTEMS Same as proposed.

16.14.521 SPECIFIC OPERATIONAL AND MAINTENANCE REQUIREMENTS
-- SOLID WASTE MANAGEMENT SYSTEMS (1)(a)-(n) Same as proposed.
(o) Class II landfill facilities ~~that receive 10,000 tons~~

~~or more of waste per year~~ must weigh or otherwise accurately record all volumes of waste entering the facility.

(p)-(q) Same as proposed.

(2)-(4) Same as proposed.

16.14.526 ENFORCEMENT Same as proposed.

16.14.701 PURPOSE AND APPLICABILITY (1) Same as proposed.

(2) Compliance with the requirements of this subchapter must be implemented according to the following schedule:

(a) ~~Unless the department approves a small community exemption under [RULE I(16)] for disposal units that serve a geographic area with a population of 4,999 persons or less, all~~ All new Class II units must be in compliance with this subchapter and initial sampling must be completed before waste can be placed in the unit;

(b) Same as proposed.

(c) Existing Class II disposal units and lateral expansions that serve a geographic area with a population of 4,999 persons or less, ~~unless they have successfully petitioned the department for a small community exemption as specified in [RULE I(16)]~~ must comply with this subchapter according to the following schedule:

(i)-(iii) Same as proposed.

16.14.702 DEFINITIONS Unless the context requires otherwise, in this part the following definitions apply:

(1)-(39) Same as proposed.

~~(40) "Point of standards application" means the specific location, depth or distance from a facility, activity or practice at which the concentration of a substance in ground water is measured for purposes of determining whether a ground water quality standard, a statistically significant increase over background, a preventive action limit or an enforcement standard has been attained or exceeded.~~

(41)-(54) Same as proposed but are renumbered (40)-(53).

16.14.703 HYDROGEOLOGICAL AND SOILS STUDY Same as proposed.

16.14.704 LOCATION AND NUMBER OF MONITORING WELLS
Same as proposed.

16.14.705 MONITORING WELL CONSTRUCTION (1)-(3) Same as proposed.

(4) Drill rigs and all downhole equipment must be cleaned in accordance with technically accepted procedures prior to initiation of drilling on site. If site investigation is conducted at an existing landfill facility, then the rig and all downhole equipment must be decontaminated prior to the first borehole and between each borehole.

(5)-(13) Same as proposed.

16.14.706 SAMPLING AND ANALYSIS PLAN (1)-(16) Same as proposed.

TABLE 1 - GROUND WATER MONITORING PARAMETERS

1. Ammonia (as N)	18. 14. Nitrate (as N)
2. 1. Antimony	19. 15. Nickel
3. 2. Arsenic	20. Potassium
4. 3. Barium	21. 16. Selenium
4. Beryllium	22. 17. Silver
5. Bicarbonate (HCO₃)	23. Sodium
6. 5. Cadmium	24. 18. Sulfate (SO ₄)
7. Calcium	25. 19. Thallium
8. Carbonate	26. 20. Vanadium
9. 6. Chloride	27. 21. Zinc
10. 7. Chromium	28. 22. Chemical Oxygen Demand (COD)
8. Cobalt	29. 23. pH
11. 9. Copper	30. 24. Specific conductance
12. 10. Cyanide	31. Total Dissolved Solids
13. 11. Iron	32. Total Suspended Solids
14. 12. Lead	
15. Magnesium	
16. Manganese	
17. 13. Mercury	

~~27.~~ ~~25.~~ The following volatile organic compounds (VOCs by EPA method 8260):

- Acetone
- Acrylonitrile
- Benzene
- Bromochloromethane
- Bromodichloromethane
- Bromoform
- Carbon disulfide
- Carbon tetrachloride
- Chlorobenzene
- Chloroethane
- Chloroform
- Chlorodibromomethane
- 1,2-Dibromo-3-chloropropane (DBCP)
- 1,2-Dibromomethane
- Dibromoethane; (EDB)
- o-Dichlorobenzene; 1,2-Dichlorobenzene
- p-Dichlorobenzene; 1,4-Dichlorobenzene
- trans-1,4-Dichloro-2-butene
- 1,1-Dichloroethane
- 1,2-Dichloroethane
- 1,1-Dichloroethylene
- cis-1,2-Dichloroethylene
- trans-1,2-Dichloroethylene
- 1,2-Dichloropropane
- cis-1,3-Dichloropropene
- trans-1,3-Dichloropropene
- Ethylbenzene
- 2-Hexanone; Methyl butyl ketone
- Methyl bromide; Bromomethane
- Methyl chloride; Chloromethane
- Methylene bromide; Dibromomethane
- Methylene chloride
- Methyl ethyl ketone; MEK
- Methyl iodide; Iodomethane
- 4-Methyl-2-pentanone; Methyl isobutyl ketone
- Styrene
- 1,1,1,2-Tetrachloroethane
- 1,1,2,2-Tetrachloroethane
- Tetrachloroethylene
- Toluene
- 1,1,1-Trichloroethane
- 1,1,2-Trichloroethane
- Trichloroethene
- Trichlorofluoromethane
- 1,2,3-Trichloropropane
- Vinyl acetate
- Vinyl chloride
- Xylenes

TABLE 2 - same as proposed.

16.14.707 REPORTING AND PLANNING REQUIREMENTS Same as proposed.

16.14.708 DEFINITION OF EXTENT OF CONTAMINATION (1)(a) If ground water concentration(s) in samples from any facility ground water monitoring well(s) for any Table 1 (ARM 16.14.706) constituent equal or exceed an enforcement standard or show a statistically significant increase above background levels or a statistically significant decrease in Ph occurs, the owner or operator must:

(i)-(ii) Same as proposed.

(iii) Collect and analyze a minimum of at least one sample from each downgradient well ~~for Table 2 constituents~~ during each sampling event consistent with the methods in the facility's sample and analysis plan approved under ARM 16.15.706;

(iv)-(v) Same as proposed.

(b)-(d) Same as proposed.

~~(d)~~ (e) The department may require the owner or operator to sample public or private water supply wells or springs and to determine water level elevations in such wells to determine the extent of ground water contamination.

(e)-(i) Same as proposed but are relettered (f)-(j).

(2)-(3) Same as proposed.

(4) If one or more Table 2 (ARM 16.14.706) constituents are detected at statistically significant levels above the ground water protection standard established under (5) of this rule in any sampling event, the owner or operator must, within 14 days of this finding, place a notice in the operating record identifying the Table 2 constituents that have exceeded the ground water protection standard and notify the department and all appropriate local government officials. The owner or operator also:

(a)(i)-(iii) Same as proposed.

(iv) Must initiate an assessment of corrective measures within ~~60~~ 90 days; or

(b) Same as proposed.

(5) Same as proposed.

(6)(a) Within ~~60~~ 90 days of finding that any of the constituents listed in Table 2 (ARM 16.14.706) have been detected at a statistically significant level exceeding the ground water protection standards defined under (5) of this rule, the owner or operator must initiate an assessment of corrective measures. Such an assessment must be completed within a reasonable period of time, not to exceed an additional 60 days, and be submitted to the department.

(b)-(d) Same as proposed.

(7)-(9) Same as proposed.

16.14.710 LATERAL LANDFILL EXPANSION Same as proposed.

16.14.711 MONITORING DURING CLOSURE (1) Same as proposed.

(2) If a facility specified in 75-10-207(1), MCA, undergoes closure prior to January 1, 1993, the department will require a minimum of six semi-annual sampling episodes for Table 1 (ARM 16.14.706) parameters prior to approving final closure. These sampling events must occur after the last date the ~~site~~ facility

received waste. If no exceedence of preventative action limits or enforcement standards occurs for any Table 1 (ARM 16.14.706) constituent, then ground water monitoring at the closed landfill may be discontinued contingent upon written approval obtained from the department. Depending on the site-specific hydrogeology study, the department reserves the right to increase or decrease the number of ground water sampling events required during closure approval.

16.14.713 MONITORING WELL ABANDONMENT Same as proposed.

16.14.714 NO MIGRATION DEMONSTRATION (1) Same as proposed.

(2) No-migration petitions must be accompanied by facility specific data and studies and must be certified by a qualified hydrogeologist ground water scientist. Non-migration demonstrations must be based on:

(a)-(b) Same as proposed.

(3)-(5) Same as proposed.

16.14.715 MONITORING WELL NETWORK MAINTENANCE Same as proposed.

16.14.717 INSPECTIONS Same as proposed.

3. The department has adopted new rules I-IV with the following changes:

RULE I (16.14.506) DESIGN CRITERIA FOR LANDFILLS

(1)-(10) Same as proposed.

(11) In determining the relevant point of compliance, the department shall consider at least the following factors:

(a)-(b) Same as proposed.

(c) The quantity, quality, and detection direction of flow of ground water;

(d)-(g) Same as proposed.

(12)-(14) Same as proposed.

(15)(a)-(b) Same as proposed.

(c) Any change in a facility's compliance with the mandated criteria automatically revokes the exemption and the facility must comply with all applicable requirements in this subchapter ~~and the requirements for ground water monitoring found in ARM Title 16, chapter 14, subchapter 7.~~

(d) Same as proposed.

(16)(a)-(c) Same as proposed.

(d) The landfill serves a community that has no practicable waste management alternative. For the purposes of this section, the lack of a practicable waste management alternative may be demonstrated by the following:

(i) Same as proposed.

(ii) The cost per household of using an alternative disposal method, and the cost per household of complying with the requirements of the landfill design ~~section and ground water detection monitoring and operation~~ distributed over the entire estimated

active life of the landfill, will each exceed on an annual basis 1% of the median household income for the service area.

TABLE 1 - Same as proposed.

RULE II (16.14.530) CLOSURE REQUIREMENTS FOR LANDFILLS

(1) Closure criteria for Class II landfills are as follows:

(a) Owners or operators of all Class II landfill units must install a final cover system that is designed to minimize infiltration and erosion. The final cover system must be designed and constructed to:

~~(i) Have a permeability less than or equal to the permeability of any bottom liner, barrier layer, or natural subsoils present, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less;~~

~~(ii) (i) Minimize infiltration through the closed unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material; and have a permeability less than or equal to the permeability of any bottom liner, barrier layer, or natural subsoils present, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less;~~

(iii)-(iv) Same as proposed but are renumbered (ii)-(iii).

(b)-(j) Same as proposed.

(2) Class III landfill units must be closed under a department approved plan that includes at a minimum:

(a) two feet of final cover; and

(b) grading and seeding to prevent erosion; and

~~(c) the deed notation specified in (1)(i)(i) above, unless all wastes are removed from the facility and the owner or operator requests permission from the department to remove the notation from the deed.~~

RULE III (16.14.531) POST CLOSURE CARE REQUIREMENTS FOR CLASS II LANDFILLS Same as proposed.

RULE IV (16.14.540) FINANCIAL ASSURANCE REQUIREMENTS FOR CLASS II LANDFILLS (1)-(4) Same as proposed.

(5)(a)(i)-(ii) Same as proposed.

(iii) For a trust fund used to demonstrate financial assurance for closure and post-closure care, the first payment into the fund must be at least equal to the current cost estimate for closure or post-closure care, divided by the number of years in the pay-in period as defined in ~~(4)(a)(ii) of this rule above~~. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = (CE - CV) / Y$$

where CE is the current cost estimate for closure or post-closure care (updated for inflation or other changes), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(iv)-(viii) Same as proposed.

(b)-(h) Same as proposed.

4. Three persons testified on the proposed rules at the

public hearing on June 2, 1993. In addition to these comments there were 22 written comments received during the 30-day comment period. Summaries of the comments and the department's responses to them follow.

Comment 1: Three commenters, including the EPA, discussed the need for the removal of the small community exemption from groundwater monitoring requirements, based on a recent court decision.

Response: The department agreed and removed the exemption from the rule.

Comment 2: Five comments were received on typographic errors, general grammar, and word choices.

Response: The department accepted the comments and corrected any errors.

Comment 3: Two commenters disliked the requirements (or the time deadlines involved) of the groundwater statistical tests.

Response: The department did not change the requirements because they are mandated by EPA and because only the initiation of the tests would be a burden, with later time requirements being minimal.

Comment 4: Two commenters disliked the reporting time deadlines in the rules.

Response: The department did not change the deadlines because they are required by EPA and because the department feels that timely reporting is essential for the protection of human health and the environment.

Comment 5: Six comments were received requesting the removal of elements on the ground water detection monitoring Table 1 for which EPA does not require testing. The removal of total suspended solids (TSS) was also specifically requested because of its short holding time. The EPA also commented that beryllium and cobalt should be added to Table 1 in ARM 16.14.706.

Response: The department will remove 10 inorganic parameters (including TSS) from the final rule list that were not included on the EPA list. Because of the nature of wastes in Montana landfills and the potential impact on groundwater it was decided to retain nitrate and cyanide on the list. Chloride and iron were retained because they are mobile harbingers of potential leachate migration and provide a form of early warning. Chemical oxygen demand, pH, and specific conductance were retained for similar reasons. Beryllium and cobalt were added to Table 1.

Comment 6: Two commenters suggested that only the wells that have Table 1 elements in excess of regulatory requirements be resampled for Table 2 constituents during assessment monitoring.

Response: The request was rejected because it is in conflict with EPA requirements. The Table 1 list is a basic screening list adopted to control the costs of monitoring. The presence of Table 1 constituents in excess of regulatory requirements is indicative of liner failure and groundwater contamination. Assessment monitoring is designed to determine the scope, both in quantity and quality, of any releases. Since the lateral extent of all contaminants is not determined by the Table 1 constituents, all wells must be sampled.

Comment 7: One comment was made in opposition to the requirement to locate one additional monitoring well at the property boundary down gradient from the units in the event of the detection of Table 2 constituents above regulatory limits during assessment monitoring.

Response: The requirement was retained because it is mandated by EPA, and because, while this may seem to pose a problem for older landfills that have filled to the property boundary, the relevant point of compliance can be no further than 150 meters from the waste management unit boundary **on property owned by the owner of the unit.** (emphasis added)

Comment 8: Four commenters requested, and two objected to, granting an extension to the implementation date of the rules if the EPA extends the deadlines for federal compliance.

Response: The department declined to extend the implementation date because nothing on the rumored extension has been published in the Federal Register at the time of filing of this notice. The department will evaluate any extension in a timely fashion and may choose to extend the deadline for implementation of all or part of these rules in a future rulemaking.

Comment 9: Nine commenters requested additions, deletions, or changes to definitions in the rules.

Response: Most of the suggested deletions or changes to the definitions were to EPA language. The department chooses to retain the EPA versions at this time to prevent conflicts with EPA over their effect. Additional definitions requested were either outside the scope of this rulemaking (e.g. asbestos), or sub-categories of the general solid waste definition that the department chooses not to specify at the current time because they were not mentioned in the rules. The definition of "point of standards application" was deleted from ARM 16.14.702 because that phrase no longer appears elsewhere in the rules, eliminating the need for a definition.

Comment 10: Two commenters requested that the department specify that water level measurements be made to the one-hundredth (.01) of a foot rather than five-hundredths (.05) of a foot.

Response: This point was discussed in 1991 during the original

ground water rule-making. The department held at that time, and still maintains, that the five-hundredths of a foot is sufficiently accurate enough for flow direction determinations in almost all cases. The additional time and expense of more precise measurements does not off-set the value of the information received in landfill situations.

Comment 11: One commenter insisted that the department should not require the submission of a health and safety plan for persons sampling contaminated ground water.

Response: Approximately 20% of the sites on the Superfund National Priorities List are former municipal landfills. If a site has contaminated groundwater, the department feels justified in requiring that a health and safety plan be provided for the protection of employees conducting sampling required by these regulations.

Comment 12: One respondent requested that the Table 2 list be amended because the EPA has not provided specific detection limits for some compounds.

Response: The list was retained because it is required by EPA.

Comment 13: One commenter insisted that the department should only allow standard EPA liner designs with a flexible membrane component (FML).

Response: The department did not adopt the requested standard because it feels that there are geologic situations in Montana where an FML may not be necessary to provide ample protection to human health and the environment. The department staff, assisted by consultants as needed, is fully qualified to evaluate alternatives to the EPA standard design. The citizens of Montana are best served when the department reserves the maximum amount of flexibility allowed by the EPA.

Comment 14: Two commenters suggested that parts of the proposed rules had 60-day compliance schedules running parallel with 90-day compliance schedules.

Response: The department agrees. A 90-day schedule was adopted to eliminate conflicts.

Comment 15: One commenter suggested that solid waste should not be divided into waste groups. Class III landfills should have the same requirements as Class II landfills.

Response: State law allows the department to segregate waste into groups. The department continues to feel that some categories of waste are environmentally benign and do not require containment in Class II landfills. Therefore, no change was made.

Comment 16: One commenter requested that the department extend the duration of the license to the life of the facility.

Response: Section 75-10-221, MCA, states that licenses are for a period not to exceed 12 months, a provision that precludes the department from considering adopting the requested extension.

Comment 17: Three requests were received to include ashes as a Group III waste for co-disposal with wood waste Class III landfills.

Response: The request was rejected because Class III landfills are designed and located to accept basically inert materials and the department does not consider ashes to be inert.

Comment 18: One request was received to list old asphalt as a Group III waste.

Response: The request was rejected because, although the department does not consider asphalt to be a hazardous waste, neither does it consider it to be basically inert and thus suitable for disposal in Class III landfills. The department continues to prefer the reuse of old asphalt, either as feedstock for new asphalt or roadbase sub-grade.

Comment 19: One commenter suggested that Class III landfills be required to have a deed notation similar to that required of Class II landfills.

Response: The suggested change was incorporated.

Comment 20: One comment requested that the department be required to adhere to a 90-day response time for all application review and departmental decisions.

Response: The Solid Waste Program attempts to respond to all applications in a timely manner. The department does not feel that requiring a response or a decision on an application that may have taken years to prepare is always possible within a 90-day period. The department has no control of the incoming work load and no ability to increase staffing in the event that several large projects are presented at one time. Since the department deals with topics that can have a profound impact on human health and the environment, it reserves the right to retain whatever time is necessary for full and careful review of its actions. Therefore, the requested time limit was not adopted.

Comment 21: One commenter suggested that "explosive gasses" be monitored rather than "methane" due to the cost of instrumentation required.

Response: No change was necessary to allow use of less expensive instruments. Routine methane monitoring at landfills must be conducted under a department-approved plan. Since methane nor-

mally comprises 99% plus of the explosive gasses at a landfill, the department approves of the use of less expensive meters as adequate to assess the levels of methane at landfills. One percent accuracy is often within the limitation of instrumentation and operator error. This accuracy is sufficient to provide protection required in the detection monitoring phase at landfills.

Comment 22: One commenter requested that a technician, rather than a "hydrogeologist", be allowed to perform well development and hydraulic conductivity testing [ARM 16.15.705(6)].

Response: In actuality the rule allows "a hydrogeologist, qualified ground water scientist or other qualified person" (emphasis added) to perform the testing, development and well logging. Competency must be demonstrated to the department prior to the commencement of work. This allows the department to approve of a wide range of people, providing that they are educationally and technically able to provide the owner/operator and the department with the quality of work necessary in the field of ground water monitoring and testing. Certification of the number, spacing, and depths of ground water monitoring systems must be done by a "qualified ground water scientist", according to the EPA.

Comment 23: One commenter requested that the five-year limit on unconstructed or unoperated facilities be eliminated.

Response: The department has removed the requirement for re-application and replaced it with a requirement for review and re-approval prior to construction or operation. The department believes that this will enable the department to evaluate changes in technology or the surrounding environment while still protecting the rights of the license holder.

Comment 24: One commenter and hearing participant requested that the department liberalize the rules on the "small community exemption" (SCE) based on his reading of the intent of the EPA as delineated in the preamble to 40 CFR Part 258.

Response: The department, in carefully reading all of the preamble, and in conjunction with numerous conversations with various EPA staffers, has concluded that the SCE was narrowly drawn by the EPA. The department considered the logistics of long distance hauling in Montana's winters prior to establishing the 100-mile distance and has reviewed the language in the preamble relating to the impact of costs to communities and attempted to establish a fair and reasonable cost test that is easily applied. This cost test has, as a result of this comment and comment 1, been modified in order to better measure potentially excessive costs to the communities involved. The value of the SCE is greatly diminished by the requirement that ground water monitoring is required at all facilities, regardless of size, as mentioned in comment 1. The department warns that small communities should carefully consider the potential long term costs should

ground water pollution ever be detected at their facility.

Comment 25: One commenter suggested that the license application for a Class III site should contain more information.

Response: The department does not, at this time, agree to add information to the license application because the information sought may be discovered by reading the relevant rules.

Comment 26: One commenter requested that methods for determining the resource value of the uppermost aquifer should be included in the rule's requirements.

Response: No change was made because resource values and the best methods to determine them vary from place to place. The department feels that a universal method for determining resource value would not work in every situation. Rather, the best method for determining resource value in each particular location should be determined and used.

Comment 27: One commenter found the ratio of the minimum number of borings to the number of acres to be confusing. Another commenter suggested that the minimum number of borings be deleted and instead be site specific to the nature of the hydrogeologic environment under investigation.

Response: No change was made because the department feels that the table which provides the minimum number of borings required for different amounts of acreage to be sufficient. Furthermore, the minimum numbers were set in order to establish consistency in application and to assure that an adequate number of borings are done. It should be noted that, subsequent to the adoption of these rules, the department intends to distribute guidance documents to aid facility understanding of and compliance with these rules.

Comment 28: One commenter requested that collection of samples from piezometers should be allowed for information purposes.

Response: They are already allowed. The rules only prohibit the use of piezometers for well monitoring purposes and do not limit the use of piezometers for other purposes.

Comment 29: One commenter questioned whether the January 1, 1993, date should be changed to October 9, 1993, for the purposes of monitoring ground water during closure.

Response: Facilities are already required to monitor groundwater. The January 1, 1993, date was set earlier in the ground-water rules previously adopted.

Comment 30: One commenter requested that Rule II(1)(a)(i) and (ii) be combined to clarify the requirements relating to the permeability and infiltration layer.

Response: The proposed change was made.

Comment 31: One commenter asked the department to explain the status of major landfills that took waste after January, 1993, but close prior to October, 1993.

Response: These landfills must meet the state requirements as well as the 40 CFR Part 258 (subtitle D) requirements that are applicable prior to October 1993.

Comment 32: A request was made to change "hydrogeologist" to "ground water scientist" in ARM 16.14.714(2).

Response: The department agreed and made the change.

Comment 33: One commenter felt there was a need for decontamination of equipment prior to the first borehole as well as between boreholes.

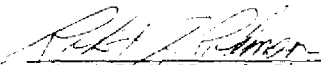
Response: The suggested addition was adopted by the department.

Comment 34: A commenter was concerned there might be confusion of sampling requirements for Table 1 and Table 2 constituents during assessment monitoring.

Response: Rule 16.14.708(1)(a)(iii) was clarified by the deletion of the words "for Table 2 constituents", an amendment that also conformed the rule to EPA requirements.

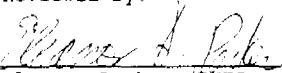
Comment 35: A commenter requested clarification of groundwater monitoring requirements for large landfills which close after January 1, 1993, and before October 9, 1993.

Response: The language in ARM 16.14.711(2) was changed to provide for groundwater monitoring at large landfills and the exemption of small landfills closing during that time period. The change continues the pattern in current rules reflecting the department's wish to provide for the public health and safety without unduly burdening smaller landfills which will be closing prior to the effective date of these amendments.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State July 19, 1993 .

Reviewed by:


Eleanor Parker, DHES Attorney

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

In the matter of the amendment of)
rule 16.32.302 dealing with)
updating references to national)
construction codes)

(Licensing &
Certification)

To: All Interested Persons

1. On June 10, 1993, the department published notice of the proposed amendments of ARM 16.32.302 at page 1178 of the 1993 Montana Administrative Register, issue No. 11.

2. The department has amended the rule as proposed with no changes. A change was made in the authority and implementing section.

16.32.302 MINIMUM STANDARDS OF CONSTRUCTION FOR A LICENSED HEALTH CARE FACILITY -- ADDITION, ALTERATION, OR NEW CONSTRUCTION -- GENERAL REQUIREMENTS Same as proposed.
AUTH: 50-5-103, MCA; IMP: ~~T. 50, Ch. 8~~, 50-5-103, 50-5-201, 50-5-204, MCA

3. The following comment was received; the department's response follows:

Comment: Staff of the Administrative Code Committee commented that the sections of the law cited as being implemented by ARM 16.32.302 include a reference to Title 50, Chapter 8, MCA, concerning one-step licensing, but that the rulemaking authority cited covers only rulemaking under chapters 1-4 of Title 50, not chapter 8. Either additional rulemaking authority should be found for chapter 8 or Title 50, chapter 8, should be dropped from the list of laws being implemented.

Response: The department agreed with the point made, and since the rule in question has nothing to do with one-step licensing, the reference to Title 50, chapter 8 was deleted.


ROBERT J. ROBINSON, Director

Certified to the Secretary of State July 19, 1993.

Reviewed by:


Eleanor Parker, DHES Attorney

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

In the matter of the amendment	) NOTICE OF AMENDMENT OF
of rules related to chiropractic	) ADMINISTRATIVE RULE
services and fees in workers'	) 24.29.1531, USE OF FEE
compensation matters	) SCHEDULES; 24.29.1561
	) PHYSICIAN FEES - MEDICINE;
	) AND 24.29.1571, PHYSICIAN
	) FEES - CHIROPRACTIC
	) EVALUATIONS

TO ALL INTERESTED PERSONS:

1. On May 27, 1993, the Department published notice at pages 1089 to 1100 of the Montana Administrative Register, Issue No. 10, to consider the amendment of the above-captioned rules.

2. On June 18, 1993, a public hearing was held in Helena concerning the proposed rules at which oral and written comments were received. Additional written comments were received prior to the closing date of June 25, 1993.

3. After consideration of the comments received on the proposed rules, the Department has adopted the rules as proposed with the following changes (new language in capital letters):

Rule 24.29.1531, USE OF FEE SCHEDULES Same as proposed.

Rule 24.29.1561, PHYSICIAN FEES -- MEDICINE Same as proposed.

Rule 24.29.1571, PHYSICIAN FEES -- CHIROPRACTIC EVALUATIONS
FEES (1) Except as otherwise provided by this rule, fees for medical specialty area services rendered by chiropractors are payable only for the procedure codes listed below, according to the unit values listed. None of the procedure codes, descriptions, or unit values according to the values listed in Relative Values for Physicians apply to chiropractic services OTHER THAN DIAGNOSTIC X-RAYS.

(2) Remains the same.

(3) Remains the same.

(a) ~~Effective April~~ August 1, 1993, the conversion factor for ~~evaluation services, procedure codes C9201 through C9299, and other medical services, other than diagnostic x-rays,~~ performed by a doctor of chiropractic within the scope of the practice is \$3.77.

(b) Effective August 1, 1993, the conversion factor for diagnostic x-rays is \$15.59.

(4) ~~The unit value for each procedure listed in subsection (6) includes the value for the associated office visit.~~

(5) ~~Where the fee for a procedure depends on the time spent by the provider, the time spent on the completion of~~

~~reports-is-already-included-within-the-procedure-code-unless~~
~~otherwise-noted-~~

+6) The following special procedure codes, with the associated description and unit values, are recognized for chiropractic evaluations services:

Procedure Code	Description	Unit Value
(a) through (j) remain the same.		
(k) C9251	<u>Manipulation only, single area of spine (includes C9211 office visit).</u>	5.5
C9252	<u>Manipulation only, two or more areas of spine (includes C9211 OFFICE VISIT).</u>	8.2
C9253	<u>Manipulation only, single area of SPINE, when billed with an office visit, C9201 - C9215.</u>	2.7
(l) C9261	<u>One of the following modalities, w/o manipulation (includes a C9211 office visit):</u> <u>(i) hot or cold packs,</u> <u>(ii) traction, mechanical,</u> <u>(iii) electrical stimulation,</u> <u>(iv) vasopneumatic devices,</u> <u>(v) paraffin bath,</u> <u>(vi) microwave,</u> <u>(vii) whirlpool,</u> <u>(viii) diathermy,</u> <u>(ix) infrared,</u> <u>(x) ultraviolet,</u> <u>(xi) other.</u>	3.8
C9262	<u>Two or more modalities, w/o manipulation (includes C9211 OFFICE VISIT).</u>	4.8
C9263	<u>One modality, w/o manipulation, when billed with an office visit, C9201 - C9215.</u>	1.0
C9264	<u>Two or more modalities, w/o manipulation, when billed with an office visit, C9201 - C9215.</u>	2.0
(m) C9271	<u>Manipulation, single area OF SPINE, w/ two or more modalities (consists of C9211 OFFICE VISIT, C9253 and C9264).</u>	7.5
C9272	<u>Manipulation, two or more areas OF SPINE, w/ two or more modalities (consists of C9211 OFFICE VISIT, C9253 and C9264).</u>	10.2
C9273	<u>Manipulation, one or more areas, w/ two or more modalities, when billed with office visit C9201 - C9215.</u>	4.7
(n) C9399	<u>Special reports, service not listed, (includes impairment ratings).</u>	BR

(5) FOR INITIAL VISITS, IF IT IS NECESSARY TO PROVIDE INTERMEDIATE, EXTENDED OR COMPREHENSIVE SERVICES AS PART OF THE INITIAL EVALUATION PROCESS (CODES C9203, C9204 OR C9205), THE PROVIDER MUST FURNISH TO THE INSURER DOCUMENTATION OF THE REASONS JUSTIFYING THAT HIGHER LEVEL OF INITIAL EVALUATION.

(6) FOR ROUTINE FOLLOW-UP VISITS OF AN ESTABLISHED PATIENT, ONLY THE "BRIEF OFFICE VISIT" LEVEL OF SERVICE (CODE C9211) SHOULD BE BILLED. IF LIMITED, INTERMEDIATE, EXTENDED OR COMPREHENSIVE SERVICES ARE NECESSARY (CODES C9212, C9213, C9214 OR C9215), THE PROVIDER MUST FURNISH TO THE INSURER DOCUMENTATION OF THE REASONS JUSTIFYING THAT HIGHER LEVEL OF OFFICE VISIT ON A CASE-BY-CASE, VISIT-BY-VISIT BASIS.

(5)(7) Diagnostic x-rays are to be billed using the procedure codes and unit values listed in Relative Values for Physicians. THE PROVIDER MUST FURNISH TO THE INSURER DOCUMENTATION OF THE REASONS JUSTIFYING THE USE OF THE DIAGNOSTIC X-RAY PROCEDURE(S) EMPLOYED.

(8) THE EXPLANATIONS, PROTOCOLS, COMMENTS AND DIRECTIONS FOR USE CONTAINED IN BOTH THE CPT MANUAL AND RELATIVE VALUE FOR PHYSICIANS ARE TO BE APPLIED TO THE PROCEDURE CODES CONTAINED IN THIS RULE.

AUTH: Sec. 39-71-203, MCA IMP: Sec. 39-71-704, MCA

4. The Department has thoroughly considered the comments and testimony received on the proposed rules. The following is a summary of the comments received, along with the Department's response to those comments:

1. Comment: The Montana Self-Insurers Association commented that the proposed revision does not address the "bundling/unbundling" problem, and offered an example:

"Bundled"	C9271	7.5 units x \$3.77=	\$28.28
"Unbundled"	C9211	2.8 units	
	C9252	8.2 (not 2.7)	
	C9263	<u>1.0 (not 2.0)</u>	
Unbundled Total		12 units x \$3.77=	\$45.24

Response: To clarify the intent of the rules, the Department has amended the rules to note that C9211 is the office visit procedure that is included as part of the combination code. C9271 is a "combination code" procedure which includes a C9211 brief office exam, manipulation to a single area of the spine (which when separately billed is C9253), and two or more modalities (separately billed as C9264). Code C9252 cannot be billed in addition to C9211, because the value of C9211 is included in the C9252 procedure. C9263 is the procedure code for a single modality, while C9264 is the procedure code for two or more modalities. In the example, the commenter has been "double-billed" for the brief office exam by including the value of the office visit twice (once in C9211 and again in C9252), has been billed for manipulation to two areas of the spine (instead of one area), and been billed for a single

modality, rather than two or more modalities. Because the commenter is not being billed for the same services, the bills are not the same.

2. Comment: An out-of-state chiropractor commented that examinations and educated treatment decisions are made by chiropractors, and that examination charges by chiropractors should equal or exceed those made by medical doctors. The chiropractor suggested that chiropractors have more training in diagnosing musculoskeletal problems than does a medical doctor or osteopath. The commenter attached a comparison of educational requirements from certain educational institutions, one each for a school of chiropractic, medicine, and osteopathy in support of his comments.

Response: The Department believes that the comparison chart does not accurately compare education, classroom and clinical requirements for the different programs, nor is there any evidence that the curriculums selected for comparison are representative of the education, training and experience found in Montana providers.

3. Comment: The Montana Medical Association (MMA) commented that it is inappropriate for chiropractors to have access to all of the radiology codes allowed by the RVP. The MMA stated that allowing chiropractors to use all the available codes would cause costs to increase.

Response: Chiropractors are not allowed to use radiology for any purpose other than diagnostic. Many of the radiology codes in the RVP are for therapeutic procedures. Likewise, the areas of the body that relate to chiropractic are quite limited, as compared to those which are treated by medical doctors. As one example, although the RVP contains 15 diagnostic procedures for the urinary tract, a chiropractor would not be treating urinary tract problems or taking diagnostic X-rays of that part of the body. To address the concerns raised by the MMA's comments, the Department has included utilization language restating the need to document the reason(s) why a diagnostic x-ray procedure was done.

The Department believes that the RVP includes many radiology codes that are outside the scope of chiropractic practice. All providers are, under the rules, prohibited from billing for services that are outside the scope of their licensure. The Department believes that the methodology used to establish the conversion factor for radiology appropriately took into account data from both medical doctors and chiropractors, and that overall radiological costs will not increase by more than the statutory cap.

4. Comment: The State Compensation Mutual Insurance Fund (State Fund) asserted that the use of seven different fee schedules for different medical specialty groups is inconsistent with the goal of making health care billing procedures uniform, and thus cannot "logically serve as a rationale for the fee schedule as proposed."

Response: The Department disagrees with the State Fund's characterizations. There is a difference between having special procedure codes for different provider specialties and having separate fee schedules which use the same procedure coding system.

In a recent rule hearing, the State Fund has testified that the Department needed to develop a separate fee schedule for chiropractors. (Testimony of P.J. Strizich, on behalf of the State Fund, at February 18, 1993, public hearing on medical service and fee schedule rules.) The State Fund's Petition for amending these rules asks that a chiropractic fee schedule, separate from the RVP be adopted by the Department. The Petition also notes that historically there has been a separate fee schedule for chiropractors, too. These rules are being amended to address that concern.

The adoption of the rules that went into effect April 1, 1993, was done (in part) to update the old California-based procedure codes to the CPT-based system now in place and which many providers already use.

The Department acknowledges that there is an inconsistency between development of special procedure codes and the uniform use of a single coding system. At the present time, the Department is unaware of a way to reconcile that inconsistency within the context of Montana's workers' compensation system.

5. Comment: The State Fund questioned the attainment of the Department's stated goal of making the fewest possible changes to the current rules in order to minimize costs associated with modifying automated billing systems.

Response: The Department has considered the impact of its rules on providers, claimants, and other insurers, in addition to the impact on the State Fund. The Department notes that its mailing list of insurers, providers and adjusters affected by workers' compensation medical service rules exceeds 9000 persons and entities.

6. Comment: The State Fund commented that the Department's chiropractic fee schedule, as proposed, would exceed the limitations imposed by § 39-71-704, MCA (1991).

Response: The Department believes that the limitation of medical costs is determined "at the bottom line" of overall medical costs, and not on a "line-by-line" or "practice area" basis.

7. Comment: The State Fund commented that because there were only two levels of service for initial visits under the pre-April 1 rules, only two levels of service, C9201 and C9202, should be allowed now. The State Fund suggested that the Department amend the rules to restrict payments to a level not to exceed a "limited" level of service.

Response: The Department believes that it is justified in keeping five levels of office visit services for chiropractors because it parallels the CPT/RVP classifications for other medical providers who commonly have "treating physician" status. The Department has amended the rule to include utilization language stating that initial service above the "limited" level will need to be justified by the provider on a case-by-case basis in the documentation submitted to the insurer. The Department has also added language to clarify that the chiropractic procedure codes contained in the rule are bound by the same directions and explanations as apply to codes which are contained in the CPT manual and Relative Value for Physicians.

8. Comment: The State Fund commented that the Department should amend the rules to restrict payments for follow-up visits to a level not to exceed a "brief" level of service, regardless of the medical need for a higher level of service. The State Fund provided examples of bills to support this concern.

Response: Please see response to comment 7, above. The Department has added utilization language to the rule that states that the expected level of office visit for follow-up treatments is the "brief" level of service, C9211, and that any deviation from that level of service will have to be justified by the provider on a case-by-case and visit-by-visit basis in the documentation submitted to the insurer.

9. Comment: The State Fund commented that the Department's presumption that under the proposed rules, insurers could "cure" abuses of the fee schedule by refusing to pay for higher priced chiropractic procedures, was not well founded.

Response: The Department recognizes that its rules cannot totally eliminate disputes between the parties or curb every abuse. The additional utilization rules that the Department has added limit the potential for abuse by requiring the provider to document, on a case-by-case basis, the reasons that the level of service was appropriate. Insurers will have the information (in the form of the provider's documentation) that is necessary for the insurer to evaluate whether the level of service rendered was appropriate.

If the parties cannot informally resolve their disputes, the Workers' Compensation Act provides forums to resolve those disputes.

10. Comment: The Montana Municipal Insurance Authority and the Montana School Groups Insurance Authority (each a Plan 1 self-insurance group) commented that they fully support all the comments and suggestions made by the State Fund.

Response: The Department's response to the State Fund's comments and suggestions are addressed in comments 4 through 9, above.

11. Comment: The Montana Chiropractic Association (MtCA) commented that the State Fund's proposed version of the rules ran counter to the intent and purpose of HB 465 (1991) because the proposal perpetuates the single-insurer based fee schedule. It also objected to the use of separate (non-CPT) codes for chiropractic procedures.

Response: The Department recognizes that development of fee schedules for medical services is an on-going project. The Department is currently investigating the availability, cost and reliability of sources of information on medical costs in Montana other than the State Fund. The Department has been given the task by the 1993 Legislature to develop a computerized information system for workers' compensation. Because that project will take time to develop, the Department is looking at commercially available information about provider services and fees to help the Department establish fees.

While the Department is aware that CPT codes are being increasingly used by other payors, CPT codes are not the only billing system in wide spread use. DRGs (diagnostic related groups), HCPCS (health care procedure coding system) and other coding/billing systems used by Medicare are just some examples of other systems in use. The Department believes that while standardization of billing systems is desirable, it does not presently exist. To the greatest extent possible, the chiropractic procedure codes proposed by the Department are analogous to CPT procedure codes. Please see comment 4, above, and the response thereto.

The Department believes that without further refinements, however, the RVP system is not suitable for use by Montana chiropractors in the current context of workers' compensation law. There is a difference between the use of CPT procedure codes and the use of RVP unit values. While the RVP is based upon CPT procedures, the CPT describes services, while the RVP assigns a relative scale of value to those services. The Department hopes that the parties in the workers' compensation system will be willing to work with each other and the Department to develop a billing system for chiropractors that uses CPT procedure codes, even if the billing system uses different values (unit values or conversion factors) for determining the final fee.

The Department believes that its proposed amendments provide for a fair and workable fee schedule, even if the system is not perfect.

12. Comment: The MtCA commented that it supported the Department interpretation of the nature of the cap as being measured at "the bottom line", rather than on a component-by-component basis.

Response: The Department appreciates the MtCA comment.

13. Comment: The MtCA recommended that the basic office visit be rebundled with the chiropractic treatment codes, and that the RVP remain in use for chiropractors. The MtCA objected to the Department's proposed unit values for certain procedures, and opposed the Department's deviation from the RVP.

Response: The Department notes that the MtCA agrees that allowing chiropractors to bill for both office visits and treatment procedures at RVP rates overstates the value of the services rendered. There are two major reasons why the Department has elected to amend the rule essentially as proposed, rather than by the technique suggested by the MtCA.

Generally, the Montana chiropractic community routinely charges for an "office visit" in addition to treatment. This general practice is unlike the general practice of most medical doctors, who typically do not separately bill for an office visit as a routine part of providing treatment. Additionally, the suggestion is so significantly different from what was noticed in the proposed rules that the Department believes that it could not be properly adopted without being re-noticed and a new hearing being held.

The Department agrees with the argument raised in the State Fund's Petition that failure to include chiropractic data in the computation of the medicine conversion factor of \$3.77 renders the conversion factor invalid for chiropractic when used with RVP values. The Department now realizes that using RVP unit values, when combined with utilization data from the State Fund for chiropractic services (the methodology used in establishing medical conversion factors) will result in a significantly lower conversion factor for chiropractors. Instead of recalculating the conversion factor for the fee schedule, the Department adjusted the unit values, which has the advantage of restoring the concept of combination codes. Combination codes are traditionally part of chiropractic fees in Montana's workers' compensation system and are not part of the RVP. The Department will consider (for future revisions of the fee schedule) how utilization rules might be used, along with a separate chiropractic conversion factor, to allow the use of CPT codes and RVP values.


14. Comment: The MtCA also commented upon the Department's unit value calculations and presented the example of using the RVP value for manipulation (8.0) less the value of a C9211 office visit (2.8) to come up with a proposed unit value for manipulation (when billed with an office visit) as 5.2.


Response: The Department began from a starting point of 7.5 units for the combination of basic office visit (established patient), manipulation, and two or more modalities, using a \$3.77 conversion factor. (See comment 13 discussion concerning the decision to use the existing conversion factor.) That results in a fee that is essentially the same fee for those services prior to April 1, 1993. A unit value of 5.5 was established for an established basic office visit and a manipulation, using the same technique. Given the unit value of 2.8 for an established patient basic office visit (C9211), the Department used algebra to solve for the variable of the value of just the manipulation component. Use of the RVP unit value would require recalculation of the conversion factor for chiropractic services, as discussed above.

15. Comment: The MtCA commented that chiropractic fees are too low under the proposed amendments and referred to data compiled by Data Management Ventures, Inc., in the publication Fee Facts.

Response: The Department believes that the fee schedule as amended results in increased chiropractic fees that are within the parameters of § 39-71-704(4), MCA, (1991).

5. These amendments are effective August 1, 1993.


David A. Scott
Rule Reviewer


Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: July 19, 1993.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of)
Rule 36.13.201 through 36.13.701) NOTICE OF AMENDMENT
pertaining to water measuring)
devices)

To All Interested Persons:

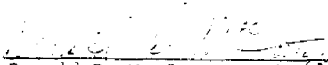
1. On April 15, 1993, the Board of Natural Resources and Conservation published a Notice of Adoption of New Rules at page 561 of the Montana Administrative Register, Issue No. 7, for the above captioned rule which relates to water measuring devices.

2. In order to keep these water measuring device rules together in one subchapter, and make these rules easier to locate, the rule numbers will be amended as follows:

36.13.201	Amended to	36.13.102
36.13.301	Amended to	36.13.103
36.13.401	Amended to	36.13.104
36.13.501	Amended to	36.13.105
36.13.601	Amended to	36.13.106
36.13.701	Amended to	36.13.107

AUTH: 85-2-113, MCA; IMP: 85-2-113, 85-2-115, 85-2-122, and 85-2-150, MCA

3. Replacement pages for the corrected Notice of Amendment were submitted to the Secretary of State on June 30, 1993.


Donald D. MacIntyre, Chief Legal Counsel
Department of Natural Resources
and Conservation

Certified to the Secretary of State, June 30, 1993.

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

In the Matter of Adoption,)	NOTICE OF ADOPTION AND
Amendment and Repeal of Rules)	AMENDMENT OF RULES GOVERN-
Governing Minimum Filing)	ING MINIMUM FILING REQUIRE-
Requirements and Procedures)	MENTS AND PROCEDURES FOR
for Class Cost of Service and)	CLASS COST OF SERVICE AND
Rate Design.)	RATE DESIGN AND REPEAL OF
)	ARM 38.5.105 AND 38.5.178

TO: All Interested Persons

1. On April 29, 1993 the Department of Public Service Regulation published notice of public hearing on the proposed adoption, amendment and repeal of the proposals identified in the above title at page 596, issue number 8 of the 1993 Montana Administrative Register.

2. Rationale: The adoption, amendment and repeal of these rules is intended to improve the efficiency and quality of the Public Service Commission's cost of service and rate design decisions through the use of models and minimum filing requirements.

3. The Department has amended and adopted the following rules as proposed:

38.5.102 APPLICATIONS FOR RATE INCREASES
38.5.109 WORKING PAPERS TO BE FILED
38.5.177 STATEMENT M -- RATE DESIGN
RULE I. 38.5.194 APPLICATION FOR ALLOCATED COST OF SERVICE AND RATE DESIGN CHANGES
RULE II. 38.5.195 POST-FILING CONFERENCE FOR ALLOCATED COST OF SERVICE AND RATE DESIGN APPLICATIONS

4. The Department has repealed the following rules as proposed:

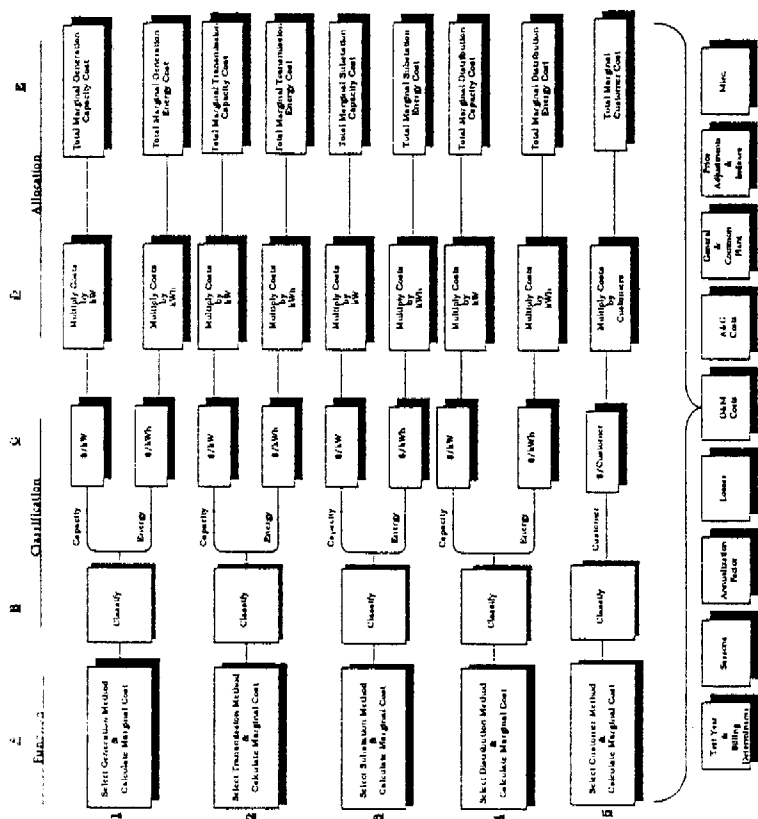
38.5.105 COST OF SERVICE UNDER THE NEW RATES
38.5.178 DERIVATION OF INCREASED RATES

5. The Department has amended the following rule:

38.5.176 STATEMENT L -- ALLOCATED COST OF SERVICE (ACOS) (1) through (5) No changes.
(a) Model 1. Generic electric marginal cost study model.
(b) No change.
(6) (a) through (1) No changes.

Model 1. Generic Electric Marginal Cost Study Model.

Generic Electric Marginal Cost Study Model



provide the an model flow sheet

Bob Anderson
Bob Anderson, Chairman

Pat A. McHugh
Reviewed By

CERTIFIED TO THE SECRETARY OF STATE JULY 19, 1993.

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

In the Matter of) NOTICE OF ADOPTION
Adoption of Rules Pertaining) OF NEW RULES I AND II
to Electric Utility Line)
Maintenance and Electric)
Utility Nominal Voltage and)
Variance Range.)

TO: All Interested Persons

1. On April 15, 1993 the Department of Public Service Regulation published notice of a public hearing on the proposed adoption of the proposals identified in the above title at page 523, issue number 7 of the 1993 Montana Administrative Register.

2. The Department has adopted the following rule as proposed.

RULE I. 38.5.2101 ELECTRIC UTILITY LINE AND FACILITY
MAINTENANCE -- MINIMUM STANDARDS

3. The Department has adopted and amended the following rule:

RULE II. 38.5.2102 ELECTRIC UTILITY NOMINAL VOLTAGE
AND PERMISSIBLE RANGE OF VARIANCE (1) No change.

(2) This rule shall not apply:

(a) to transmission systems not used to directly serve customers;

(b) where customers specifically request a voltage other than standard nominal system voltages as specified in ANSI C84.1, 1989; or

(c) in instances where voltage is in excess of 34,500 volts. AUTH: Sec. 69-3-103, MCA; IMP: Sec. 69-3-108, MCA

4. Written comments to the proposals were received. These are summarized below, have been considered by the Commission, and are ruled on as indicated.

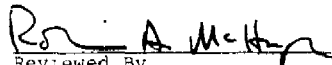
Montana-Dakota Utilities Company (MDU), commented that ANSI C84.1, 1989, extends beyond the intent of the rule by specifying maximum voltage levels on high voltage transmission systems not used to directly serve customers where design and operations require greater permissible variance for system efficiency and stability. The Commission agrees and amends the rule accordingly. MDU proposes that the rule should not apply when customers request specific voltage not complying with ANSI C84.1, 1989. The Commission agrees and amends the rule accordingly. MDU proposes that the rule should not apply where customers request access through connection to medium and high voltage systems and, in such cases, it proposes that customers must adapt to the existing established voltage so as not to interfere with overall operation of the system. The Commission neither agrees nor disagrees with this comment for

purposes of this rule. The tariffed operating rules for service connections should govern this area. MDU proposes that the rule should apply to low voltage systems serving the routine customer. The Commission disagrees that "routine customer" has sufficient meaning for purposes of this rule.

5. The authority of the agency to make rules as proposed and the statutes being implemented are set forth in the notice of proposed action identified in paragraph 1.


Bob Anderson, Chairman

CERTIFIED TO THE SECRETARY OF STATE JULY 19, 1993.


Reviewed By

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT)
of ARM 42.15.121 and 42.17.111)
relating to Taxation of Indian)
Income)
)

NOTICE OF THE AMENDMENT
of ARM 42.15.121 and
42.17.111 relating to
Taxation of Indian
Income

TO: All Interested Persons:

1. On February 11, 1993, the Department published notice of the proposed amendment of ARM 42.15.121 and 42.17.111 relating to taxation of Indian income at page 242 of the 1993 Montana Administrative Register, issue no. 3.

2. A Public Hearing was held on March 3, 1993, to consider the proposed amendments. Testimony was provided at the hearing and written comments were received.

3. Oral and written comments received during and subsequent to the hearing are summarized as follows along with the response of the Department:

COMMENT: The department received numerous comments opposing the proposed amendment to rule 42.15.121 which deleted Section 1 (b) and Section 2. These deletions would have removed the exemption for income received from allotted or restricted lands held in trust.

RESPONSE: Based upon the comments made by the affected persons attending the hearing and the United States Supreme Court's decision in Squire v. Capoeman, 351 U.S. 1 (1956) and the Court of Appeal's decision in Stevens v. Commissioner, 452 F. 2d 941 (9th Cir., 1971) the department has amended the rule to restore sections 1. (b) and 2., the exemption for income derived from allotted land.

In addition, the department is amending 42.15.121 (1) to substitute "or lands restored to tribal ownership by 72 Stat. 121, May 19, 1958", to clarify and be more specific in describing what was previously captioned as the "ceded strip".

COMMENT: The department received many comments in opposition to the proposed amendment to 42.15.121 (1.), to exempt only the enrolled tribal member who both resided and worked on his/her reservation. Generally the opponents assert the State lacks jurisdiction to tax tribal Indians and other persons recognized as Indians living and working on Indian reservations.

RESPONSE: Indian sovereign immunity from nondiscriminatory state taxation is a question of congressional pre-emption. In McClanahan v. Arizona State Tax Commission, 411 U.S. 164 (1973),

the United States Supreme Court explained the doctrine of sovereign immunity traditionally recognized by the Court is derived from the sovereign relationship existing between the tribe and its members. As a result, a state cannot exercise its jurisdiction in a manner which will impair tribal self-government. Immunity from state taxation is based upon a political relationship which exists between the sovereign and its subject not on the race of the person being taxed. Therefore, the department's position is that the taxation of nonmember tribal Indians living on reservations will not conflict with or impair the tribes' self government powers.

The rule as stated by Chief Justice Rehnquist in his concurring opinion in Washington v. Confederated Tribes of the Colville Indian Reservation, et al., 447 U.S. 134, 187 (1980), provides:

Congress, however, has certainly provided no express immunity from the type of taxation in issue for Indians not members of the tribe, and under Mescalero principles of construction, the backdrop of sovereignty makes it clear that it is not this Court's province to imply such an immunity. These Indians residing on the reservation are citizens of the State, just the same as their non-Indian neighbors, and I am unwilling to conclude that their Indian status entitles them to an implied immunity from taxes when their non-Indian neighbors are required to pay.

This rule of immunity from state jurisdiction based on the recognition of the relationship between governed and government is a firmly established principle of tribal-state jurisprudence. In Duro v. Reina, _____ U.S. _____, 110 S. Ct. 2053, 2060 (1990), the Supreme Court held:

Rather, as our discussion in Wheeler reveals, the retained sovereignty of the tribes is that needed to control their own internal relations, and to preserve their own unique customs and social order. The power of a tribe to prescribe and enforce rules of conduct for its own members "does not fall within that part of sovereignty which the Indians implicitly lost by virtue of their dependent status. The areas in which such implicit divestiture of sovereignty has been held to have occurred are those involving the relations between an Indian tribe and nonmembers of the tribe." 435 U.S., at 326, 98 S. Ct., at 1087.

Similarly, in Oklahoma Tax Commission v. Sac and Fox Nation, _____ U.S. _____, 113 S. Ct. 1985 (1993), the Supreme Court took great pains in its decision to hold that immunity from state taxation depends upon the residence of the tribal member. It is clear from the opinion that immunity from state

taxation is dependant upon the taxpayer's tribal membership status and residence.

In their comments the opponents cite to the Montana Supreme Court's decision in LaRogue v. State, 178 Mont. 315, 583 P.2d 1059 (1978), as supporting their position. In LaRogue the Montana Supreme Court determined that a tribal member of another reservation and a person recognized in the Indian community as an Indian, but not a member of any tribe were entitled to immunity from state taxation. The Court's reasoning is based on the United States Supreme Court's reasoning in McClanahan. Based on the difference of the facts of the McClanahan case and the LaRogue case the Court's reliance may be misplaced. Mrs. McClanahan was a member of Navajo Tribe while Mr. LaRogue and Mr. Boxer were not members of the Fort Peck Tribe. Also, the Court's reasoning is questionable in light of the more recent decisions of the United States Supreme Court. It is unlikely the Montana Court would reach the same conclusion in light of the United States Supreme Court's decisions in Colville, Duro, and Sac and Fox Nation. It is apparent the trend of Indian sovereignty cases is that immunity from state jurisdiction is dependant upon both the Indian's tribal membership and residence. Accordingly, the department will proceed to make the change in its rules and application of the exemption.

To enable an orderly transition, the department will apply this new rule for income earned on or after January 1, 1994.

4. As a result of the comments received the Department amends ARM 42.15.121 to retain (1)(b) and (2) as follows:

42.15.121 TAX STATUS OF INDIANS (1) The term "Indian" is construed to mean an enrolled member of an Indian tribe. An Indian's income is taxable to the same extent as that of non-Indians, subject only to the following exceptions:

(a) An Indian residing enrolled tribal member who resides on an Indian reservation and is an enrolled member of a tribe which resides on that reservation is not taxable with respect to income derived from sources within the exterior boundaries of an that Indian reservation or ceded strip LANDS RESTORED TO TRIBAL OWNERSHIP BY 72 STAT.121, MAY 19, 1958. When income is earned both on and off reservations, it shall be allocated according to the source.


(b)(2) An Indian, regardless of residence, is not taxable with respect to income derived directly from allotted or restricted lands held in trust by the United States for the Indian's benefit of a tribe.

(c)(3) An Indian residing outside the exterior boundaries of an Indian reservation has no special exemption other than income derived from allotted or restricted lands, as set forth in subsection (1)(b) of this section.

AUTH: 15-30-305 MCA; IMP: 15-30-101 MCA.

5. The department adopts ARM 42.15.121 with the above-referenced amendments and ARM 42.17.111 as proposed in the notice of February 11, 1993.


VALERIE HATFIELD
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State July 19, 1993.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF THE REPEAL OF
of rules 46.25.101,	)	RULES 46.25.101, 46.25.705,
46.25.705, 46.25.707,	)	46.25.707, 46.25.711,
46.25.711, 46.25.714,	)	46.25.714, 46.25.720
46.25.720 through 46.25.722,	)	THROUGH 46.25.722,
46.25.724 through 46.25.731,	)	46.25.724 THROUGH
46.25.733, 46.25.734,	)	46.25.731, 46.25.733,
46.25.738, 46.25.740 through	)	46.25.734, 46.25.738,
46.25.742, 46.25.746,	)	46.25.740 THROUGH
46.25.751 through 46.25.756	)	46.25.742, 46.25.746,
pertaining to general relief	)	46.25.751 THROUGH 46.25.756
assistance and general	)	PERTAINING TO GENERAL
relief medical	)	RELIEF ASSISTANCE AND
	)	GENERAL RELIEF MEDICAL

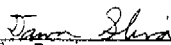
TO: All Interested Persons

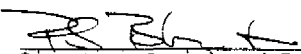
1. On June 10, 1993, the Department of Social and Rehabilitation Services published notice of the proposed repeal of rules 46.25.101, 46.25.705, 46.25.707, 46.25.711, 46.25.714, 46.25.720 through 46.25.722, 46.25.724 through 46.25.731, 46.25.733, 46.25.734, 46.25.738, 46.25.740 through 46.25.742, 46.25.746, 46.25.751 through 46.25.756 pertaining to general relief assistance and general relief medical at page 1195 of the 1993 Montana Administrative Register, issue number 11.

2. The Department has repealed rules 46.25.101, 46.25.705, 46.25.707, 46.25.711, 46.25.714, 46.25.720 through 46.25.722, 46.25.724 through 46.25.731, 46.25.733, 46.25.734, 46.25.738, 46.25.740 through 46.25.742, 46.25.746, 46.25.751 through 46.25.756 as proposed.

3. No written comments or testimony were received.

4. The repeal of these rules will be applied retroactively to July 1, 1993 to comply with House Bill 427.


Rule Reviewer


Director, Social and Rehabilitation Services

Certified to the Secretary of State July 19, 1993.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER of the Petition of)	
D.A. DAVIDSON & CO. for a Declaratory)	
Ruling on the Application of Montana	)	Docket No. CT-93-28
Corporate License Tax Act to a)	
Regulated Investment Company organized	)	DECLARATORY RULING
in Montana and the Application of the)	
Montana Individual Income Tax Act to)	
its Montana resident shareholders.)	
TO: All Interested Persons)	

INTRODUCTION

1. On March 3, 1993, the Montana Department of Revenue (the Department), received a Petition for Declaratory Ruling from D.A. Davidson & Co. (D.A. Davidson), whose principal place of business is in Great Falls, Montana. The mailing address of the petitioner is P.O. Box 5015, Great Falls, Montana 59403.

2. The facts upon which a ruling will be made are as follows: D.A. Davidson, a registered broker-dealer, proposes to sponsor a regulated investment company ("RIC"), as defined in subchapter M of the Internal Revenue Code. The RIC would be registered with the Securities and Exchange Commission under the Investment Company Act of 1940. The proposed RIC would invest primarily, if not exclusively, in obligations issued by the State of Montana or by political subdivisions of the State of Montana; however, the company would reserve the right to invest in other taxable stocks and bonds at some future date. D.A. Davidson will supply investment management, distribution and other services. The RIC would not have its own employees.

3. The questions of law upon which a ruling will be made are as follows: (a) Whether the proposed RIC would be entitled to a "dividends paid" deduction when reporting its income under the Montana Corporation License or Income Tax as administered by the Montana Department of Revenue. Since D.A. Davidson has stated the other stocks and bonds it may invest at a future date are "taxable" this ruling will address the sole issue of a dividends paid deduction concerning the proposed investment in obligations issued by the State of Montana or its political subdivision. This question primarily involves the application of §§ 15-31-113 and 15-31-114, MCA, and related provisions of the Internal Revenue Code.

(b) Whether individual resident shareholders of the proposed RIC would be entitled to exclude from their Montana adjusted gross income dividends received from the RIC and attributable to (1) interest earned by the RIC on its investments in obligations issued by the State of Montana or its political subdivisions, and (2) interest earned by the RIC on its investments in obligations issued

by the United States, its agencies, instrumentalities, territories and possessions. This question primarily involves the application of § 15-30-111, MCA, and related provisions of the Internal Revenue Code.

ANALYSIS

4. The federal taxation of an RIC is governed by § 852 of the Internal Revenue Code. Pursuant to that section an RIC is allowed a deduction for dividends paid to shareholders. As a condition precedent to receiving the dividends paid deduction, the company must pay dividends (but without regard to capital gain dividends) in an amount equal to or exceeding 90% of the investment company's taxable income determined for the taxable year without regard to capital gain dividends. IRC § 852(a)(1).

5. Additionally, IRC § 852(a)(2) requires an RIC to pay dividends in an amount equal to or exceeding 90% of its excludable interest income over its deductions disallowed under sections 265 (insurance contract payments) and 171(a)(2) (amortizable premiums regarding tax-exempt bonds) to qualify for the dividends paid deduction.

6. Capital gains of an RIC are taxed separately under federal tax law. The excess of the company's net capital gains over a deduction for dividends paid (with respect to only capital gains) is subject to taxation pursuant to IRC § 1201. IRC § 852(b)(3).

7. Montana tax law does not contain separate provisions for regulated investment companies. An RIC in Montana would be considered a business subject to the state Corporation License or Income Tax. § 15-31-101, MCA.

8. As stated above D.A. Davidson has proposed to establish an RIC that would primarily or exclusively invest in obligations issued by the State of Montana or its political subdivisions. The interest income earned on state and local bonds is exempt from federal taxation. IRC § 103. Montana taxes interest income that is federally exempt. § 15-31-113(1)(a). The question thus becomes would Montana's taxation of federally exempt-interest income preclude the proposed RIC from claiming a dividends paid deduction regarding dividends paid from the interest income earned on Montana state and local obligations?

9. Section 15-31-114, MCA, enumerates the deductions allowed in determining net income for Montana corporation income tax purposes. Additionally, the Montana courts have held that if a statute incorporates federal law, a Montana taxpayer may receive the same deduction for Montana tax purposes as received for federal tax purposes. Baker Bancorporation v. Department of Revenue, 202

Mont. 94, 657 P.2d 89 (1983). However, neither the statute nor case law supports a dividends paid deduction in the facts described by D.A. Davidson.

10. A dividends paid deduction for dividends paid from interest income earned on state and local obligations is not an enumerated deduction in either § 15-31-114, MCA, or the Internal Revenue Code. The federal tax code specifically precludes a dividends paid deduction for tax-exempt interest dividends [IRC §§ 852(b)(2)(D) and 852(b)(5)], because interest income earned on obligations such as state and local obligations is already excluded from federal gross income. IRC § 103.

11. In contrast to the federal tax code, a company's interest income that is excluded under federal law is specifically declared to be included in the company's gross income for Montana corporation income tax purposes. § 15-31-113(1)(a), MCA. As a matter of law, Montana is not obligated to follow the federal tax law in matters of state taxation. GBN, Inc. v. Montana Department of Revenue, 249 Mont. 261, 815 P.2d 595 (1991). Federal tax law has not preempted state taxation. Id.

12. Resolution of this issue requires the Department of Revenue to apply relevant Montana tax statutes. The Department of Revenue is an executive agency charged with the enforcement and administration of Montana's tax statutes. Sections 15-1-201, 15-1-202, MCA; 1972 Mont. Const., art. VIII, sec. 3. As an executive agency, the Department must implement the state's tax statutes and can not substitute its judgement for that of the legislature. 1972 Mont. Const., art. VI, sec. 4.

13. Statutes must be interpreted so as to effect the intent of the legislature. Thiel v. Taurus Drilling, Ltd. 1980-II, 218 Mont. 201, 710 P.2d 33 (1985). Properly effecting the intent of the legislature requires application of the rules of statutory construction. These rules are provided by statute, see Title 1, chapter 2, MCA, and by case law.

14. In statutory construction, the interpreter of a statute must ascertain and declare the substance contained in the statute, not to insert what has been omitted or omit what has been inserted. Section 1-2-101, MCA; Blake v. State, 226 Mont. 193, 198, 735 P.2d 262, 265 (1987). In the specific context of tax deductions the Montana Supreme Court has repeatedly held that a deduction may not be implied or presumed. Cyprus Mines Corp v. Madison, 172 Mont. 116, 560 P.2d 1342 (1977); GBN, Inc. v. Montana Department of Revenue, 249 Mont. 261, 815 P.2d 595 (1991). A tax deduction does not exist unless expressly provided in statute. Id.

15. Applying these rules of statutory construction to the facts presented by D.A. Davidson, the dividends paid from interest

income on state and local bonds are not allowable deductions. Neither the federal tax code nor the Montana tax code provides such a deduction for interest income dividends paid on state and local obligations. The Department can not insert language into Montana statutes or otherwise imply or presume such a deduction exists. Moreover the plain language of § 15-31-113(1)(a), MCA, clearly states that interest income which is exempt from federal taxation is subject to the Montana corporation license or income tax. To imply the requested deduction would defeat the plain intent of that statutory section.

16. The second issue raised by D.A. Davidson is whether the above-referenced dividends issued to individual resident shareholders would be included in the shareholder's Montana adjusted gross income and thereby taxable for state income tax purposes. The dividends at issue would be those dividends received from the investment company and attributable to (a) interest earned by the investment company on obligations of the State of Montana or its political subdivisions, and (b) interest earned by the investment company on obligations of the United States, its agencies, instrumentalities, territories and possessions.

17. The Montana adjusted gross income of individual residents is governed by § 15-30-111, MCA, which reads in pertinent part:

15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

* * *

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof; . . .

A plain reading of these sections requires a finding that interest earned on Montana obligations and obligations issued by the United States government is not subject to Montana individual income tax. However, interest income earned on obligations issued by other states or territories is subject to the tax. Thus dividends directly attributable to interest income earned on Montana or

United States government obligations are not subject to Montana's income tax.

18. This interpretation of the statutory sections dealing specifically with interest income earned on government obligations is further supported by the general statement in § 15-30-111(1), MCA, that the starting point for determining a resident's adjusted gross income is the taxpayer's federal adjusted gross income. Unlike the dividends paid deduction concerning state and local bonds, the federal code specifically grants an exemption to shareholders receiving exempt-interest dividends. The dividends received by shareholders on their investments in state and local bonds are considered as a § 103(a) item and excluded from the shareholder's gross income. IRC § 852(b)(5)(B). Thus the interest income received on the Montana state and local bonds would not be included in federal adjusted gross income and hence not a part of Montana adjusted gross income. However, it should again be noted that interest income earned on obligations of other states or territories are included in a resident's Montana adjusted gross income pursuant to § 15-3-111(1)(a), MCA.

DECLARATORY RULING

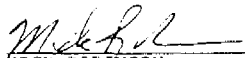
19. Based on the foregoing reasons and analysis, it is hereby ruled that the regulated investment company proposed by D.A. Davidson would not be entitled to a dividends paid deduction concerning dividends paid to shareholders on state and local obligations.

20. It is further ruled that Montana residents receiving dividends directly attributable to interest income earned on Montana or United States government obligations are not required to include that interest income in their Montana adjusted gross income for Montana individual income tax purposes.

21. All motions not otherwise disposed of by this order shall not be considered granted or denied. The Department considers this ruling as dispositive of the subject petition. Issues not addressed in this ruling may be brought before the Department in a separate Petition for Declaratory Ruling.

DATED this 6th day of July, 1993.

MONTANA DEPARTMENT OF REVENUE



MICK ROBINSON
Director

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 13th day of July, 1993, a true and correct copy of the foregoing has been served by placing same in the United States Mail, postage prepaid, addressed as follows:

Bruce A. MacKenzie
DORSEY & WHITNEY
Attorneys at Law
507 Davidson Building
8 Third Street North
Great Falls, Montana 59401

William R. Goetz
Attorney at Law
220 South Sixth Street
Minneapolis, Minnesota 55402

Dale L. Jones

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 | 1. Consult ARM topical index. |
| Subject | Update the rule by checking the accumulative |
| Matter | table and the table of contents in the last |
| | Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each |
| Number and | title which lists MCA section numbers and |
| Department | corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 1993. This table includes those rules adopted during the period April 1, 1993 through June 30, 1993 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 March 31, 1993, 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 and 1993 Montana Administrative Registers.

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BOARD APPOINTEES AND VACANCIES

House Bill 424, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of HB 424 was that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments made in June, 1993, are published. Vacancies scheduled to appear from August 1, 1993, through October 31, 1993, 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 July 2, 1993.

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: JUNE, 1993

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of County Printing (Commerce)			
Mr. Roy Aafedt	Governor	Fossen	6/17/1993
Great Falls			4/1/1995
Qualifications (if required):	county commissioner		
Ms. Nancy Clark			
Ryegate	Governor	Lopp	6/17/1993
Qualifications (if required):	public member		4/1/1995
Ms. Fern Hart			
Missoula	Governor	Nutting	6/17/1993
Qualifications (if required):	county commissioner		4/1/1995
Mr. Curtis Starr			
Malta	Governor	Smith	6/17/1993
Qualifications (if required):	represents publisher-printer		4/1/1995
Board of Plumbers (Commerce)			
Mr. Vernon E. (Gene) Mahn	Governor	Hinebauch	6/3/1993
Lincoln			5/4/1997
Qualifications (if required):	public member		
Board of Private Security Patrolmen and Investigators (Commerce)			
Mr. Jeffrey "Jeff" T. Patterson	Governor	Servel	6/24/1993
Missoula			8/1/1994
Qualifications (if required):	private investigator		
Chief David C. Ward			
Billings	Governor	Vogel	6/24/1993
Qualifications (if required):	city police member		8/1/1994

Appointee	Appointed by	Succeeds	Appointment/End Date
BOARD AND COUNCIL APPOINTEES: JUNE, 1993			
Board of Regents (Education)			
Mr. Shane Coleman	Governor	Belcher	6/6/1993
Bozeman			6/1/1994
Qualifications (if required):	full-time student at unit of higher Education		
Mr. Patrick P. Davison	Governor	Topel	6/6/1993
Billings			2/1/2000
Qualifications (if required):	Republican residing in Eastern District		
Executive Board of MT College of Mineral Science & Technology (Education)			
Ms. Constance B. Lord	Governor	Beaudry	6/8/1993
Philipsburg			4/15/1996
Qualifications (if required):	none specified		
Executive Board of Eastern Montana College (Education)			
Mr. James Sites	Governor	Fasching	6/8/1993
Billings			4/15/1996
Qualifications (if required):	none specified		
Executive Board of Montana State University (Education)			
Mr. Rory D. Abraham	Governor	Shewey	6/8/1993
Kalispell			4/15/1996
Qualifications (if required):	none specified		
Executive Board of Northern Montana College (Education)			
Mr. David G. Rice	Governor	Morrison	6/8/1993
Havre			4/15/1996
Qualifications (if required):	none specified		
Executive Board of University of Montana (Education)			
Colonel Sam Roberts	Governor	Griel	6/8/1993
Missoula			4/15/1996
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES: JUNE, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Executive Board of Western Montana College	Governor	reappointed	6/8/1993
Mr. Joe Womack	Governor	reappointed	4/15/1996
Dillon			
Qualifications (if required): none specified			
MIAMI Project Advisory Council (Health and Environmental Sciences)	Governor	reappointed	6/30/1993
Ms. Lil Anderson	Governor	reappointed	6/30/1995
Billings			
Qualifications (if required): represents local health department			
Ms. Nancy Colton	Governor	reappointed	6/30/1993
Bozeman			6/30/1995
Qualifications (if required): involved in kid's issues & represents parents' organization			
Mr. Dan Dennehy	Governor	reappointed	6/30/1993
Butte			6/30/1995
Qualifications (if required): represents service providers			
Ms. Nancy Ellery	Governor	reappointed	6/30/1993
Helena			6/30/1995
Qualifications (if required): represents SRS who administers or supervises services under Mt Medicaid program			
Ms. Betty Hidalgo	Governor	Cross	6/30/1993
Great Falls			6/30/1995
Qualifications (if required): represents nonprofit health organization			
Dr. Jeffrey P. Hinz	Governor	reappointed	6/30/1993
Great Falls			6/30/1995
Qualifications (if required): private physician who specializes in obstetric or pediatric			

BOARD AND COUNCIL APPOINTEES: JUNE, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
MIAMI Project Advisory Council (Health and Environmental Sciences) cont.			
Rep. Angela Russell	Governor	reappointed	6/30/1993
Lodge Grass			6/30/1995
Qualifications (if required): member of the Crow Tribe & knowledgeable & involved in health services for Native Americans			
Mr. Dale Taliaferro	Governor	reappointed	6/30/1993
Helena			6/30/1995
Qualifications (if required): represents preventative health services for women & kids			
Microbusiness Finance Program Advisory Council (Commerce)			
Ms. Dolph Harris	Governor	reappointed	6/30/1993
Sidney			6/30/1995
Qualifications (if required): represents business owners			
Mr. Craig Smith	Governor	reappointed	6/30/1993
Wolf Point			6/30/1995
Qualifications (if required): represents cities with population less than 15,000			
Montana Arts Council (Education)			
Ms. Ann Cogswell	Governor	Kriley	6/17/1993
Great Falls			2/1/1998
Qualifications (if required): public member			
Ms. Diane M. Davies	Governor	Badt	6/17/1993
Polson			2/1/1998
Qualifications (if required): public member			
Mr. Richard Halmes	Governor	Hanson	6/17/1993
Great Falls			2/1/1998
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES: JUNE, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Montana Arts Council (Education) cont.			
Mr. George Horse Capture	Governor	Hoffmann	6/17/1993
Hays			2/1/1998
Qualifications (if required):	public member		
Ms. Sody Jones	Governor	Talbot	6/17/1993
Billings			2/1/1998
Qualifications (if required):	public member		
Ms. Carol Novotne	Governor	not listed	6/17/1993
Fort Harrison			2/1/1997
Qualifications (if required):	none specified		
Mr. Larry D. Williams	Governor	reappointed	6/17/1993
Great Falls			2/1/1995
Qualifications (if required):	none specified		
Montana Historical Records Advisory Council (Education)			
Ms. Marie L. Torosian	Governor	Lomax	6/7/1993
St. Ignatius			10/6/1994
Qualifications (if required):	none specified		
Rangeland Resources Committee (Natural Resources and Conservation)			
Mr. Quinn Haughian	Governor	Reukauf	6/18/1993
Terry			0/0/0
Qualifications (if required):	rancher for eastern area of state		
Mr. John Hollenback	Governor	reappointed	6/18/1993
Gold Creek			0/0/0
Qualifications (if required):	rancher from area of the state west of continental divide		

BOARD AND COUNCIL APPOINTEES: JUNE, 1993

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Rangeland Resources Committee	(Natural Resources and Conservation)		
Mr. Michael Lane	Governor	reappointed	cont. 6/18/1993
Three Forks			0/0/0
Qualifications (if required):	rancher from southern area of state		
Mr. Robert E. Lee	Governor	Etchart	6/18/1993
Judith Gap			0/0/0
Qualifications (if required):	chairman who is rancher		
Ms. Meg Smith	Governor	reappointed	6/18/1993
Glen			0/0/0
Qualifications (if required):	rancher from western area of state		
Mr. Dale Veseth	Governor	Kolstad	6/18/1993
Malta			0/0/0
Qualifications (if required):	rancher for northern area of state		
State Compensation Mutual Insurance Fund (Administration)			
Mr. James A. Brouelette	Governor	Smith	6/10/1993
Stevensville			4/28/1994
Qualifications (if required):	private for profit representative		
Mr. Rick Hill	Governor	Harrison	6/10/1993
Helena			4/28/1997
Qualifications (if required):	private for profit representative		
Ms. Sandra D. Reiter	Governor	Short	6/10/1993
Billings			4/28/1994
Qualifications (if required):	private for profit representative		

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993		
Advisory Council of Food and Nutrition (Health and Environmental Sciences)		
Mr. Bill Carey, Missoula	Governor	8/30/1993
Qualifications (if required): none specified		
Mr. Dean Folkvord, Three Forks	Governor	8/30/1993
Qualifications (if required): general public who knows & is active in food, nutrition & hunger		
Sen. Ethel M. Harding, Polson	Governor	8/30/1993
Qualifications (if required): none specified		
Ms. Frieda Hicks, Helena	Governor	8/30/1993
Qualifications (if required): represents Montana Food Stamp Program		
Ms. Minkie Medora, Missoula	Governor	8/30/1993
Qualifications (if required): none specified		
Ms. Judy Morrill, Bozeman	Governor	8/30/1993
Qualifications (if required): none specified		
Ms. Lynn Paul, Bozeman	Governor	8/30/1993
Qualifications (if required): none specified		
Rep. Jim Rice, Helena	Governor	8/30/1993
Qualifications (if required): none specified		
Ms. Annette Sutherland, Box Elder	Governor	8/30/1993
Qualifications (if required): represents Elder Nutrition Program		
Mr. David Thomas, Helena	Governor	8/30/1993
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Advisory Council of Food and Nutrition (Health and Environmental Sciences) Mr. Gary Watt, Helena Qualifications (if required): none specified	Governor	8/30/1993
Board of Chiropractors (Commerce) Mr. Ronald Remick, Havre Qualifications (if required): public member	Governor	10/7/1993
Board of Cosmetologists (Commerce) Ms. Ruth Tobe Green, Bozeman Qualifications (if required): affiliated with school of cosmetology	Governor	10/1/1993
Ms. Verna McCullough, Bozeman Qualifications (if required): affiliated with school of cosmetology	Governor	10/1/1993
Ms. Rose Ellen Paris, Missoula Qualifications (if required): licensed as an electrologist	Governor	10/1/1993
Ms. Geraldine Sorenson, Billings Qualifications (if required): licensed cosmetologist affiliated with school of Cosmetology	Governor	10/1/1993
Board of Medical Examiners (Commerce) Mr. Ben P. Broderick, Great Falls Qualifications (if required): public member	Governor	9/1/1993
Ms. Cindy Brown, Helena Qualifications (if required): licensed nutritionist	Governor	9/1/1993
Dr. Peter L. Burleigh, Great Falls Qualifications (if required): doctor of medicine	Governor	9/1/1993

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<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Medical Examiners (Commerce) Mrs. Lillian La Croix, Missoula Qualifications (if required): public member	Governor	9/1/1993
Board of Outfitters (Commerce) Mr. George Kelly, Hardin Qualifications (if required): licensed outfitter from District V	Governor	10/1/1993
Mr. Jerry Wells, Helena Qualifications (if required): member from Fish, Wildlife and Parks	Governor	10/1/1993
Mr. Clair A. Willits, Jr., Great Falls Qualifications (if required): public member	Governor	10/1/1993
Board of Private Security Patrolmen and Investigators (Commerce) Colonel Robert Griffith, Helena Qualifications (if required): member/Peace Officers Standards & Training Advisory Council	Governor	8/1/1993
Ms. Gay Ann Masolo, Townsend Qualifications (if required): public member	Governor	8/1/1993
Board of Psychologists (Commerce) Ms. Alice Omang, Helena Qualifications (if required): public member	Governor	9/1/1993
Dr. David Schuldberg, Missoula Qualifications (if required): licensed psychologist engaged in teaching psychology	Governor	9/1/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Burial Preservation Board (Commerce)		
Mr. Carl Fourstar, Poplar	Governor	8/22/1993
Qualifications (if required): rep. Assiniboine and Sioux Tribes		
Mr. Pat Lefthand, Pablo	Governor	8/22/1993
Qualifications (if required): rep. Salish & Kootenai Tribes		
Mr. Jay Stovall, Billings	Governor	8/22/1993
Qualifications (if required): public member		
Mr. William Tallbull, Buzby	Governor	8/22/1993
Qualifications (if required): rep. Northern Cheyenne Tribe		
Mr. Clarence "Curly Bear" Wagner, Browning	Governor	8/22/1993
Qualifications (if required): rep. Blackfeet Tribe		
Data Processing Advisory Council (Administration)		
Mr. Mike Billings, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Ms. Judy Browning, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Mr. Scott Buswell, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Mr. Jack Ellery, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Ms. Pam Joehler, Helena	Director	10/15/1993
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Data Processing Advisory Council (Administration) cont.		
Mr. Terry Johnson, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. C. John Kinna, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Bob Marks, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Mike Micone, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Richard Miller, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Douglas M. Mitchell, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Jesse Munro, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. William J. Opitz, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Jim Oppedahl, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Robert Person, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Andrew Poole, Helena Qualifications (if required): none specified	Director	10/15/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Data Processing Advisory Council (Administration) cont. Rep. Joe Quilici, Butte Qualifications (if required): none specified	Director	10/15/1993
Mr. Dennis Sheehy, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. David Toppen, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Wayne Watzel, Helena Qualifications (if required): none specified	Director	10/15/1993
Mr. Steve Yeakel, Helena Qualifications (if required): none specified	Director	10/15/1993
Election Advisory Council (Secretary of State) Ms. Karen Amende, Broadus Qualifications (if required): none specified	Secretary of State	10/1/1993
Rep. Verner L. Bertelson, Ovando Qualifications (if required): none specified	Secretary of State	10/1/1993
Ms. Wendy Cromwell, Missoula Qualifications (if required): none specified	Secretary of State	10/1/1993
Ms. Coral Cummings, Libby Qualifications (if required): none specified	Secretary of State	10/1/1993
Mr. Bill Driscoll, Butte Qualifications (if required): none specified	Secretary of State	10/1/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<u>Election Advisory Council</u> (Secretary of State) cont.		
Ms. Peggy J. Erickson, Billings	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Nancy J. Harte, Helena	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Betty T. Lund, Hamilton	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Carol Malone, Scobey	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Debbie Pallett, Lewistown	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Mr. Charles W. Walk, Helena	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Raelen Williard, Helena	Secretary of State	10/1/1993
Qualifications (if required): none specified		
<u>Flathead Basin Commission</u> (Governor)		
Mr. Charles Abell, Whitefish	Governor	10/1/1993
Qualifications (if required): public member		
Mr. Dennis Christensen, Hungry Horse	Governor	10/1/1993
Qualifications (if required): ex-officio member representing Bureau of Reclamation		
Ms. Elma Darrow, Big Fork	Governor	10/1/1993
Qualifications (if required): public member		

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993		
Flathead Basin Commission (Governor) cont.		
Mr. Al Elser, Kalispell	Governor	10/1/1993
Qualifications (if required): Ex-officio member/represent Fish, Wildlife & Parks		
Mr. Larry Wilson, Columbia Falls	Governor	10/1/1993
Qualifications (if required): public member		
Historic Preservation Review Board (Education)		
Dr. Tomas A. Foor, Missoula	Governor	10/1/1993
Qualifications (if required): archaeologist		
Job Training Coordinating Advisory Council (Labor and Industry)		
Ms. M. Colleen Allison, Columbia Falls	Governor	9/26/1993
Qualifications (if required): none specified		
Mr. Duane L. Ankney, Colstrip	Governor	9/26/1993
Qualifications (if required): none specified		
Mr. Forrest "Buck" Boles, Helena	Governor	9/26/1993
Qualifications (if required): none specified		
Ms. Barbara Campbell, Deer Lodge	Governor	9/26/1993
Qualifications (if required): none specified		
Mr. Tom Dahl, Havre	Governor	9/26/1993
Qualifications (if required): none specified		
Ms. Helen Kellicut, Deer Lodge	Governor	9/26/1993
Qualifications (if required): none specified		
Mr. Marvin McMichael, Missoula	Governor	9/26/1993
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Job Training Coordinating Advisory Council (Labor and Industry) cont. Mr. Jack E. Sands, Billings Qualifications (if required): none specified	Governor	9/26/1993
Rep. Chuck Swysgood, Dillon Qualifications (if required): none specified	Governor	9/26/1993
Sen. Gene Thayer, Great Falls Qualifications (if required): none specified	Governor	9/26/1993
Lewis and Clark Trail Advisory Council (Governor) Mr. Joe Belqum, Great Falls Qualifications (if required): none specified	Governor	10/24/1993
Mr. Kevin Boehler, Sidney Qualifications (if required): public member	Governor	10/24/1993
Mr. Arthur W. Dickhoff, Great Falls Qualifications (if required): none specified	Governor	10/24/1993
Mr. Robert Doerk, Jr., Great Falls Qualifications (if required): none specified	Governor	10/24/1993
Sen. Harry W. Fritz, Missoula Qualifications (if required): none specified	Governor	10/24/1993
Ms. Sandra Guedes, Helena Qualifications (if required): none specified	Governor	10/24/1993
Mr. Jack Hane, Bonner Qualifications (if required): none specified	Governor	10/24/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis and Clark Trail Advisory Council (Governor) cont.		
Mr. Jack Hayne, Dupuyer Qualifications (if required): none specified	Governor	10/24/1993
Mr. Don D. Hyypa, Helena Qualifications (if required): none specified	Governor	10/24/1993
Mr. Robert A. Saindon, Helena Qualifications (if required): none specified	Governor	10/24/1993
Ms. Jane Schmoyer-Weber, Great Falls Qualifications (if required): none specified	Governor	10/24/1993
Mr. Lawrence Sommer, Helena Qualifications (if required): none specified	Governor	10/24/1993
Mr. Andy Van Teylingen, Bozeman Qualifications (if required): none specified	Governor	10/24/1993
Ms. Margaret S. Warden, Great Falls Qualifications (if required): none specified	Governor	10/24/1993
Mr. John Willard, Billings Qualifications (if required): none specified	Governor	10/24/1993
Local Youth Services, Billings (Family Services)		
Ms. Elaine K. Allestad, Big Timber Qualifications (if required): none specified	Director	10/26/1993
Mr. James F. Canan, Billings Qualifications (if required): none specified	Director	10/26/1993

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VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Billings (Family Services) cont. Mr. Cliff Murphy, Billings Qualifications (if required): none specified	Director	10/26/1993
Mr. Vern Peterson, Lewistown Qualifications (if required): none specified	Director	10/26/1993
Ms. Pat Regan, Billings Qualifications (if required): none specified	Director	10/26/1993
Ms. Karen Smith, Billings Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Bozeman Mr. Bruce Becker, Bozeman Qualifications (if required): none specified	Director	10/26/1993
Mr. Robert Brown, Bozeman Qualifications (if required): none specified	Director	10/26/1993
Mr. Jerry Churchill, White Sulphur Springs Qualifications (if required): none specified	Director	10/26/1993
Mr. Carlo Cieri, Livingston Qualifications (if required): none specified	Director	10/26/1993
Senator Dorothy Eck, Bozeman Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Butte (Family Services) Dr. William Hickey, Anaconda Qualifications (if required): none specified	Director	10/26/1993
Ms. Charlotte Kilroy, Butte Qualifications (if required): none specified	Director	10/26/1993
Mr. Mike Mahoney, Deer Lodge Qualifications (if required): none specified	Director	10/26/1993
Rep. William T. "Red" Menahan, Anaconda Qualifications (if required): none specified	Director	10/26/1993
Ms. Rosemary G. Rawls, Butte Qualifications (if required): none specified	Director	10/26/1993
Ms. Terri Stanisich, Dillon Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Glasgow (Family Services) Mr. Arthur Arnold, Hinsdale Qualifications (if required): none specified	Director	10/26/1993
Ms. Mary Lou Broadbrooks, Malta Qualifications (if required): none specified	Director	10/26/1993
Mr. Tom McNally, Wolf Point Qualifications (if required): none specified	Director	10/26/1993
Ms. Harriet McCoy, Plentywood Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Glasgow Mr. John McKeon, Malta Qualifications (if required): none specified	cont. Director	10/26/1993
Ms. Brenda Schye, Glasgow Qualifications (if required): none specified	Director	10/26/1993
Mr. Larry Wahl, Scobey Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Glendive Mr. Pete Degel, Glendive Qualifications (if required): none specified	Director	10/26/1993
Ms. Connie Bissinger, Brockway Qualifications (if required): none specified	Director	10/26/1993
Mr. Paul Huber, Glendive Qualifications (if required): none specified	Director	10/26/1993
Rep. Betty Lou Kasten, Brockway Qualifications (if required): none specified	Director	10/26/1993
Father Wayne Pichard, Circle Qualifications (if required): none specified	Director	10/26/1993
Ms. Judy Reddig, Glendive Qualifications (if required): none specified	Director	10/26/1993
Mr. Dwight Theissen, Sidney Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Glendive (Family Services) Pastor Tim Tripple, Circle Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Great Falls (Family Services) Mr. Russell R. Andrews, Choteau Qualifications (if required): none specified	Director	10/26/1993
Mr. Earl Arkinson, Box Elder Qualifications (if required): none specified	Director	10/26/1993
Ms. Susan Good, Great Falls Qualifications (if required): none specified	Director	10/26/1993
Mr. Joe Gottfried, Shelby Qualifications (if required): none specified	Director	10/26/1993
Ms. Gini Onstad, Fort Benton Qualifications (if required): none specified	Director	10/26/1993
Representative Ray Peck, Havre Qualifications (if required): none specified	Director	10/26/1993
Judge John Warner, Havre Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Helena (Family Services) Dr. Thomas D. Carlin, Helena Qualifications (if required): none specified	Director	10/26/1993
Ms. Bonnie Holman, Townsend Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Helena Ms. Joyce Janacaro, Whitehall Qualifications (if required): none specified	(Family Services) cont. Director	10/26/1993
Mr. Wally Jewell, Helena Qualifications (if required): none specified	Director	10/26/1993
Mr. Bob Stockton, Helena Qualifications (if required): none specified	Director	10/26/1993
Ms. Margaret Stuart, Helena Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Kalispell Ms. Pat Delong, Thompson Falls Qualifications (if required): none specified	(Family Services) Director	10/26/1993
Mr. Donald D. Dupuis, Pablo Qualifications (if required): none specified	Director	10/26/1993
Mr. Howard W. Gipe, Kalispell Qualifications (if required): none specified	Director	10/26/1993
Ms. June Hermanson, Polson Qualifications (if required): none specified	Director	10/26/1993
Representative Tom Lee, Bigfork Qualifications (if required): none specified	Director	10/26/1993
Mr. Melvin R. Mohler, Swan Lake Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Miles City (Family Services)		
Mr. Ernie Big Horn, Miles City	Director	10/26/1993
Qualifications (if required): none specified		
Mr. Frank L. Lane, Miles City		
Qualifications (if required): none specified	Director	10/26/1993
Ms. Sue Matthews, Miles City		
Qualifications (if required): none specified	Director	10/26/1993
Mr. Bill Medved, Colstrip		
Qualifications (if required): none specified	Director	10/26/1993
Rep. Jessica Stickney, Miles City		
Qualifications (if required): none specified	Director	10/26/1993
Ms. Randi Sullivan, Broadus		
Qualifications (if required): none specified	Director	10/26/1993
Mr. Thomas A. Wood, Joplin		
Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Missoula (Family Services)		
Mr. Jerry Allen, Hamilton	Director	10/26/1993
Qualifications (if required): none specified		
Mr. Jon Ellingson, Missoula		
Qualifications (if required): none specified	Director	10/26/1993
Ms. Mary Ann Moon, Missoula		
Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

Board/current position holder	Appointed by	Term end
Local Youth Services, Missoula (Family Services) cont. Rep. Barry "Spook" Stang, St. Regis Qualifications (if required): none specified	Director	10/26/1993
Ms. Mary Taylor, Missoula Qualifications (if required): none specified	Director	10/26/1993
Ms. Judy Wing, Missoula Qualifications (if required): none specified	Director	10/26/1993
Mental Disabilities Board of Visitors (Governor) Ms. Pat Aanrud, Lewistown Qualifications (if required): consumer	Governor	8/1/1993
Ms. Arlene Breum, Missoula Qualifications (if required): mental disabilities representative	Governor	8/1/1993
Ms. Marjorie Fehrer, Bozeman Qualifications (if required): consumer member	Governor	8/1/1993
Mr. Wallace A. King, Helena Qualifications (if required): professional	Governor	8/1/1993
Ms. Lanelle Petersen, Brady Qualifications (if required): consumer from Developmentally Disabled Board	Governor	8/1/1993
Mr. Robert W. Visscher, Livingston Qualifications (if required): professional	Governor	8/1/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Rehabilitative Services Advisory Council (Social and Rehabilitation Services)		
Mr. Mark Bowlds, Helena	Director	9/18/1993
Qualifications (if required): none specified		
Mr. W.R. "Bob" Donaldson, Kalispell	Director	9/18/1993
Qualifications (if required): none specified		
State Employee Group Benefits Advisory Council (Administration)		
Ms. Cindy Anders, Helena	Director	9/1/1993
Qualifications (if required): none specified		
Mr. Mark Cress, Helena	Director	9/1/1993
Qualifications (if required): none specified		
Ms. Laurie Ekanger, Clancy	Director	9/1/1993
Qualifications (if required): none specified		
Ms. Nancy Ellery, Helena	Director	9/1/1993
Qualifications (if required): none specified		
Mr. Dave Evenson, Helena	Director	9/1/1993
Qualifications (if required): none specified		
Ms. Debbie Gebase, Boulder	Director	9/1/1993
Qualifications (if required): none specified		
Mr. Ken Givens, Helena	Director	9/1/1993
Qualifications (if required): none specified		
Ms. Sheila Hogan, Butte	Director	9/1/1993
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

Board/current position holder	Appointed by	Term end
State Employee Group Benefits Advisory Council Mr. Tom McCarthy, Warm Springs Qualifications (if required): none specified	(Administration) cont. Director	9/1/1993
Mr. Curt Nichols, Helena Qualifications (if required): none specified	Director	9/1/1993
Mr. William Salisbury, Helena Qualifications (if required): none specified	Director	9/1/1993
Mr. Thomas Schneider, Helena Qualifications (if required): none specified	Director	9/1/1993
Mr. Scott Seacat, Helena Qualifications (if required): none specified	Director	9/1/1993
Water and Wastewater Operators' Advisory Council Mr. Howard S. Peavy, Bozeman Qualifications (if required): none specified	(Health and Environmental Sciences) Governor	10/16/1993
Wheat and Barley Committee (Agriculture) Mr. Ernest Bahnmillier, Big Sandy Qualifications (if required): resides in District IV & affiliated with Republican Party	Governor	8/20/1993
Mr. Jim Squires, Glendive Qualifications (if required): producer from District VII	Governor	8/20/1993
Women in Employment Advisory Council (Governor) Ms. Jeanne Amsberry, Helena Qualifications (if required): none specified	Governor	8/9/1993
Ms. Judy Birch, Helena Qualifications (if required): none specified	Governor	8/9/1993

VACANCIES ON BOARDS AND COUNCILS -- August 1, 1993 through October 31, 1993

Board/Current position holder	Appointed by	Term end
Women in Employment Advisory Council (Governor) cont.		
Ms. Virginia Bliss, Conrad	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Aubyn Curtiss, Fortine	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Ilene Dallum, Cascade	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Dolores Havdahl, Helena	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Darlene Johnson, Wolf Point	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Carolyn Linden, Helena	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Carolyn Miller, Helena	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Blanche Proul, Anaconda	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Antoinette Fraser Rosell, Billings	Governor	8/9/1993
Qualifications (if required): none specified		
Ms. Sue Weingartner, Helena	Governor	8/9/1993
Qualifications (if required): none specified		