

RESERVE
KFM
9035
1973
.A245a

RESERVE

STATE LAW LIBRARY

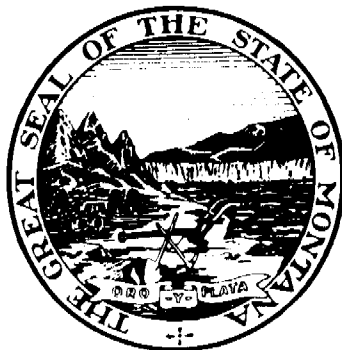
AUG 30 1993

**MONTANA
ADMINISTRATIVE
REGISTER**

OF MONTANA

**DO NOT
CIRCULATE**

1993 ISSUE NO. 16
AUGUST 26, 1993
PAGES 1963-2056



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 16

STATE LAW LIBRARY

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 The notice section contains state agencies' proposed new, amended or repealed rules.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 The rule section indicates that the proposed rule action is adopted, amended or repealed. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are inserted at the back of each register.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

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

12-2-204 (Fish, Wildlife, and Parks Commission) Notice of Public Hearing on Proposed Amendment - Allowing Electric Motors on Lake Elmo. 1963-1964

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

16-2-431 (Board of Health and Environmental Sciences) Notice of Public Hearing on Proposed Amendment and Adoption - Air Quality - Preconstruction Permits. 1965-1971

16-2-432 (Montana Health Care Authority) Notice of Public Hearing on Proposed Adoption - Health Care Authority - Process for Selection of Regional Health Care Planning Boards. 1972-1973

JUSTICE, Department of, Title 23

23-5-32 Notice of Public Hearing on Proposed Adoption, Amendment and Repeal - Regulating Public Gambling. 1974-1994

REVENUE, Department of, Title 42

42-2-545 Notice of Proposed Amendment - Withholding Taxes Which Apply to Indians. No Public Hearing Contemplated. 1995-1996

42-2-546 Notice of Public Hearing on Proposed Amendment and Adoption - Cigarettes. 1997-2002

42-2-547 Notice of Public Hearing on Proposed Amendment and Adoption - Liquor Licenses and Permits. 2003-2007

RULE SECTION

ADMINISTRATION, Department of, Title 2

NEW	(Public Employees' Retirement Board) State's Retirement Incentive Program.	2008
-----	---	------

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

AMD	Hazardous Waste - Facility Permit Fees -	
REP	Hazardous Waste Management - Attorney's Fees in Court Action Concerning Release of Records.	2009-2011

INTERPRETATION SECTION

Before the Department of Commerce, Board of Nursing
Declaratory Ruling

In the matter of the Petition for Declaratory Ruling on the Role of Registered Professional Nurses in Inserting Peripherally Inserted Central Catheters.	2012-2015
---	-----------

Before the Department of Revenue
Amended Declaratory Ruling

In the Matter of the Petition of D.A. Davidson & Co. for a Declaratory Ruling on the Application of Montana Corporate License Tax Act to a Regulated Investment Company Organized in Montana and the Application of the Montana Individual Income Tax Act to its Montana Resident Shareholders.	2016-2018
--	-----------

SPECIAL NOTICE AND TABLE SECTION

Functions of the Administrative Code Committee.	2019
How to Use ARM and MAR.	2020
Accumulative Table.	2021-2030
Boards and Councils Appointees.	2031-2039
Vacancies on Boards and Councils.	2040-2056

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

In the matter of the	)	NOTICE OF PUBLIC
amendment of Rule 12.6.901	)	HEARING ON PROPOSED
relating to electric motors on	)	AMENDMENT OF RULE
Lake Elmo.	)	12.6.901
)	

To: All Interested Persons

1. On September 30, 1993, at 7:00 p.m. the Fish, Wildlife and Parks Commission proposes to hold a public hearing at the Billings regional office, 2300 Lake Elmo Drive, Billings, Montana in the conference room to consider the amendment of rule 12.6.901 concerning water safety regulations to allow electric motors on Lake Elmo.

2. The proposed amendment provides as follows:

12.6.901 WATER SAFETY REGULATIONS (1) In the interest of public health, safety, or protection of property, the following regulations concerning the public use of certain waters of the state of Montana are hereby adopted and promulgated by the Montana fish and game commission.

(a) The following waters are closed to use for any motor-propelled water craft except in case of use for official patrol, search and rescue, maintenance of hydroelectric projects and related facilities with prior notification by the utility, or for scientific purposes, or for special events such as testing motorized watercraft by prior written approval of the director:

Beaverhead County: through
Toole County: remain the same.

~~Yellowstone County:~~ (A) ~~Lake Elmo~~

(b) through (e) remain the same.

(f) The following waters are limited to manually operated boats and boats powered by electric motors:

Fergus County: (A) Crystal Lake
Richland County: (A) Gartside Reservoir

Yellowstone County: (A) Lake Elmo

(g) through (2) remain the same.

AUTH: Secs. 87-1-303, 23-1-106(1), MCA

IMP: Secs. 87-1-303, 23-1-106(1), MCA


3. Rationale for amendment of Rule 12.6.901. Lake Elmo was originally closed to motorboats because of noise levels and safety of swimmers. The swimming area patrolled by lifeguards is now delineated by buoys and platforms.

Sailboarding, another potentially conflicting use of the lake usually does not begin until the wind is strong enough that anglers are off the water. Electric motors are essentially noiseless and would not disturb sunbathers or swimmers. Electric trolling would encourage more use of an improving fishery in Lake Elmo. The motors would also make fishing the lake more useable by handicapped persons, one of the goals for Lake Elmo.

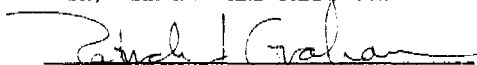
4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Kenneth Oravsky, Department of Fish, Wildlife and Parks, 2300 Lake Elmo Drive, Billings, Montana 59105 no later than September 30, 1993.

5. Kenneth Oravsky, Department of Fish, Wildlife and Parks, has been designated to preside over and conduct the hearing.

FISH, WILDLIFE AND PARKS COMMISSION



Robert N. Lane
Rule Reviewer



Patrick J. Graham
Secretary

Certified to the Secretary of State on August 13, 1993.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING
rules 16.8.1107, 1109, 1114, and	)	FOR PROPOSED AMENDMENT
the adoption of new rules I and II	)	OF RULES AND ADOPTION
dealing with air quality	)	OF NEW RULES
preconstruction permits)	

(Air Quality)

To: All Interested Persons

1. On September 17, 1993, at 9:00 a.m., the board will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment and adoption of the above-captioned rules.

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

16.8.1107 PUBLIC REVIEW OF PERMIT APPLICATIONS (1) Where an application for a permit requires the compilation of an environmental impact statement under the Montana Environmental Policy Act, the procedures for public review shall be those required by the Montana Environmental Policy Act and the rules adopted by the board and department to implement the act, ARM 16.2.601, ~~through 16.2.706~~ 16.2.624-646 and 16.2.760-762.

(2) Remains the same.

~~(3) Where a permit application has been filed for a source defined as a major stationary source under ARM 16.8.921(22) or as a major modification under ARM 16.8.921(21), the following additional requirements shall be met:~~

~~(a) The department shall advertise in a newspaper of general circulation in the air quality control region affected by the proposed source or stack that an application has been received, the preliminary determination made by the department, the degree of increment consumption that is expected from the source or stack, how written comments may be submitted, and how the final determination of the department may be appealed to the board; and~~

~~(b) The department shall send a copy of the notice of public comment to the applicant, the Region VIII Administrator of the Environmental Protection Agency and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the governing body of the city and county where the source or stack would be located, any comprehensive regional land use planning agency, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or stack.~~

~~(c) When the department receives advance notification of a permit application of a major stationary source or major modification, it shall notify all affected federal land managers within 30 days of such advance notification.~~

(4) Remains the same but is renumbered (3).

AUTH: 75-2-111, 75-2-204, 75-20-216(3), MCA; IMP: 75-2-204, 75-2-211, 75-20-216(3), MCA

16.3.1109 CONDITIONS FOR ISSUANCE OF PERMIT (1) Remains the same.

(2) An air quality permit to construct may not be issued to a new or altered source unless the applicant demonstrates that the source or stack can be expected to operate in compliance with the standards and rules adopted under the Montana Clean Air Act, ~~and the applicable regulations and requirements of the Federal Clean Air Act (40 CFR Parts 51, subpart I, 60 and 61; and 40 CFR § 52.21), and any applicable control strategies contained in the Montana State Implementation Plan, and that it will not cause or contribute to a violation of any Montana or national ambient air quality standard.~~

(3)-(5) Remains the same.

(6) Issuance of an air quality preconstruction permit does not affect the responsibility of a source to comply with the applicable requirements of any control strategy contained in the Montana state implementation plan.

~~(6) Any owner or operator of a new or altered source or stack proposing construction or alteration within any area designated as non attainment in 40 CFR 81.327 for any air contaminant must demonstrate that all major emitting facilities, owned or operated by such persons, or by an entity controlling, controlled by, or under common control with such persons, are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable air quality emission limitations and standards contained in this chapter.~~

~~(7) An air quality permit for a new or altered source or stack may be issued in an area designated as non attainment in 40 CFR 81.327 only if the applicable implementation plan approved in 40 CFR Part 52, Subpart BB is being carried out for the non attainment area in which the proposed source is to be constructed or altered.~~

~~(8) Any owner or operator proposing to construct or alter a stationary source in any area designated as non attainment must comply with the requirements of 40 CFR 51.165(a) as appropriate. The board hereby adopts and incorporates by reference 40 CFR Part 52, Subpart BB, which is a federal agency regulation describing Montana's state implementation plan for control of air pollution in Montana; 40 CFR 81.327, which is a federal agency regulation setting forth air quality attainment status designations for the state of Montana; and 40 CFR 51.165(a), which sets forth the permit requirements for new or altered sources proposed to be constructed or altered in any non attainment area. Copies of 40 CFR Part 52, Subpart BB, 40 CFR 81.327, and 40 CFR 51.165(a) may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences,~~

Gogswell Building, Helena, Montana 59620.

AUTH: 75-2-111, 75-2-204, MCA; IMP: 75-2-204, 75-2-211, MCA

16.8.1114 TRANSFER OF PERMIT (1) An air quality permit may be transferred from one location to another if:

(a)-(b) Remains the same.

~~(c) the source will not have any significant impact as defined by 40 CFR Part 51, Appendix G, Section IIIA, upon any non-attainment area as defined by 40 CFR 81.327 nor upon any of the following areas:~~

- ~~(i) Bob Marshall Wilderness Area;~~
- ~~(ii) Anaconda-Pintler Wilderness Area;~~
- ~~(iii) Cabinet Mountains Wilderness Area;~~
- ~~(iv) Gates of the Mountains Wilderness Area;~~
- ~~(v) Glacier National Park;~~
- ~~(vi) Medicine Lake Wilderness Area;~~
- ~~(vii) Mission Mountains Wilderness Area;~~
- ~~(viii) Red Rock Lake Wilderness Area;~~
- ~~(ix) Soapstone Wilderness Area;~~
- ~~(x) Selway-Bitterroot Wilderness Area;~~
- ~~(xi) UL Bend Wilderness Area;~~
- ~~(xii) Yellowstone National Park;~~
- ~~(xiii) Northern Cheyenne Reservation;~~
- ~~(xiv) Flathead Reservation;~~
- ~~(xv) Fort Peck Reservation.~~

(c) the source can be expected to operate in compliance with:

(i) the standards and rules adopted pursuant to the Montana Clean Air Act, including the Montana ambient air quality standards;

(ii) applicable regulations and standards promulgated pursuant to the federal Clean Air Act, including the national ambient air quality standards; and

(iii) any control strategies contained in the Montana state implementation plan.

(d) the source is a major modification or major stationary source as defined in [Rule XXIV(9) or (10) of MAR Notice No. 16-2-424, published June 24, 1993, at page 1264 of the 1993 Montana Administrative Register] which would relocate into an area designated nonattainment or into an area where it would cause or contribute to a violation of a national ambient air quality standard, and the source meets all the requirements of [Rules XXIV through XXVIII and Rules XXIX through XXXIV of MAR Notice No. 16-2-424, published June 24, 1993, at page 1264 of the 1993 Montana Administrative Register].

(2)-(3) Remain the same.

~~(4) The board hereby adopts and incorporates by reference 40 CFR 81.327, which sets forth air quality attainment status designations for the state of Montana, and 40 CFR Part 51, Appendix G, Section IIIA, which is a federal agency regulation that sets forth the definition of "significance levels" when applied to sources impacting various areas. Copies of this federal regulatory material may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences,~~

~~Cogswell Building, Helena, Montana 59620.~~

AUTH: ~~75-2-111, 75-2-204, MCA; IMP: 75-2-204, 75-2-211, MCA~~

[NOTE: The references in Rule I below to subchapters 17, 18, and 20, and ARM 16.8.944 and 16.8.1701 are to rules and subchapters that are not yet adopted but have appeared previously in other MAR notices and will be considered, together with this notice, at the September 17, 1993, meeting of the Board of Health and Environmental Sciences. The above rules and subchapters may be found, as proposed, in the following issues of the Montana Administrative Register:

ARM 16.8.944--Rule III in MAR Notice No. 16-2-424, published June 24, 1993, at page 1264 of the 1993 MAR.

ARM 16.8.1701--Rule XXIV in MAR Notice No. 16-2-424, published as noted above.

Subchapter 17--Rules XXIV-XXVIII of MAR Notice No. 16-2-424, published as noted above.

Subchapter 18--Rules XXIX-XXXIV of MAR Notice No. 16-2-424, published as noted above.

Subchapter 20--Rules I-XXV of MAR Notice No. 16-2-430, published August 12, 1993, at page 1817 of the 1993 MAR.]

RULE I. GENERAL PROCEDURES FOR AIR QUALITY PRECONSTRUCTION PERMITTING (1) It is the intent of this chapter to require the department, whenever possible, to issue a single air quality preconstruction permit which contains a comprehensive listing of all conditions applicable to the specific source, including but not limited to those required by subchapter 9 (Prevention of Significant Deterioration of Air Quality), subchapter 11 (Air Quality Preconstruction Permits for Construction and Operation of Air Contaminant Sources), subchapter 17 (Air Quality Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating Within Nonattainment Areas), subchapter 18 (Air Quality Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas Which Would Cause or Contribute to a Violation of a National Ambient Air Quality Standard), and subchapter 19 (Air Quality Permit Applications, Operation and Open Burning Fees), except that the department may conduct general air quality preconstruction permit analyses and issue general air quality preconstruction permits for multiple sources in specific source type and/or size categories.

(2) An air quality preconstruction permit issued, altered, revised or modified under this chapter will be valid for the life of the air contaminant source or stack associated with the source, unless:

(a) additional construction, not covered by an existing air quality preconstruction permit, begins on an air contaminant source or stack associated with the source, which would require an air quality preconstruction permit under this chapter; or

(b) the air quality preconstruction permit is revoked or revised as provided for in ARM 16.8.1112-1113.

(3) An air quality preconstruction permit shall contain requirements and conditions applicable to both construction and subsequent use.

(4) In no case shall an air quality preconstruction permit be required for the operation or use of an air contaminant source or stack associated with a source unless;

(a) an air quality preconstruction permit has already been obtained to construct, install, or alter an air contaminant source or stack associated with a source; or

(b) an air quality preconstruction permit is required under this chapter to construct, install, or alter an air contaminant source or stack associated with a source;

(5) In order to assist an applicant in obtaining an air quality preconstruction permit under this chapter, the following guidance is provided but is not intended to supersede or replace any specific requirements of this chapter:

(a) Since subchapter 11 constitutes the basic preconstruction permitting program in Montana and is generally applicable to smaller and a larger number of sources or alterations, an applicant should first determine if the source or alteration is subject to the air quality preconstruction permitting requirements of subchapter 11.

(b) In general, all sources or alterations subject to subchapters 9, 11, 17, 18, or 20 are also subject to subchapter 19.

(c) Any source or alteration which is a major source or major modification as defined in ARM 16.8.944 and is locating in an attainment or unclassified area is also subject to the requirements of subchapter 9 and may be subject to the requirements of subchapter 18.

(d) Any source or alteration which is a major source or major modification as defined in 16.8.1701 and is locating in a nonattainment area is also subject to the requirements of subchapter 17.

(e) If a source or alteration submits an air quality preconstruction permit application which is initially subject to subchapter 18, but later amends its air quality preconstruction permit application to reduce its emissions so that it is no longer subject to subchapter 18, the applicant may still be subject to subchapter 9.

(f) Any source or alteration which is:

(i) a major source or major modification as defined in ARM 16.8.944 or 16.8.1701; or

(ii) subject to a standard, limitation or other requirement of section 111 or 112 of the federal Clean Air Act; or

(iii) an affected facility as defined in subchapter 20 is also subject to the requirements of subchapters 19 and 20.

AUTH: 75-2-111, 75-2-204, MCA; IMP: 75-2-204, 75-2-211, MCA

RULE II INCORPORATION BY REFERENCE (1) For the purpose of this subchapter, the board hereby adopts and incorporates by reference 40 CFR, Part 60, (as of July 1, 1993), which sets forth standards of performance for new stationary sources; 40 CFR, Part 61, (as of July 1, 1993), which sets forth emission

standards for hazardous air pollutants; 40 CFR, Part 51, subpart I, (as of July 1, 1993), which sets forth requirements for state programs for issuing air quality preconstruction permits; 40 CFR, 52.21, (as of July 1, 1993), which sets forth federal regulations for prevention of significant deterioration of air quality, and the Montana state implementation plan effective [on the effective date of this rule], which contains control measure for specific Montana air quality nonattainment areas. Copies of the above regulations and the state implementation plan are available for review and copying at the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana, 59620.

AUTH: 75-2-111, 75-2-204, MCA; IMP: 75-2-211, MCA

3. The proposed amendment to ARM 16.8.1107 is needed to remove from subchapter 11 the requirements for the department to supply a public notice upon receipt of an air quality permit application for a major stationary source or major modification because this requirement is now located in the proposed rules for prevention of significant deterioration that are currently under consideration, and having the requirement in both places would be redundant.

The first two proposed amendments to ARM 16.8.1109 add requirements from 40 CFR 51.160 for all state new source review programs. The U.S. EPA has identified these requirements as being critical for adoption of the state implementation plan. These requirements include requiring compliance with any applicable control strategies contained in the Montana state implementation plan and determining that a source will not cause or contribute to a violation of any Montana or national ambient air quality standard. The amendments also specify that issuance of an air quality preconstruction permit does not affect the responsibility of a source to comply with the applicable requirements of any control strategy contained in the Montana state implementation plan.

The final proposed amendment to ARM 16.8.1109 removes from subchapter 11 the requirements for permitting a major stationary source or major modification located in a nonattainment area because these requirements are now located in the proposed rules for new source review currently under consideration.

The proposed amendments to ARM 16.8.1114 are necessary to ensure that a source transferring into a nonattainment area or to an area where the source will cause or contribute to a violation of an ambient air quality standard will comply with the requirements of the federal new source review rule and any applicable nonattainment area control strategy. The EPA has identified this as a deficiency in our rules that might affect the approvability of our state implementation plan.

Proposed new Rule I is an explanatory rule to guide potential permit applicants through the applicable subchapters of the permitting rules.

Rule II provides for subchapter 11 the formal statement required by the Montana Administrative Procedure Act of incorporation by reference of standards, rather than having separate

incorporation by reference statements in each rule.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Yolanda Fitzsimmons, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than October 22, 1993.

5. Will Hutchison has been designated to preside over and conduct the hearing.

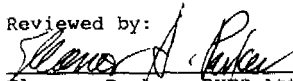
RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES

by


ROBERT J. ROBINSON, Director

Certified to the Secretary of State August 16, 1993.

Reviewed by:


Eleanor Parker, DHES Attorney

BEFORE THE MONTANA HEALTH CARE AUTHORITY
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC
adoption of Rules I-III)	HEARING FOR PROPOSED
concerning the process for)	NEW RULES
selection of Regional Health)	
Care Planning Boards)	

(Health Care Authority)

To: All Interested Persons

1. On September 28, 1993, at 9 a.m., the Montana Health Care Authority will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of the above-captioned rules, which establish a process for selection of regional health care planning boards.

2. The proposed rules do not replace or modify any section currently found in the Administrative Rules of Montana.

3. The rules, as proposed, appear as follows:

RULE I CREATION OF THE REGIONAL HEALTH CARE PLANNING BOARD (1) There are five regional health care planning boards, or "board" as used throughout these rules, each representing the regions established pursuant to section 17(1) of Senate Bill 285.
AUTH: 50-4-401, MCA; IMP: 50-4-401, MCA

RULE II COMPOSITION OF THE REGIONAL HEALTH CARE PLANNING BOARD (1) The membership of each board shall include at least one member from each county within each region according to sections 17(1) and (3) of Senate Bill 285.
(2) The size of membership of each board may be expanded upon application of the board to the health care authority and approval by the health care authority.
AUTH: 50-4-401, MCA; IMP: 50-4-401, MCA

RULE III SELECTION OF BOARD MEMBERS (1) Board members shall be selected by the health care authority from a list of nominees submitted by the board of county commissioners of each county as provided in (2)-(4) below.
(2) The board of county commissioners of each county within each region, as defined in section 17 of Senate Bill 285, shall submit to the health care authority four nominees from the commissioners' own county for the position representing their county on the regional health care planning board.
(3) The commissioners' submission of the four nominees

must list nominees in order of preference with the most preferred nominee being first. A short description of how this rating was conducted is encouraged.

(4) The board of county commissioners must solicit applications for membership on forms supplied by the health care authority.

(5) The health care authority shall make its selection:

(a) giving consideration to a balance between rural and urban interests, and


(b) involving a balance of individuals according to section 17(3) of Senate Bill 285 by gender and consumer or health care provider status.

AUTH: 50-4-401, MCA; IMP: 50-4-401, MCA

4. The Montana Health Care Authority is proposing these rules in order to carry out the direction established by the legislature in Senate Bill 285 that the Health Care Authority set up by rule a selection process for regional health care planning boards.


5. Interested persons may submit their data, views, or arguments concerning the proposed rules, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to William Hanson, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than September 28, 1993.

6. Katherine Orr has been designated to preside over and conduct the hearing.


WILLIAM HANSON, Acting
Executive Director
Montana Health Care Authority

Certified to the Secretary of State August 16, 1993.

Reviewed by:


Dayna Shepherd, DHES Attorney

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption,	)	NOTICE OF PUBLIC
amendment, and repeal of rules	)	HEARING ON THE
regulating public gambling	)	PROPOSED ADOPTION,
	)	AMENDMENT AND REPEAL
	)	OF RULES REGULATING
	)	PUBLIC GAMBLING

TO: All Interested Persons.

1. On September 20, 1993, at 9:00 a.m., a public hearing will be held in Room 108, State Capitol Building, Helena, Montana, to consider the adoption, amendment, and repeal of rules regulating gambling.

2. The proposed new rules implement provisions concerning withdrawal of applications; reapplication for licensing; change of liquor license type; change of operator location; merchandise, prizes and shake-a-day games; transfers of ownership interests in grandfathered locations; poker runs; sports pools for pig, gerbil and hamster races; distributor's licenses; route operator's licenses; procedure for admission of hearsay evidence; approval of promotional games of chance, devices or enterprises; financial incentive definition; and review of carnival games. The rules proposed to be amended pertain to general licensure procedures; card game tournaments; record keeping requirements; video gambling machine specifications and recordkeeping requirements; importation of illegal gambling devices; and live keno and bingo game awards.

3. The proposed new and amended rules provide as follows:

23.16.101 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) through (4) remain the same.

(5) "Distributor" means a person who:

(a) purchases or obtains from a licensed manufacturer equipment of any kind for use in gambling activities; and

(b) sells the equipment to a licensed distributor, route operator, or operator.

(5) is renumbered (6).

(7) "Gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have qualified to obtain the property to be awarded by purchasing or agreeing to purchase goods or services. The existence of a gift enterprise is not affected by the price or value of the goods or services which are purchased.

+6+ (8) "Manufacturer/distributor" means a person who
+a+ assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind, except for electronic live bingo or keno equipment, for use as a gambling device; or

~~(b) purchases or obtains from another person equipment of any kind for use in gambling activities and sells, leases, or otherwise furnishes this equipment to another person.~~

~~(7) through (11) are renumbered (9) through (13).~~

~~(12) (14) "Person" means either a natural or an artificial person, and includes all partnerships, corporations, associations, clubs, fraternal orders, religious organizations, or charitable organizations. A separate person exists when a partner in a partnership changes, any shareholder(s) in a closed corporation changes, or 5% or more of the interest in a public corporation is transferred.~~

~~(15) "Route operator" means a person who:~~

~~(a) purchases from a licensed manufacturer or distributor equipment of any kind for use in a gambling activity;~~

~~(b) leases the equipment to a licensed operator for use in public; and~~

~~(c) may sell to a licensed operator equipment that had previously been authorized to operate on the operator's premises.~~

AUTH: \$23-5-115, MCA

IMP: \$23-5-112, MCA

23.16.103 INVESTIGATION OF APPLICANTS. FINGERPRINTS MAY BE REQUIRED - DISCLOSURE FROM NONINSTITUTIONAL LENDER (1) and (2) remain the same.

(3) The department may require ~~any~~ noninstitutional lender to complete a document (form 13) authorizing examination and release of information and ~~(form 10) personal history statement on the lender~~ to assess the suitability of an applicant's funding source as required in 23-5-176, MCA. The document must be signed and dated by the lender and attested to by a notary public. ~~(Form 13, and form 10 as the forms read on October 1, 1991, and June 30, 1993, respectively, are~~ incorporated by reference and available upon request from the Gambling Control Division, 2687 Airport Rd., Helena, Montana 59620.)

(4) In addition to the aforementioned information the following information must be submitted, if the noninstitutional source is a publicly traded corporation:

(a) personal history statements on all officers, directors and shareholders owning 5% or more of the corporate lender;

(b) an authorization to disclose form completed in the name of the corporate lender.

(5) The department may require the holder of a contingent ownership interest to complete a document (form 13) authorizing examination and release of information and (form 10) personal history statement on the lender to assess the suitability pursuant to 23-5-176, MCA. (Form 13 and form 10 as the forms read on October 1, 1991 and June 30, 1993, respectively, are incorporated by reference and available upon request from the Gambling Control Division, 2687 Airport Rd., Helena, Montana 59620).

AUTH: \$23-5-115, MCA

IMP: \$23-5-115, MCA

RULE I WITHDRAWAL OF APPLICATION

(1) An applicant

may request withdrawal of an application at any time prior to final department action upon the application by filing a written request to withdraw.

(2) The department may, in its discretion, grant the request with or without prejudice.

(3) If a request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such withdrawal.

AUTH: §23-5-115, MCA

IMP: §23-5-115, MCA

23.16.107 GROUNDS FOR DENIAL OF GAMBLING LICENSE, PERMIT OR AUTHORIZATION (1) ~~With respect to any gambling license, permit, or authorization, The department may deny initial issuance, or renewal of a gambling license, permit or authorization or, if issued, deny renewal or take any action authorized in §23-5-136, MCA, suspend or revoke such authorization when the department~~ it can be demonstrated demonstrate that the an applicant or holder of such license, permit or authorization has:

(1)(a) through (k) remain the same.

AUTH: §23-5-115, MCA

IMP: §23-5-115, §23-5-176 MCA

RULE II REAPPLICATION RULE (1) Any person whose application has been denied is not eligible to apply again for licensing or approval until after expiration of one year from the date of such denial, unless the department advises that the denial is without prejudice as to reapplication.

AUTH: §23-5-115, MCA

IMP: §23-5-115, MCA

23.16.115 DEFINITIONS Unless the context requires otherwise, the following definitions apply to ARM 23.16.116 through 23.16.120:

(1) "Contingent ownership" means a type of ownership interest that may be acquired based on future events and includes but is not limited to: purchase options, loan guarantees and the continued responsibility for repayment of debts for assets of the gambling operation by a former owner.

(2) "Lease agreement" means a contract that transfers the right to possess and use of property for a term, in return for consideration. The terms of the lease may not transfer an ownership interest in the licensed gambling operation as defined in this section.

~~++(3)~~ "Licensed gambling operation" means a business for which a gambling operator, card room contractor, manufacturer, distributor, route operator, manufacturer of gambling devices not legal in Montana, sports tab card manufacturer, or manufacturer of electronic live bingo or keno license was obtained under Title 23, chapter 5.

~~++(4)~~ "Licensee" means a licensed gambling operator, card room contractor, manufacturer, distributor, route operator, manufacturer of devices not legal in Montana, sports tab card manufacturer, or manufacturer of electronic live bingo or keno equipment.

(5) "Loan" means a sum of money let out by a lender to a borrower to be repaid. The loan must be evidenced by a lending instrument, which must state the amount of principal and the interest rate, a schedule of payments, the terms of any guarantee or security interest; contain the names and signatures of the parties to the agreement; and provide for at least a minimal repayment of principal on at least an annual basis. The obligation may not be avoided without resulting in the loss of acquired equity.

(6) "Management agreement" means a contract between the licensee and a person to whom management duties are assigned, i.e. supervision of personnel, bookkeeping and ordering goods or supplies. The agreement may not transfer an ownership interest in the licensed operation or limit or relieve the licensee of record from the responsibilities of ownership.

(7) "Manager" means a person employed by the licensee to whom management responsibilities have been assigned.

~~(3)~~(8) "Owner of an interest" means a person who shares in the profits, losses, or liabilities of a licensed gambling operation. The term ownership interest is synonymous with owner of an interest.

~~(4)~~(9) "Security interest" means an interest that is reserved or created by an agreement that secures payment or performance of an obligation. In no case may a security interest be placed on an asset of the licensed gambling operation for the payment or performance of an obligation of a person other than the licensee. The security agreement may not grant a secured interest beyond the scope of the obligation for which the security interest is applied, (i.e. security interests placed on assets for performance under a lease obligation must limit the secured interest to obligations under the lease only and must not unreasonably restrict the licensee's use of his asset(s)).

(5) and (6) are renumbered (10) and (11).

AUTH: §23-5-115, MCA IMP: §§23-5-118, 23-5-176, MCA

23.16.116 TRANSFER OF INTEREST AMONG LICENSEES (1) Except as provided in subsection (5), ~~an owner of an interest an ownership interest~~ in a licensed gambling operation may not be transferred ~~any portion of his interest~~ to another owner or group of owners of an interest ~~or interests~~ in the same licensed gambling operation without submitting an amended license application to the department and obtaining department approval.

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

AUTH: §23-5-115, MCA IMP: §§23-5-118, 23-5-176, MCA

23.16.117 TRANSFER OF INTEREST TO A STRANGER TO THE LICENSE (1) Except as provided in subsections (7), (8), and (9), an owner of an interest in a licensed gambling operation may not transfer an interest in the operation to a stranger to the license until a new gambling license application reflecting the proposed transfer is submitted to the department and the department approves the transfer.

(2) through (7)(b) remain the same.

(8) (a) Transfers of ownership in a gambling operator license resulting from foreclosure on a contract for deed or other instrument of transfer require an amended application. The gambling activity may continue pending the outcome of the investigation under the following conditions:

(i) the party foreclosing is the licensee's immediate predecessor;

(ii) the foreclosure takes place within six months of the original sale or transfer from the former licensee;

(iii) the foreclosing party is suitable for licensure;

(iv) all applicable permit fees are paid; and

(v) the former licensee has notified the department of the foreclosure at the time the foreclosure is executed.

(b) Transfers resulting from foreclosure that do not meet all of the conditions set forth in (8)(a) require a new license application to be filed and gambling activities to cease pending approval of the application.

(9) (a) Transfers of ownership control of a licensed gambling operation into a receivership, trust or an estate mandated by court order require an amended application to be filed. Under this circumstance, gambling activity may continue pending the outcome of the license investigation if the following documents are submitted and determinations are made:

(i) documentation of the event precipitating the transfer of the licensed gambling operation into a receivership, trust, or estate, i.e., death certificate;

(ii) documents naming/appointing a person to exercise ownership control, i.e., receiver, personal representative, trustee;

(iii) personal history statement for the person designated to act in the capacity of a receiver or trustee;

(iv) authorization to disclose form filed in the name of the receivership, trust or estate; and

(v) the department determines the receiver is suitable to hold or own a license.

(b) Upon the dissolution of a receivership, trust or estate licensed under this section, if ownership interests are distributed to strangers to the license, a new license application must be filed and all applicable rules and procedures must be followed.

AUTH: §23-5-115, MCA

IMP: §§23-5-118, 23-5-176, MCA

23.16.120 LOANS TO LICENSEES (1) remains the same.

(2) Except as provided in subsections (4) and (5) of this rule, if a gambling licensee acquires a loan from a noninstitutional source for use in conducting his licensed gambling operation or a noninstitutional source acquires a security interest in a licensed gambling operation, the department shall approve the loan or acquisition before any funds from the loan may be received or expended by the licensee or the acquisition of the security interest is finalized.

(3) remains the same.

(4) Prior department approval is not required on loans made to gambling operator licensees from route operators for the

purpose of establishing a video gambling machine change bank (pool of funds out of which the operator can make change and pay out prizes on valid video gambling machine ticket vouchers) under the following conditions:

(a) the route operator submits a list of licensed gambling operators for which he will be providing a change bank loan and the amount of each change bank;

(b) the route operator enters into a written agreement with the gambling operator, signed by both parties, providing notification to the gambling operator that the loan proceeds may only be used to make change or to pay out prizes on valid video gambling machine ticket vouchers, and that the use of the proceeds for any other purpose is a violation of the gambling laws and rules;

(c) at least twice each month, the route operator must reconcile the amount of prizes paid out with the cash remaining in the change bank. If the amount of prizes paid out cannot be reconciled with the cash remaining in the change bank, the route operator must analyze and document the difference. Any material differences must be immediately reported to the department. (For the purposes of this rule, material difference means any amount greater than 1% of the value of the change bank loan.) A record of the reconciliations and analysis of material differences must be maintained for a period not less than three years; and

(d) failure to maintain adequate records or notify the department of material differences and investigations findings will subject the route operator to administrative action.

(5) Prior department approval is not required on loans made between closely related licensed operators under the following conditions:

(a) both licensed operators must have the same majority ownership;

(b) the operators submit a list of operations to which loans may be made and from which loans may be received;

(c) the borrower complies with subsection (3);

(d) the borrower and lender's financial records accurately reflect the transaction as a loan payable and receivable. Any balance due upon renewal not previously reported on license renewal forms must also be reported on the license renewal application; and

(e) failure to maintain adequate records or notify the department of material differences and investigations findings will subject the licensees to administrative action.

(4) is renumbered (6).

AUTH: §23-5-115, MCA IMP: §§23-5-118, 23-5-176, MCA

RULE III. CHANGE OF LIQUOR LICENSE TYPE (1) Except as provided in ARM 23.16.115(10), an owner of a gambling operator license may not change the type of his alcoholic beverage license without submitting an amended gambling license application and obtaining department approval.

(2)(a) The department may conduct an investigation to determine whether the proposed change of the license type meets

the licensure requirements in 23-5-176, MCA, and department rules.

(b) the applicant may continue to operate during the time the amended application is being processed.

AUTH: §23-5-115, MCA

IMP: §23-5-115, MCA

RULE IV CHANGE OF LOCATION (1) Except as provided in ARM 23.16.115(10), when an owner of a gambling operator license changes the location of the alcoholic beverage license, the owner must submit an amended gambling license application and obtain department approval.

(2)(a) The department may conduct an investigation to determine whether the proposed change meets the licensure requirements in 23-5-176, MCA and department rules.

(b) the gambling operator may continue to operate at the current location pending review.

AUTH: §23-5-115, MCA

IMP: §23-5-117, MCA

RULE V MERCHANDISE PRIZES AND SHAKE-A-DAY GAMES

(1) In the case of merchandise prizes authorized in shake-a-day games, those prizes must be purchased at retail value, from the money paid to play the shake-a-day game.

(2) In no case may the house purchase the merchandise prizes to be used in a shake-a-day game from funds other than those paid to play the game.

AUTH: §23-5-115, MCA

IMP: §23-5-160, MCA

RULE VI TRANSFERS OF OWNERSHIP INTERESTS IN LOCATIONS THAT DO NOT POSSESS AN ON PREMISE CONSUMPTION ALCOHOL BEVERAGE LICENSES GRANDFATHERED FOR THE PURPOSE OF OBTAINING PERMITS TO OPERATE VIDEO GAMBLING MACHINES (1) The two types of locations that do not possess an on premise consumption alcohol beverage license and were grandfathered for the purpose of obtaining permits to operate video gambling machines are distinguished for the purpose of transferring ownership of the location. Premises operated for the principal purpose of gaming may be sold, assigned or transferred to a stranger to the license and retain the right to obtain video gambling machine permits. Ownership interests in premises that were not operated for the principal purpose of gaming cannot be sold, assigned or transferred to a stranger to the license and maintain the ability to permit video gambling machines.

(2) Both gaming and non-gaming premises may transfer ownership of the licensed gaming operation to another form of business organization and retain the right to permit video gambling machines as long as no individuals who are strangers to the license are assigned an ownership interest.

AUTH: §23-5-115, MCA

IMP: §§23-5-306, 23-5-611, MCA

RULE VII POKER RUNS (1) As used in this rule, "travel" means to journey by any physical means.

(2) Each participant in a poker run must travel to the designated locations at which playing cards are obtained.

(3) After all cards are accumulated, participants in the

poker run shall select the requisite number of cards for the hand in the type of poker being played.

AUTH: §23-5-115, MCA

IMP: §23-5-308, MCA

~~26-16-110+23-16-1101~~ CARD GAME TOURNAMENTS (1) Card game tournaments which involve consideration in order to play and the chance of winning something of value are gambling activities. Publicly played card game tournaments involving gambling activity are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist as described by ARM 23.16.1202. Gambling card games must be played either in live card game format or the card game tournament format.

(2) If a licensed operator with a permit for operating at least one live card game table on his premises wishes to conduct a card game tournament using more tables than the number for which he has permits, the operator shall submit an application to the department for a card game tournament permit. Form 14, the card game tournament permit application, is available from the department upon request. The application must include:

(2)(a) through (2)(j) remain the same.

(3) The card game tournament application must be received by the department at least five (5) days before the start of the tournament allowing sufficient time for processing.

(4) through (10) remain the same.

AUTH: §23-5-115, MCA

IMP: §§23-5-311, 23-5-317, MCA

23.16.1201 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) through (5) remains the same.

(6) "Card game tournament" means either:

(a) a card game competition conducted on tables exceeding in number those tables for which permits have been issued; or

(b) a card game competition where:

(i) an entry fee is charged;

(ii) tournament rules allow for re-entry by eliminated participants;

(iii) a rake-off is not taken;

(iv) prizes are awarded at the end of the tournament rather than the pot being awarded after a hand; or

(v) the face value of the chips or points does not govern the value of the pot or prize awarded at the end of the tournament.

(6) through (12) are renumbered (7) through (13).

(14) "Live card game" means a card game that is played:

(a) in public;

(b) between persons;

(c) on the premises of a licensed gambling operator or in a senior citizen center; and

(d) no entry fee is charged and the face value of the chips or points governs the value of the pot, which is awarded after each hand.

(13) through (19) are renumbered (15) through (21).

AUTH: §23-5-115, MCA

IMP: §23-5-115, MCA

23.16.1202 TYPES OF CARD GAMES AUTHORIZED (1) and (1)(a) remain the same.

(b) other poker variations, as well as the games of Bridge, Gribbage, Hearts, Panguingue, Pinochle, Pitch, Rummy, Solo, and Wnrist, according to Scarne's Encyclopedia of Card Games, copyright 1983, by John Scarne, pages 18 through 276.

(2) through (6) remain the same.

AUTH: §23-5-115, MCA

IMP: §23-5-311, MCA

RULE VIII CONDUCT OF SPORTS POOL FOR PIG, GERBIL OR HAMSTER RACES (1) A licensee of premises authorized to sell alcoholic beverages may conduct one or more sports pools on races between pigs, gerbils or hamsters. The sports pools must be conducted in accordance with 23-5-501 through 512, MCA and ARM 23.16.1701 through 1706.

(2) Only licensees in incorporated cities or towns with a population of less than 100 or located outside the boundaries of an incorporated city or town may conduct such races.

(3) The races must be conducted on the premises but outside of interior areas of the premises where food and beverages are usually stored, prepared, or served. The licensee must comply with additional health or safety measures as may be required by the county board of health or local law enforcement officials in which the premises are located.

(4) Prior to commencing the races, the licensee must submit, in writing, the rules for the sports pool for the department's approval. The licensee must also submit a certification from the county clerk and recorder or city clerk that the premises are located in an unincorporated area or in a city or town with a population less than 100.

(5) Sports pools are the only type of wagering on the races conducted between pigs, gerbils, or hamsters, authorized by §23-5-502, MCA.

AUTH: §23-5-115, MCA

IMP: Ch. 449, L.1993

23.16.1716 SPORTS TAB CARD MANUFACTURER LICENSE

(1) Before conducting business in this state, a manufacturer shall obtain a sports tab card manufacturer license from the department. An applicant for a license shall submit to the department:

(a) a sports tab card manufacturer license application (form 21), ~~which is available upon request from the department, as the form read on October 1, 1993, is incorporated by reference and available upon request from the Gambling Control Division, 2687 Airport Road, Helena, Montana 59620);~~

(b) forms 1 and 10 as described in ARM 23.16.102;

(c) financial statements for the applicant's business as described in ARM 23.16.502; and

(d) a check or money order for \$2,000 made payable to the state treasurer, which includes payment for the:

(i) \$1,000 annual license fee; and

(ii) \$1,000 processing fee to cover the actual cost of

processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in ~~subsection~~ (1)(d)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee provided in (1)(d)(i) and (1)(d)(ii) if the applicant is licensed as a manufacturer, distributor, or route operator and if the applicant is substantially the same and has no strangers to the license.

(4) A person licensed under this section must comply with all laws and rules of the state of Montana and the department of justice.

AUTH: §23-5-115, MCA

IMP: §§23-5-115, 23-5-502,
23-5-503, MCA

23.16.1719 MANUFACTURER RECORDKEEPING REQUIREMENTS - DECAL INVENTORIES

(1) A manufacturer shall maintain records documenting the total number of sports tab cards sold, number sold to licensed gambling operators by operator, and number of sports tab decals in his possession. The manufacturer must maintain these records for a period not less than three years from the due date of related quarterly reports.

(2) and (3) remain the same.

AUTH: §23-5-115, MCA

IMP: §23-5-502, MCA

23.16.1802 DEFINITIONS (1) through (9) remain the same.

(10) "Modification" means a change or alteration to a video gambling machine that affects the manner or mode of play of the machine. The term includes any change to the control program, graphics program, or theoretical hold percentage. The term does not include:

(a) a change in a video gambling machine from one approved configuration to another approved configuration or from one approved mode of play to another approved mode of play;

(b) replacement of one component with another approved component; or

(c) the rebuilding of a previously approved machine with approved components in an approved configuration.

(10) through (16) are renumbered (11) through (17).

AUTH: §23-5-115, MCA

IMP: §§23-5-602, 23-5-603, 23-5-607,
23-5-609, 23-5-610, 23-5-612, MCA

23.16.1822 PERMIT NOT TRANSFERABLE (1) remains the same.

(2) When, during the first quarter of the permit year, a gambling operation changes ownership and the application for a new gambling operator license has been approved, the permit fee to relicense the machines on the premises is \$25 per machine if the \$200 licensing fee has already been paid for that machine

for the permit year.

(2) through (4) are renumbered (3) through (5).

AUTH: \$23-5-115, MCA IMP: \$23-5-603, 23-5-605, 23-5-611,
23-5-612(1), MCA

23.16.1826 QUARTERLY REPORTING REQUIREMENTS Operator
quarterly reporting requirements are as follows:

(1) through (3) remain the same.

(4) For the purposes of this rule the term theft includes the physical break-in or entry into the video gambling machine, or manipulation of the machine by external means resulting in the accumulation of credits available for redemption without the insertion of money. If the gross income reported for a machine has been reduced to reflect a loss resulting from a theft from the machine, the operator or his designated representative shall submit the following information together with the quarterly report:

(a) through (c) remain the same.

(d) In all cases the theft loss must be supported by records required in ARM 23.16.1827.

(5) remains the same.

(6) The imposition of these penalties does not preclude the department from taking further action against the operator or route operator responsible for preparing the report.

AUTH: \$23-5-115, MCA IMP: \$23-5-115, 23-5-605,
23-5-610, MCA

23.16.1827 RECORD RETENTION REQUIREMENTS (1) Machine operation records must be maintained and made available for inspection by the department upon request. The records must be maintained by the operator or route operator if the responsibility for maintaining records is transferred under a location agreement. The records must provide all necessary information the department may require to ensure operation of machines in compliance with the law.

(2) The records must include:

(a) a correct lifetime audit accounting ticket as provided for by department rules, which must include progressive accounting data if applicable. The lifetime audit ticket must be printed for each machine at least once every 7 days.

(b) the exact copy of the all printed ticket vouchers and audit tickets, i.e. the duplicate audit tape(s) created at the time each audit or payout ticket is printed;

(c) weekly readings of each machine's mechanical meters at least once every two weeks; and

(d) documentation of the total actual cash counted for the by licensed location machine for the same period that as the mechanical meter readings were taken as required in subsection (2)(c)-; and

(e) a three-way reconciliation of the total actual cash count required in (2)(d), and the total cash activity reflected by both the electronic and mechanical meter readings required in (2)(b) and (c). The three totals, actual cash, electronic readings, and mechanical readings must be calculated and

reconciled for the same time period and must be completed at least once every two weeks. Any material difference must be documented and the reason for the difference substantiated. A material difference means a difference in the amount of cash counted and cash reflected by the meters that is greater than 1% of the total monies placed in the machines during the reconciliation time period. If the difference is due to gambling device malfunction(s), the device(s) must be taken out of play, repaired and service form(s) submitted to the department, before the machine is returned to play. Following a material difference, the operator/route operator must maintain documentation of the cash count required by (2)(d) by individual machine until notification is submitted to the department to substantiate that the malfunction has been corrected.

(3) through (5) remain the same.

AUTH: §23-5-115, MCA

IMP: §§23-5-115, 23-5-605,
23-5-610, MCA

23.16.1901 GENERAL SPECIFICATIONS OF VIDEO GAMBLING MACHINES (1) Each video gambling machine model or modification must:

(a) be inspected in the state for approval and licensure by the department. The department may inspect any machine sold or operated in the state. Any approval granted by the department to a person is not transferable. The department must be allowed immediate access to each machine. Keys to allow access to a machine for purposes of inspection ~~may be provided to the department or~~ must be immediately available and located at the premise. Machines for which a substantial modification or a series of minor modifications whose total result is substantial must meet all of the specific law or rule requirements in effect at the time of submission. Only those machines which are owned or operated in Montana, and to which the submitted modification will be applied are required to meet those specifications in effect at time of submission. The department's determination that a modification is substantial may be contested pursuant to the Montana Administrative Procedure Act;

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

AUTH: §23-5-115, MCA

IMP: §§23-5-136, 23-5-602(2), (8),
(9), and (10), 23-5-606, 23-5-
609, 23-5-621, MCA

RULE IX DISTRIBUTOR'S LICENSE (1) Before conducting business in the state, a distributor shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a distributor license application (form 17, as the form read on September 30, 1993, is incorporated by reference and available upon request from the Gambling Control Division, 2687 Airport Rd., Helena, Montana 59620);

(b) forms 1 and 10 as described in ARM 23.16.102;

(c) financial statements for the applicant's business as described in ARM 23.16.502; and

(d) a check or money order for \$2,000 made payable to the state treasurer, which includes payment for the:

- (i) \$1,000 annual license fee; and
- (ii) \$1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in (1)(d)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee provided in (1)(d)(i) and (1)(d)(ii) if the applicant is licensed as a manufacturer, route operator, or operator and if the applicant is substantially the same and has no strangers to the license.

(4) A person licensed under this section must comply with all laws and rules of the state of Montana and the department of justice.

AUTH: \$23-5-115, MCA

IMP: \$23-5-128, MCA

RULE X ROUTE OPERATOR'S LICENSE (1) Before conducting business in the state, a route operator shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a distributor license application (form 17, as the form read on September 30, 1993, is incorporated by reference and available upon request from the Gambling Control Division, 2687 Airport Rd., Helena, Montana 59620);

(b) forms 1 and 10 as described in ARM 23.16.102;

(c) financial statements for the applicant's business as described in ARM 23.16.502; and

(d) a check or money order for \$2,000 made payable to the state treasurer, which includes payment for the:

- (i) \$1,000 annual license fee; and
- (ii) \$1,000 processing fee to cover the actual cost of processing the license.

(2) Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee provided for in subsection (1)(d)(ii) or collect an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee provided in (1)(d)(i) and (1)(d)(ii) if the applicant is licensed as a manufacturer, distributor, or operator and if the applicant is substantially the same and has no strangers to the license.

(4) A person licensed under this section must comply with

all laws and rules of the state of Montana and the department of justice.

AUTH: §23-5-115, MCA

IMP: §23-5-129, MCA

23.16.1916 MANUFACTURERS/DISTRIBUTORS'S LICENSE (1) Upon final determination that an applicant qualifies for licensure, the division shall issue a manufacturer/distributor license. The license fee is nonrefundable once the division has begun processing the license. Before conducting business in the state, a manufacturer shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a manufacturer license application (form 17, as the form read on September 30, 1993, is incorporated by reference and available upon request from the Gambling Control Division, 2687 Airport Rd., Helena, Montana 59620);

(b) forms 1 and 10 as described in ARM 23.16.102;

(c) financial statements for the applicant's business as described in ARM 23.16.502; and

(d) a check or money order for \$2,000 made payable to the state treasurer, which includes payment for the:

(i) \$1,000 annual license fee; and

(ii) \$1,000 processing fee to cover the actual cost of processing the license.

(2) The division will assess a one time administrative fee of \$1,000.00 to cover the actual costs of processing the license. Any amount not needed to cover processing costs will be refunded. Based on the actual cost incurred by the department in determining whether the applicant qualifies for licensure, the department shall refund any overpayment of the processing fee or an amount sufficient to reimburse the department for any underpayment of actual costs. If an applicant withdraws the application after the department has begun processing the application, the department shall refund any amount not expended as of the date of withdrawal.

(3) The department may waive the application license and processing fee if the applicant is licensed as a distributor, route operator or operator and if the applicant is substantially the same and has not added strangers to the license.

(3) is renumbered (4).

AUTH: §23-5-115, MCA

IMP: §§23-5-605, 23-5-625, MCA

23.16.1917 GENERAL REQUIREMENTS OF MANUFACTURERS, SUPPLIERS, AND DISTRIBUTORS, AND ROUTE OPERATORS, OF VIDEO GAMBLING MACHINES OR PRODUCERS OF ASSOCIATED EQUIPMENT (1) A manufacturer/distributor, distributor, route operator, or producer of associated equipment must retain for a period of three years all records relating to the operation of or sales of video gambling machines in Montana.

(2) A manufacturer/distributor, distributor, route operator or producer of associated equipment must provide the division with a current list of all video gambling machines kept in his or her storage in Montana at the time of application and provide status reports as required by the department. These reports must include the following information:

(2) (a) through (3) (a) remain the same.

(3) (b) furnish to the department monthly reports identifying the quantities and models or machines the manufacturer, supplier, distributor, route operator, or coin operator ships into Montana or receives from outside Montana, and such other information the department may determine is necessary to regulate and control video gambling machines in accordance with the act and these rules.

AUTH: §23-5-115, MCA

IMP: §§23-5-115, 23-5-605(2),
23-5-625, 23-5-626, MCA

23.16.1918 VIDEO GAMBLING MACHINES TESTING FEES (1) Each person submitting a video gambling machine or a modification that changes the play or operation of a video gambling machine for testing and department approval must:

(a) be licensed as a manufacturer/distributor, distributor, route operator, or as a producer of associated equipment within the state of Montana;

(1) (b) through (1) (ii) remain the same.

(2) This account will be charged at the rate of ~~\$40.00~~ \$50.00 per hour.

(3) remains the same.

AUTH: §23-5-115, MCA

IMP: §23-5-631, MCA

23.16.1925 POSSESSION OF UNLICENSED MACHINES BY MANUFACTURER, SUPPLIER, DISTRIBUTOR, ROUTE OPERATOR, OWNER, OR REPAIR SERVICE (1) A manufacturer, supplier, distributor, route operator, owner, or repair service may possess or own unlabeled machines, logic boards, meters, and machine components which conform to the statutory requirements and rules relating to electronic video gambling machines. Such machines possessed or owned may not be operated except when inspected, licensed, and placed on a licensee's premises.

AUTH: §23-5-115, MCA

IMP: §§23-5-603, 23-5-605,
23-5-616, MCA

23.16.1927 APPROVAL OF VIDEO GAMBLING MACHINES AND/OR MODIFICATIONS TO APPROVED VIDEO GAMBLING MACHINES BY DEPARTMENT

(1) The department may conditionally approve specific models of machines or modifications based on its finding that the machines conform to the act and these rules.

(a) Final approval of each machine or modification is required even if a machine has been conditionally approved.

(1) (b) remains the same.

(2) Approval includes inspection of the hardware and software and all information provided to the department under the Administrative Rules of Montana to determine whether a machine or modification meets all requirements of the act and these rules.

(3) The department may accept shipment of a machine or modification for the purpose of providing conditional approval of that particular make ~~and~~ model or modification provided the following conditions are met:

(3) (a) remains the same.

(b) all the information required in ARM 23.16.1808 must accompany the machine or modification; and

(c) prior to shipment, the department approved such shipment of a machine or modification for scheduled testing and approval.

(4) New rules may be adopted which redefine or set forth new specifications that previously approved machines and/or modifications do not comply with. In such cases, and only in such cases, the department shall allow up to 90 days for a licensee to bring a machine and/or modification into compliance with a new or modified specification.

AUTH: §23-5-115, MCA

IMP: §23-5-605, 23-5-606,
23-5-631, MCA

23.16.1940 VIDEO GAMBLING MACHINES - TRADE SHOWS

(1) through (1)(b) remain the same.

(1)(b)(i) a list describing the machines or associated equipment including model and serial number;

(ii) and (iii) remain the same;

(iv) the name of the company represented, and the name, address, and telephone number and address, and of the individual who will be responsible for the machine while in the state;

(v) the dates the machines will enter and leave the state;
and

(vi) the sources and destinations of the machines.

(2) and (3) remain the same.

AUTH: §23-5-115, MCA

IMP: §23-5-621, MCA

23.16.2004 IMPORTATION OF ILLEGAL GAMBLING DEVICES

(1) Before a manufacturer licensed under 23-5-152, MCA, may import an illegal gambling device into the state, he must notify shall submit to the department form 22. in writing of the proposed shipment and receive written authorization from the department. Form 22, when submitted to the department is an application for approval to import illegal gambling devices and/or components; when completed by the division and returned, serves as a certificate of approval to import illegal gambling devices and/or components into the state.

(2) Form 22 ~~The notice~~ required in subsection (1) must provide the following information:

(a) a description of:

(i) the components that will be imported and used by the licensee to manufacture an illegal device for export from the state; or

(ii) the illegal devices that will be reconditioned, refurbished, repaired, or otherwise substantially modified in preparation for export from the state; and

~~(a)(b)~~ manufacturer, model number, and serial number (if applicable) of each device and/or component;

~~(a)(c)~~ current location of devices and/or components;

~~(a)(d)~~ total number of devices and/or components in shipment;

(d) and (e) are renumbered (e) and (f).

~~(f)(g)~~ destination of devices and/or components.

(3) Form 22, as the form read on October 1, 1993, is incorporated by reference and available from the Gambling Control Division, 2687 Airport Rd., Helena, Montana 59620.
AUTH: 523-5-115, MCA IMP: 523-5-152, MCA

23.16.2401 DEFINITIONS Throughout this subchapter, the following definitions apply:

(1) remains the same.

(2) "Bingo" means a game of chance played for prizes with cards bearing numbers as described in law, in which the holder covers such numbers when objects similarly numbered are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers on such cards. A game of bingo begins with the first number called and ends when an individual covers the previously designated arrangement, declares bingo, and the game is verified. ~~individual~~ The value of prizes awarded during the game may not to exceed a total of \$100 in value--are then awarded.

(3) through (14) remain the same.

AUTH: 523-5-115, MCA IMP: 523-5-409, MCA

23.16.2406 PRIZE AWARDS FOR LIVE KENO AND BINGO GAMES

(1) remains the same.

(2) All live bingo operators must provide a list of general game rules and normal prize payouts. This provision does not preclude bingo operators from conducting games not listed in their rules or adjusting payouts, as long as the games are legal under the provisions of the statutes and administrative rules and the changes are announced to the players before the game begins. All valid winning bingo cards must be paid in full as per the listed or announced prizes. In no case may the prizes paid out exceed \$100 per individual bingo ~~award game~~. In no case may bingo games be extended in any manner so as to exceed the prize limitations; identical cards may not be played so as to exceed prize limitations.

AUTH: Sec. 23-5-115, MCA IMP: 523-5-412, MCA

RULE XI PROCEDURE FOR ADMISSION OF HEARSAY EVIDENCE

(1) Notwithstanding any provision of the Montana Administrative Procedure Act or the Attorney General's Model Rules of Administrative Procedure to the contrary, hearsay evidence may be submitted in a proceeding before the gambling control division if it meets the requirements of 523-5-138, MCA. The evidence must be submitted to the hearing examiner and to the respondent at least 30 days before the hearing at which it is to be considered. The evidence must be accompanied by a motion and if necessary a supporting brief. The respondent shall be given an opportunity to object to the evidence and request a prehearing conference at which its admissibility is considered. The hearing examiner shall issue a written ruling on the admissibility of the evidence at least 10 days prior to the hearing in the matter.

AUTH: §23-5-115, MCA

IMP: §23-5-138, MCA

RULE XII DEPARTMENT APPROVAL OF PROMOTIONAL GAMES OF CHANCE, DEVICES OR ENTERPRISES (1) The department may approve devices or enterprises for use in promotional games of chance authorized by Title 23, chapter 5, MCA. Persons submitting devices or enterprises for approval must provide the following information to the department:

(a) a complete physical description of the device or enterprise;

(b) a complete description of the method of operation of the device or enterprise;

(c) proof that the device or enterprise was manufactured or intended for purposes other than gambling;

(2) The department may require a physical examination and actual demonstration of any device or enterprise submitted for approval.

(3) Upon completion by the department of its investigation of a proposed device or enterprise proposed for use in a promotional game of chance, the department shall notify in writing the person submitting the device or enterprise of the department's decision. If the person then desires a hearing, he or she must submit a written request to the department within 20 days. From that point forward, all proceedings shall be conducted in accordance with the Montana Administrative Procedure Act and the Attorney General's Model Rules of Procedure.

(4) No devices or enterprises may be played prior to department approval.

AUTH: §23-5-115, MCA

IMP: §23-5-112, MCA

RULE XIII CASHING PAYROLL CHECKS -- DEFINITION OF FINANCIAL INCENTIVES (1) A licensee may not offer financial incentives or conduct promotional games of chance in connection with an offer to cash payroll checks on the premises.

(2) A "financial incentive," means any inducement involving the payment of money, any reduction in price paid for goods or services, or any award of credit.

AUTH: §23-5-115, MCA

IMP: §23-5-164, MCA

RULE XIV REVIEW OF CARNIVAL GAMES (1) Carnival games that are intended to be operated at a fair or carnival may be submitted to the department for analysis with the purpose of determining if the games meet the requirements of 23-6-102, MCA. No games shall be authorized unless specifically approved by the department following a review of the game and how it is played. The department may authorize a game not listed in 23-6-401, MCA, if, after careful review, it can be demonstrated that winning is in no way contingent upon lot or chance and is entirely based upon the skill of the player. No device, machine, instrument, apparatus, contrivance, scheme, or system which meets the definition of gambling as in 23-5-112(11), MCA, shall be approved.

(2) The actual game must be submitted, not a facsimile or

description of the game. The following information must be included with each game submitted:

(a) the name of the person or entity submitting the game, with address and telephone number;

(b) instructions for operation of the game and rules by which the game is played;

(c) all technical manuals, schematics, printed wire assembly and hardware block diagrams, microprocessor manuals, source listings, flow charts, programmer's comments (if applicable); and

(d) any pertinent information the department may deem necessary to complete the review.

(3) A fee shall be collected to offset the department's costs associated with the review, and shall be based on staff time expended to complete the review and shall be charged on an hourly basis. The fee shall be the responsibility of the individual or entity submitting the game. No approval shall be considered final until the fees have been paid.

(4) The individual or entity submitting the game for review shall be responsible for transportation of the game to and from the department's offices.

(5) The department shall have 30 days after submission of the game to complete the review. Final approval shall be given only after payment of fees.

AUTH: 23-5-115, MCA

IMP: 23-6-104, MCA

4. ARM 23.16.1808 (deemed invalid by the Administrative Code Committee without specific statutory authorization) is proposed to be repealed.

5. STATEMENT OF REASONABLE NECESSITY. (a) License Applications and Actions Affecting Existing Licenses. Rules I and II are necessary to provide procedures for applicants to request withdrawals of license application and to reapply after withdrawal. ARM 23.16.107 is being amended to reflect actions already authorized by existing statute in 23-5-136, MCA. Amendments to ARM 23.16.117 provide procedures for reversion of a license to the previous licensee in certain cases of foreclosure and for transfers into receiverships, trusts, or estates. Rule III provides procedures for a change in license type resulting from a change in the type of alcoholic beverage license. Rule IV provides procedures for a change in the premise location.

(b) Loans and Related Disclosure Information. Amendments to ARM 23.16.103 reference form 10, personal history statement on a lender, as one of the forms required with the release of information on funding sources, as provided in 23-5-176, MCA. These changes also provide procedures for supplying this information in the case of publicly traded corporations and contingent ownership interests acting as lenders. Amendments to ARM 23.16.120 provide procedures for certain types of loans to gambling operators from route operators for the purposes of

establishing change banks; changes to ARM 23.16.120 (5) provides procedures for loans between closely related licensed operators.

(c) Shake-a-Day Games. Rule V is necessary to comply with statutory changes related to the conduct of shake-a-day games.

(d) Grandfathered Licenses. Rule VI is necessary to comply with statutory changes regarding grandfathered locations operated for the principal purpose of gaming.

(e) Poker Runs. Rule VII is necessary to comply with statutory changes related to the conduct of poker runs by non-profit organizations.

(f) Tournaments. Amendments to 23.16.1101 and 1201 are necessary to clarify definitions of card game tournaments and to comply with statutory changes related to the conduct of tournaments.

(g) Sports Pools for Pig, Gerbil or Hamster Races. Rule VIII is necessary to provide procedures for administration of statutory changes allowing sports pools to be conducted on pig, gerbil or hamster races.

(h) Manufacturers, Distributors, and Route Operators Licenses. Amendments are necessary to the following rules to conform with the new definitions of licenses resulting from statutory changes: 23.16.101, 1716, 1916, 1917, and 1925. Rule IX and X are provided for the same reason.

(i) Recordkeeping and Reporting. Amendments to 23.16.1719 are necessary to inform licensees how long records are to be retained. Amendments to 23.16.1826 are required to clarify the definition of theft loss to conform with statutory changes, and to provide for reporting procedures. Amendments to 23.16.1827 are proposed to provide procedures by which cash and meter reconciliations are to be made and to clarify the language in existing rule.

(j) Machine Permit Fees. Amendments to 23.16.1822 provides procedures for administering new \$25 permit fees resulting from statutory changes.

(k) Machine Keys. Amendments to 23.16.1901 propose that keys to video gambling machines must be located on the operator's premise and may not be provided to the Department for storage.

(l) Machine Testing Fees. Amendments to 23.16.1918 provide for a proposed increase in machine testing fees from \$40 per hour to \$50 per hour.

(m) Machine Importation. Amendments to 23.16.2004 are necessary to provide procedures to administer statutory changes related to the importation of illegal gambling devices.

(n) Bingo Games. Amendments to 23.16.2401 and 2406 are necessary to implement statutory changes allowing minor variations in the awarding of prizes and to correct references to bingo games.

(o) Evidence. Rule XI is necessary to provide procedures to implement statutory changes concerning admission of hearsay evidence.

(p) Promotional Games of Chance. Rules XII and XIII are necessary to provide procedures for the review of promotional games of chance and to clarify definitions to conform with

statutory changes.


(q) Review of Carnival Games. Rule XIV is necessary to provide procedures for approval of carnival games pursuant to statutory changes.

(r) Miscellaneous Changes. Amendments to 23.16.1202 are necessary to correct a reference to a published document. Amendments to 23.16.1302 and 1927 are proposed to define the term modification as it relates to video gambling machines. Amendments to 23.16.1940 are necessary to clarify what equipment is covered and what information is required for importation of machines or associated equipment for trade shows. Amendments to 23.16.101 and 115 are proposed to provide definitions or clarification of definitions for the following terms: gift enterprise, person, contingent ownership, lease agreement, loan, management agreement, owner of an interest, and security interest.

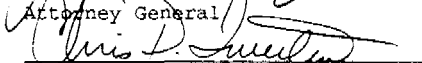
6. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Janet Jessup, Administrator, Gambling Control Division, 2687 Airport Road, Helena, Montana, 59620, no later than September 23, 1993.

7. Janet Jessup, Administrator, Gambling Control Division, has been designated to preside over and conduct the hearing.

By:


JOSEPH P. MAZUREK
Attorney General

By:


CHRIS TWEETEN
Chief Deputy Attorney General
Rule Reviewer

Certified to the Secretary of State August 16, 1993.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF THE PROPOSED
of ARM 42.17.111 relating to) AMENDMENT of ARM 42.17.111
Withholding Taxes Which Apply) relating to Withholding Taxes
to Indians) Which Apply to Indians

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 15, 1993, the Department of Revenue proposes to amend ARM 42.17.111 relating to withholding taxes.
2. The rule as proposed to be amended provides as follows:

42.17.111 WHO MUST WITHHOLD AND WHO IS SUBJECT TO WITHHOLDING (1) through (5) remain the same.

(6) Applicable to tax years beginning January 1, ~~1993~~ 1994, and later. Wages paid to a member of an Indian tribe are subject to withholding unless all of the following conditions are met:

(a) the employee is an enrolled member of a recognized Indian tribe;

(b) a certificate of enrollment is filed by the employee with the employer;

(c) the employee resides on his or her tribe's reservation and,

(d) the wage is compensation for services performed within the boundaries of the enrolled member's reservation.

(7) remains the same.

AUTH: 15-30-305 MCA; IMP: 15-30-202 MCA.

3. The proposed amendment to ARM 42.17.111 is necessary to correct a clerical error regarding the applicable tax year. The Department agreed to make this change during the previous adoption process. However, it was inadvertently overlooked and the rule was adopted with the incorrect date of applicability. Therefore, this amendment will correct that error.

4. Interested parties may submit their data, views, or arguments concerning the proposed adoption in writing to:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620


no later than September 24, 1993.

5. If a person 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 Cleo Anderson at the above address no later than September 24, 1993.

6. If the agency receives requests for a public hearing on the proposed amendments 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 subdivision, or agency; 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 25.


CLEO ANDERSON
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State August 16, 1993.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT)	NOTICE OF PUBLIC HEARING ON
of ARM 42.31.102, 42.31.107,)	THE PROPOSED AMENDMENT of
42.31.108, 42.31.121, 42.31.131,))	ARM 42.31.102, 42.31.107,
42.31.201, 42.31.221 and THE)	42.31.108, 42.31.121, 42.31.
ADOPTION of NEW RULES I, II, III))	131, 42.31.201, 42.31.221
IV, V, and VI relating to)	and THE ADOPTION of NEW RULES
Cigarettes)	I, II, III, IV, V, and VI
)	relating to Cigarettes

TO: All Interested Persons:

1. On September 21, 1993, at 1:30 p.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, at Helena, Montana, to consider the amendment of ARM 42.31.102, 42.31.107, 42.31.108, 42.31.121, 42.31.131, 42.31.201, 42.31.221 and the adoption of rules I, II, III, IV, V, and VI relating to cigarettes.

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

42.31.102 MARKING UNSTAMPED CIGARETTES (1) All cigarettes sold in Montana must have a tax stamp except sales made to U.S. government, military and ~~indian purchasers~~ and licensed wholesalers which sales are subject to the provisions of ARM 42.31.108.

(2) remains the same.

AUTH: Sec. 16-11-103 MCA; IMP: Sec. 16-11-111, 16-11-113, and 16-11-156, MCA.

42.31.107 ACCOUNTING CONTROL OF CIGARETTE DISTRIBUTION

(1) Each wholesaler shall prepare form CT-205 and Schedule A. When appropriate, CT-206 and Schedule C are to be filed with the CT-205 form. The forms are filed with the department of revenue on or before the 15th day of the month following the preceding month's activities. Form CT-205 is a reconciliation of the purchase and distribution of cigarettes and the consumption of cigarette tax indicia. The back of form CT-205 reflects exempt U.S. government, military, ~~and indian~~, ~~out-of-state~~, and ~~wholesaler to wholesaler~~ purchases for the month. CT-205 and supporting forms are hereby incorporated by reference and may be obtained by contacting the Department of Revenue at P.O. Box 5835, Helena, Montana 59604.

(2) remains the same.

(3) Sales of untaxed cigarettes made to cigarette retailer(s) on a reservation ~~under a quota agreement between the tribe and the department of revenue~~ will be reported on Form CT-206. ~~The quota for these sales will be defined in the agreement.~~

(a) If a negotiated quota agreement exists, the tribe shall provide the department with a list showing the names of qualified retailers and their portion of the quota. The tribe must notify the department of any change to the list in the requested allocations.

(b) If no agreement exists and the tribe does not provide direction on allocation among Indian retailers, the department will approve sales of allocated untaxed cigarettes based on past purchases or the best information available until the reservation quota is depleted.

(4) Wholesaler(s) must contact the department prior to all non-taxed sales on a reservation covered by a quota agreement. The department will issue permission to ship the cigarettes, will track quota allocations, and notify the wholesalers when the quota has been reached. Once the quota portion for any particular retailer/reservation has been reached, sales to that retailer/reservation will include tax.

AUTH: Sec. 16-11-103 MCA; IMP: Secs. 16-11-104, 16-11-111, and 16-11-156, MCA.

42.31.108 SALES OF UNSTAMPED CIGARETTES (1) Any person who purchases unstamped cigarettes, claiming that Montana lacks jurisdiction over his cigarette sales activities, must be fully identified by name, address of residence, address and location of business, social security number, tribal enrollment number, and name of tribe. Information must also be furnished to the wholesaler indicating that he has received authority to conduct a cigarette sales activity within the external boundaries of an Indian Reservation, and federal identification number. The required information will be entered on form CT-206, which will also be a receipt requiring the signature of the person purchasing the cigarettes to acknowledge the purchase and physical possession of the unstamped cigarettes itemized thereon.

(2) remains the same.

AUTH: Sec. 16-11-103 MCA; IMP: Sec. 16-11-132 and 16-11-156, MCA.

42.31.121 CORPORATE APPLICANTS FOR CIGARETTE AND TOBACCO LICENSES (1) remains the same.

(2) The license requirements under the youth access to tobacco products control act for retail sales is an extension of this license.

AUTH: Sec. 16-11-103 MCA; IMP: Sec. 16-11-120 and 16-11-301 MCA.

42.31.131 CIGARETTE TAX REFUNDS/DISTRIBUTIONS

(1) Cigarette tax refunds/distributions will be issued as provided in subsections (2), (3) and (4). All cigarette refunds to manufacturers for returned goods (states) will be calculated assuming a 3% discount rate unless documentation is provided supporting a higher discount rate.

(2) Refund claims by a cigarette manufacturer must contain a notarized affidavit that the cigarette tax ~~meter units refund~~ claimed ~~are all~~ is for state of Montana cigarette tax insignia which are affixed to the unsalable cigarettes; that credit or refund for the net cost of the tax insignia has been given to a Montana cigarette dealer; and that the cigarettes will not be sold at any time. Refund claims must be accompanied by a copy of the credit memo or invoice issued to the Montana dealer. Refunds will be allowed for stale or damaged merchandise during the first 90 days after a change in the tax rate at the previous rate of tax unless it can be verified conclusively that the new tax has been paid on the specific product for which such refund is claimed.

(3) Cigarette tax refunds distributions are made to an Indian tribe pursuant to an agreement between the tribe and the department of revenue. ~~This The agreement provides for the collection of Montana a tribal cigarette tax on the reservation and a refund distribution, less the administrative expense, if applicable, to the tribe based on the portion of the tax collected that is attributable to tax exempt purchasers determined by a the negotiated agreement formula based on population.~~

(4) Cigarette tax credits or refunds for indicia used in sales made on an Indian reservation ~~with a quota agreement~~ are made to wholesalers pursuant to the ~~quota established in the agreement between the tribe and the department and the list provided by the tribe quota.~~ The wholesaler can request a credit ~~payable in stamps or a cash refund by filing CT-207.~~ Upon receipt of CT-207 the department will ~~approve the credit or mail the tax stamps within the next business day or mail a refund within ten (10) working days.~~

(5) No credit or refund on non-taxed (quota) sales will be allowed to a wholesaler once the retailer/reservation has depleted his/her the quota amount. (See ARM 42.31.107 for qualifying sales.) Amounts on CT-207 received during the month will be reconciled with amounts on Form CT-206 filed at the appropriate time. Any discrepancies found will be added to or subtracted from the amount requested for stamps/refunds of the current month. Added/subtracted amounts will be applied to the request of the wholesaler that causes the discrepancy to develop.

AUTH: Sec. 16-11-103 MCA; IMP: Sec. 15-1-503, 16-11-112 and 16-11-156 MCA.

42.31.201 TOBACCO PRODUCTS DEFINED (1) For the purposes of this tax, Tobacco products are defined by the following list, but are not inclusive to this list: cigars (large & small), smoking, chewing, and snuff tobaccos.

AUTH: Sec. 16-11-103 MCA; IMP: Sec. 16-11-202 MCA.

42.31.221 CREDITS FOR UNSALABLE TOBACCO PRODUCTS OTHER THAN CIGARETTES (1) through (3) remain the same.

AUTH: Sec. 16-11-103 MCA; IMP: Sec. 16-11-206 MCA.

3. The proposed rules I through VI do not replace or modify any section currently found in the Administrative Rules of Montana. The proposed rules to be adopted provide as follows:

RULE I TOBACCO PRODUCT DEFINED (1) For the purposes of enforcing tobacco sales to and use by minors, tobacco means a substance intended for human consumption that contains tobacco. The term includes, but is not limited to, cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

AUTH: Sec. 16-11-312, MCA; IMP: Sec. 16-11-302, MCA.

RULE II LICENSE (1) All persons that sell tobacco products at retail must obtain a license from the department of revenue. This includes sales over the counter, by vending machine or any other means of selling the tobacco product.

(2) In the case where the retailer contracts with a vending machine operator to have a vending machine in an establishment, the retailer must obtain a license to sell tobacco products.

(3) The license covers one fiscal year, July 1 to June 30.

(4) The license cannot be transferred.

AUTH: Sec. 16-11-312, MCA; IMP: Sec. 16-11-303 and 16-11-306, MCA.

RULE III DECALS ON VENDING MACHINES (1) Decals issued as part of the annual vendor license must be affixed to the front of all vending machines within 30 days from the date of receipt.

(2) The following message must be printed on each decal: "MONTANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE."

AUTH: Sec. 16-11-312, MCA; IMP: Sec. 16-11-304 and 16-11-306, MCA.

RULE IV SALES FROM VENDING MACHINES (1) Sales are only permitted in:

(a) places not opened to the general public;

(b) places where persons under the age of 18 are not permitted access;

(c) places where alcoholic beverages are sold and consumed on the premises; or

(d) places where the vending machine is under direct supervision of the owner or employee of the establishment.

(2) For places opened to the general public the vending machine must be located in a place where the owner or an employee can see it to ensure individuals under the age of 18 do not use the machine. For example, all tobacco vending machines in a hotel or motel must be located in the lobby where the desk clerk can see who is making the purchase from the machine.

AUTH: Sec. 16-11-312, MCA; IMP: Sec. 16-11-305 and 16-11-

306, MCA.

RULE V SIGNS (1) The retailer must display a sign at each place on the premises that tobacco products are sold; each sign must include the language shown in RULE III(2). This includes all cash registers, vending machines or other places where the consumer pays for the tobacco product.

(2) The department will furnish the signs. However, if the retailer wishes to furnish the sign(s), the sign must contain the language shown in RULE III(2).

AUTH: Sec. 16-11-312, MCA; IMP: Sec. 16-11-304, 16-11-305, and 16-11-306, MCA.

RULE VI PACKAGING OF TOBACCO PRODUCTS (1) All tobacco products must be sold or distributed in the manufacturers' sealed package and must contain the health warning required by federal law. The only exception is in the case of bulk product that is intended to be repackaged and sold in smaller, variable units at retail. The retailer must package these smaller units and label the package with the health warning required by federal law.

(2) The sale of single cigarettes is prohibited.

AUTH: Sec. 16-11-312, MCA; IMP: Sec. 16-11-307, MCA.

4. The Department is proposing the amendments to the above-referenced rules because of the enactment of House Bill 283 during the 1993 Legislative session. House Bill 283 provided except for cigarettes sold on a military reservation the cigarettes must have a tax stamp affixed prior to the sale. The bill also required that cigarettes sold on an Indian reservation be stamped. Therefore, the department must change the way the wholesalers report this information.

House Bill 548 requires all retailers of tobacco products to be licensed. Section 16-11-120, MCA, requires a license for the sale of cigarettes. Prior to the passage of HB 548, a person who sold only tobacco products or who had a vending machine in the establishment that was owned by a vender and not the owner of the establishment did not need a license. This bill also expanded the definition of tobacco products to include cigarettes for sale to persons under 18 years of age. The department is adopting rules under a new subchapter to cover the requirements of the law for sale of tobacco to persons under 18 years of age.

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:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than September 24, 1993.

6. Cleo Anderson, Department of Revenue, Office of Legal Affairs, has been designated to preside over and conduct the hearing.



CLEO ANDERSON
Rule Reviewer



MICK ROBINSON
Director of Revenue

Certified to Secretary of State August 16, 1993.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF PUBLIC HEARING ON
of ARM 42.12.103, 42.12.106,) THE PROPOSED AMENDMENT of
42.12.122, 42.12.141, 42.12.144) ARM 42.12.103, 42.12.106,
and the ADOPTION of RULE I) 42.12.122, 42.12.141,
relating to Liquor Licenses and) 42.12.144 and the ADOPTION of
Permits) RULE I relating to Liquor
Licenses and Permits

TO: All Interested Persons:

1. On September 21, 1993, at 9:30 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, at Helena, Montana, to consider the amendments of ARM 42.12.103, 42.12.106, 42.12.122, 42.12.141, 42.12.144 and adoption of new rule I relating to concurrent applications.

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

42.12.103 SUPPORTING DOCUMENTATION -- CORPORATE APPLICANTS

(1) through (4) remain the same.

(5) in the case of a corporation A corporate applicant whose stock is listed on a national exchange, supporting documentation shall include a sworn statement identifying all directors and officers of the corporation or a corporation with more than 10 stockholders shall list:

(a) the names, dates of birth, social security numbers and residence addresses of all owners of 10% or more of the issued stock, all directors and officers; and

(b) the number of shares of stock held by each stockholder of 10% or more stock.

AUTH: Sec. 16-1-303 MCA; IMP: Secs. 16-4-203, 16-4-205, and 16-4-401 MCA.

42.12.106 DEFINITIONS As used in this sub-chapter the following definitions apply:

(1) through (4) remain the same.

(5) "Restaurant" means a public eating establishment allowing for seated service for a minimum of 12 persons at tables or booths where the sale of food served is prepared on site.

(6) "Prepared food business" means a restaurant, except the food need not be prepared on site.

(7) "Primarily meals with table service" means a restaurant where the business records show that the gross sales of food is greater than the sum of any other activity conducted on the premises.

AUTH: Sec. 16-1-303, MCA; IMP: 16-4-105 and 16-4-207, MCA.

42.12.122 DETERMINATION OF SUITABILITY OF PREMISES

- (1) remains the same.
- (2) The premises must be considered suitable for the retail sale of alcoholic beverages if:
 - (a) It meets the standards of the department of health and environmental sciences; the department of commerce, building codes bureau; and the state fire marshall's office in the fire prevention and investigation bureau of the department of justice; or their delegated representatives.
 - (i) A license issued for off-premises consumption of beer and/or table wine must meet the standards for an establishment operated as a grocery store or a drug store licensed as a pharmacy;
 - (ii) A license issued for on-premises consumption of beer must meet the standards for an establishment operated as a bar or tavern;
 - (iii) A license issued for on-premises consumption of beer and wine must meet the standards for an establishment operated as either a restaurant or a prepared food business; and
 - (iv) A license issued for on-premises consumption of all-alcoholic beverages must meet the requirements for a bar or tavern.
- (b) The investigator can easily ascertain the type of alcoholic beverages business that is being conducted on the premises due to indoor and outdoor advertising, signage and/or the general layout and atmosphere of the premises to be licensed. The two circumstances to be ascertained are:
 - (i) A beer and/or table wine license issued for off-premises consumption operates at a premises recognizable as a grocery store or a pharmacy as defined in ARM 42.12.126; and
 - (ii) A license issued for on-premises consumption operates at a premises recognizable as a restaurant, bar, tavern or other business directly related to the on-premises consumption of alcoholic beverages such as a bowling alley, hotel, or gambling casino, having a bar preparation area and sufficient seating, not less than 12 seats at the bar, tables, booths or gaming areas or a combination of the above, to encourage patrons to remain on the premises and consume the alcoholic beverages sold by the drink.
- (c) Alcoholic beverages are advertised and displayed as being available for purchase.
- (d) The premises is open for business on a regular basis so not to be considered a license on nonuse status.
- (e) The layout of the premises allows for licensee and/or employee only control over the preparation, sale, service and distribution of alcoholic beverages.
- (f) The investigator can verify to the department that the dimensions shown on the floor plan accurately represents the physical layout of the premises.
- (g) The applicant has demonstrated adequate safeguards are in place to prevent the sale of alcoholic beverages to minors and intoxicated persons.
- (h) The premises to be used for the on-premises

consumption of alcoholic beverages is physically separated from any business not directly related to the on-premises consumption of alcoholic beverages by four permanent walls and is without. The walls must be floor to ceiling that cannot be moved without department approval of alterations to premises pursuant to ARM 42.13.106. The premises can maintain inside access from any other to each business conducted in the building, except through a doorway no larger than six feet wide whose door(s) can be closed and locked when not in use. Businesses which are directly related to the on-premises consumption of alcoholic beverages, such as are a hotel, bowling alley, gambling casinos, or restaurant.

(i) The premises is not within a fifty foot radius of gasoline pumps.

(j) The provisions of subsection (3) are not violated.

(3) remains the same.

(4) Premises currently licensed that do not meet the suitability standards would be required to meet the above standards when requesting the department to approve an application to remodel upon department approval of completed alterations of the existing licensed premises in accordance with law except for the requirement that premises not be within a fifty foot radius of gasoline pumps. The restriction on premises being beyond a fifty foot radius of gasoline pumps applies only to transfers of licenses to new locations or to new original licenses.

AUTH: Sec. 16-1-303 MCA; IMP: Sec. 16-4-402, 16-4-404, and 16-4-405 MCA.

42.12.141 CORPORATE LICENSES (1) No alcoholic beverages license shall be issued to a Montana corporation unless the following requirements are met:

(a) The corporation was organized and has existed as a Montana corporation or has been authorized to do business in Montana prior to making application for an alcoholic beverages license; and

(b) The corporate application must be accompanied by a copy of the corporation's certificate of incorporation or certificate of good standing if the corporation has been authorized to do business for more than one year issued by the secretary of state.

AUTH: Sec. 16-1-303 MCA; IMP: Sec. 16-4-401 MCA.

42.12.144 TRANSFERS BETWEEN QUOTA AREAS - PROCEDURES AND DOCUMENTATION (1) remains the same.

(2) An applicant applying pursuant to (1)(b), whose application is granted by the department, is required to purchase a transferable license within 60 days after receipt of the final agency decision and submit additional documents needed to effect a transfer of ownership and location. However, additional time can be requested and approved by the department when the applicant can demonstrate he is actively pursuing the

purchase of a license. An additional fee is required to cover the costs of republishing the transfer notice in a newspaper within the area from which the license is proposed to be transferred.

(3) and (4) remain the same.

(5) If an applicant is unable to purchase a license within the time provided in subsection (2) the application will be rejected and the application ranked next in the decision will be processed. If there are no other applicants ranked in the decision, the availability of a license shall be republished and applications accepted. This procedure is not constrained by 16-4-413, MCA.

AUTH: Sec. 16-1-303 MCA; IMP: Sec. 16-4-204 MCA.

3. Proposed rule I does not replace or modify any section currently found in the Administrative Rules of Montana.

4. The new rule as proposed to be adopted provides as follows:

RULE I CONCURRENT APPLICATIONS (1) An application received for a premises for which an application is pending as defined in 16-4-412, MCA, shall be returned to the applicant with an explanation that the applicant cannot be considered because there is a previous application pending for the same premises.

(2) Multiple applications pending for the same premises which are not considered concurrent are those due to the following:

(a) a default to a secured party and a subsequent transfer to a purchaser, or

(b) more than one sale of a license has occurred and the department was not immediately notified thereby requiring multiple applications to show continuity of transfer of the license.

AUTH: Sec. 16-1-303, MCA IMP: Sec. 16-4-412, MCA.

5. The Department is proposing the amendments to ARM 42.12.103 as housekeeping.

The amendments to ARM 42.12.106 are necessary to include the definitions. A restaurant or prepared food business may obtain a wine amendment to an on-premises consumption beer license. A business providing primarily meals with table service with an on-premises beer and wine license may obtain a catering endorsement allowing the licensee to cater beer and wine service at locations away from the licensed premises. Clear definitions are needed to determine when parties qualify for these privileges. This rule relates to ARM 42.12.122, wherein it states a premises must be recognizable as a restaurant, bar or tavern. This rule will clarify the department's interpretation of restaurant.

The amendment to ARM 42.12.122 will provide for the explanation of access between a retail on premise consumption

alcoholic beverage establishment and another business within the same building. It is also necessary to describe what is meant by permanent walls and the limitations on inside access. The grandfather clause for currently licensed premises that don't comply with the suitability standards in the rules must be amended to agree with the law.

The amendment to ARM 42.12.141 is necessary to explain what is required for proof that a corporate applicant is currently authorized to do business in Montana, a requirement prior to granting a corporation a license.

The amendment to ARM 42.12.144 is necessary to allow the department the ability to determine on a case by case basis, the amount of time a successful applicant may need to obtain a license and put the license into use and the outcome should the applicant not meet the required timeframe.


New Rule I is necessary to explain that multiple applications are not considered concurrent within the meaning of the law when the applications are necessary as in the case of a default and resale or to show continuity of a transfer of a license.


6. 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:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than September 24, 1993.

7. Cleo Anderson, Department of Revenue, Office of Legal Affairs, has been designated to preside over and conduct the hearing.


CLEO ANDERSON
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State August 16, 1993.

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

In the matter of the adoption of	)	NOTICE OF ADOPTION
permanent rules implementing the	)	OF RULE I (2.43.439)
state's retirement incentive	)	AND RULES II (2.43.450)
program	)	THROUGH V (2.43.453)

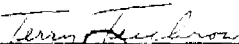
TO: All Interested Persons.

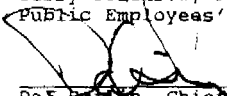
1. On May 15, 1993, the Public Employees' Retirement Board published notice of a public hearing on the proposed adoption of the above rules to implement the state's retirement incentive program for PERS members employed by the state and university system and those employed by local government contracting employers which elected to take part in the program at page 742 of the 1993 Montana Administrative Register, issue number 9.

2. The board has adopted the rules as proposed.

3. No written or oral comments or testimony were received from any interested party.

By:


Terry Teichrow, President
Public Employees' Retirement Board


Dar Emille, Chief Legal Counsel
Rule Reviewer

Certified to the Secretary of State on August 13, 1993.

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

In the matter of the amendment of)	NOTICE OF AMENDMENT
ARM 16.44.125, 202, 302, 303,)	OF RULES AND REPEAL
306, 326-328, 330, 333-335, 602,)	OF 16.44.1018
605, 802, dealing with facility)	
permit fees and hazardous waste)	
management, and the repeal of)	
16.44.1018, dealing with attorney's)	
fees in court action concerning)	
release of records.)	(Hazardous Waste)

To: All Interested Persons

1. On June 24, 1993, the department published notice of the proposed amendment of the above-captioned rules and the repeal of ARM 16.44.1018, at page 1254 of the 1993 Montana Administrative Register, issue number 12.

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

16.44.125 FACILITY PERMIT FEES: APPLICATION, MODIFICATION AND MANAGEMENT FEES (1) Same as proposed.

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

(d) If, after receipt of the payment required in (2)(a)(ii), the applicant notifies the department in writing of its intent to withdraw the application, the department shall return to the applicant any portion of the payment received pursuant to ~~(1)(2)~~(a)(ii) in excess of the department's actual costs of permit review.

(3)-(5) Same as proposed.

(6) For the purposes of this rule, a facility "primarily receives waste generated by offsite sources that are not owned or operated by the facility owner or operator or site owner" if over 50% of the wastes received by the facility are generated by off-site sources that are not owned or operated by the facility owner or operator or site owner.

16.44.202 DEFINITIONS Same as proposed.

16.44.302 DEFINITION OF WASTE Same as proposed.

16.44.303 DEFINITION OF HAZARDOUS WASTE Same as proposed.

16.44.306 REQUIREMENTS FOR RECYCLABLE MATERIALS Same as proposed.

16.44.326 STANDARDS AND CRITERIA FOR RECLASSIFICATION TO A MATERIAL OTHER THAN A WASTE Same as proposed.

16.44.327 RECLASSIFICATION AS A BOILER Same as proposed.

16.44.328 PROCEDURES FOR RECLASSIFICATION Same as proposed.

posed.

16.44.330 LISTS OF HAZARDOUS WASTES -- GENERAL Same as proposed.

16.44.333 DISCARDED COMMERCIAL CHEMICAL PRODUCTS, OFF-SPECIFICATION SPECIES, CONTAINER RESIDUES, AND SPILL RESIDUES THEREOF Same as proposed.

16.44.334 ADDITIONAL REGULATION OF CERTAIN HAZARDOUS WASTE RECYCLING ACTIVITIES ON A CASE-BY-CASE BASIS Same as proposed.

16.44.335 PROCEDURES FOR CASE-BY-CASE REGULATION OF HAZARDOUS WASTE RECYCLING ACTIVITIES Same as proposed.

16.44.602 PROHIBITIONS Same as proposed.

16.44.605 TEMPORARY PERMITS (INTERIM STATUS) Same as proposed.

16.44.802 APPLICABILITY OF FINANCIAL REQUIREMENTS Same as proposed.

3. The department has repealed ARM 16.44.1018 as proposed.

4. The following comments were received; the department's response to each follows:

COMMENT: Representative Duane Grimes commented that, although the language of subsection (5) of the proposed amendments to ARM 16.44.125 is the same as the language found in the enabling legislation [HB 592 (1993)], the Department should charge the per ton fee established in ARM 16.44.125(5) to any facility "that primarily receives wastes generated by out of state offsite sources, or in state offsite sources that are not owned or operated by the facility owner". In other words, Mr. Grimes suggested the Department should include all wastes generated by out of state sources in determining whether a facility is subject to per ton fees, even if the out of state wastes are generated by the person who owns or operates the subject facility.

RESPONSE: For two reasons, the Department declines to amend the rule as suggested. First, as pointed out by the commentator, the language of the proposed rule amendment parallels the language of section 4 of HB 592 (1993). That section has been codified as §75-10-433, MCA. The Department believes the addition of the suggested language concerning out-of-state waste would exceed the scope of §75-10-433, MCA. Second, the Department is concerned that the suggested differential treatment of out-of-state waste, without justification based on factors other than the origin of the waste, may violate the Commerce Clause of the United States Constitution.

COMMENT: Rep. Grimes also stated his concern that the term "primarily" is not defined as it is used in [proposed] ARM 16.44.125.

RESPONSE: In response to this comment, the Department has added paragraph (6) to ARM 16.44.125.

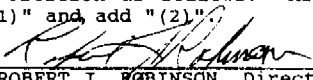
COMMENT: The Montana Administrative Code Committee submitted the following comment: "As one of its reasons for amending current rules, the Department stated [sic] referred to an amendment to 75-10-405, MCA, by the 1993 Legislature. Section 75-10-405, MCA, was amended by three different bills in 1993. In its adoption notice, the department needs to cite the specific bill which prompted its proposed action so that staff can verify the authority."

RESPONSE: The Department proposed the amendment of ARM 16.44.125 in response to HB 592 (1993).

COMMENT: The United States Environmental Protection Agency, Region VIII, submitted the following comment: "Both EPA's Montana Office and Regional Counsel have reviewed the Proposed Amendment of Hazardous Waste Administrative Rules dated June 21, 1993. EPA has concluded that the proposed rule changes make Montana's rules equivalent to the corresponding federal rules. However, the wording of Montana's proposed ARM 16.44.302 remains confusing. While not identical to the federal rule, the proposed 16.44.302 uses the federal approach of setting standards for adding waste to the list of inherently waste-like materials. The language "...such as..." has been eliminated from ARM 16.44.302(c). This wording had the effect, in EPA's opinion, of making the previous state rule broader in scope than the federal rule. EPA feels that the wording of the 40 CFR 261.2(d)(3) is clearer and would be a better choice for the state's rule."

RESPONSE: The Department agrees that the proposed rule changes make Montana's rules equivalent to the corresponding federal rules. However, the Department does not agree with EPA's comment that the wording of 40 CFR 261.2(d)(3) is clearer than the proposed ARM 16.44.302. The Department believes the wording of proposed ARM 16.44.302 more accurately fulfills the purpose of providing criteria for determining whether materials may be considered "wastes" when they are recycled. Therefore, the Department chooses to adopt the proposed language over the language suggested by EPA.

NOTE: In addition to the changes made in response to comments, the Department changed the final rule ARM 16.44.125(2)(d) to correct an erroneous internal citation as follows: After the words "pursuant to", delete "(1)" and add "(2)".


ROBERT J. ROBINSON, Director

Certified to the Secretary of State August 16, 1993.

Reviewed by: 
Eleanor Parker, DHES Attorney

16-8/26/93

Montana Administrative Register

BEFORE THE BOARD OF NURSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the petition) DECLARATORY RULING
for declaratory ruling on the)
role of registered professional)
nurses in inserting)
peripherally inserted central)
catheters)

Introduction

1. The Board of Nursing received a Petition for Declaratory Ruling from various nurses on behalf of Deaconess Medical Center of Billings, Montana, regarding the authority of registered professional nurses to insert peripherally inserted central catheters (PICC's) within the scope of their practice.

2. On March 25, 1993, the Board of Nursing published a Notice of Petition for Declaratory Ruling setting forth the facts and issues presented and establishing a hearing date of May 21, 1993. This notice was published in the 1993 Montana Administrative Register, Issue 6, page 457.

3. On May 21, 1993, the Board of Nursing presided over a hearing on this matter, hearing testimony from various interested individuals.

The Question Presented

4. Petitioners requested a ruling on whether it is within the scope of the RN practice act for registered professional nurses to insert PICC's. Petitioners requested a ruling on what qualifying criteria would be required for education, certification, demonstration, and radiographic confirmation.

Facts Presented

5. The Petitioners represent Deaconess Medical Center. The hospital wants to use registered professional nurses to insert PICC's. The Petitioners are concerned about whether this activity fits within the scope of practice of a registered professional nurse.

6. The Petitioners indicated that patients have been admitted to Deaconess Medical Center with PICC's already inserted, and have further indicated a need to establish care and insertion guidelines. Physicians at Deaconess have requested that the hospital select a number of trained nurses to insert PICC's, due to unavailability of physicians at certain times of the day.

7. The Petitioners have indicated that they believe that a Montana State Board of Nursing ruling that would sanction qualified registered professional nurses to insert PICC's would help provide improved value, quality, and effective treatment to patients.

Applicable Law

8. Petitioner seeks a ruling that, with adequate training, insertion of PICC's is within the scope of practice of a registered professional nurse. The statutes and rules applicable to such an inquiry are as follows:

A. Section 37-8-102(3)(a), defines the practice of professional nursing as follows:

- (a) "Practice of professional nursing" means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health; the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (3)(a):
 - (i) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;
 - (ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

B. Under ARM 8.32.1403(4), the registered nurse shall:

- (4) implement the strategy of care by:
 - (a) initiating nursing interventions through;
 - (i) giving direct care,
 - (ii) assisting with care,
 - (iii) delegating care,
 - (iv) collaboration and/or referral when appropriate.
 - (b) providing an environment conducive to safety and health,
 - (c) documenting nursing interventions and responses to care to other members of the health team;
 - (d) communicating nursing interventions and responses to care to other members of the health team.

C. Under ARM 8.32.1404(3), the registered nurse shall:

(3) obtain instruction and supervision as necessary when implementing nursing techniques or practices.

Summary of Comments

9. Several of the petitioners testified at the hearing. Petitioners explained how a PICC is used, and claimed that the risks in inserting a PICC are low. These individuals stated that they believed that registered nurses should be subject to training prior to becoming involved in inserting PICC's, which should teach cognitive and psychomotor competence. These individuals further stated that they believed that a course of between four and eight hours would be appropriate.

10. Susan Luparell and Billea Rose, both clinical nurse specialists from Great Falls, stated their belief that an eight hour course would not be sufficient to teach a registered nurse how to properly insert a PICC. Ms. Luparell recommended that a course of at least one week in length be required. Ms. Luparell recommended that such course include one to two days of pure theory and didactic instruction, and the rest of the time in an intense preceptorship. Ms. Rose recommended against allowing placement of PICC's in the home, due to the lack of x-ray machines for confirmation of proper placement.

11. The Montana Nurses' Association (MNA), represented by Linda Adkins, stated its support for petitioners' request that placement of PICC's be held to be within the scope of practice of a registered nurse. The MNA noted that RN's with training in other states are doing insertions of PICC's. MNA further noted that insertion of PICC's is becoming an accepted part of RN scope of practice on a national level. The MNA encouraged the Board to approve this function for RN's in Montana, provided that educational criteria be satisfied as deemed appropriate by the Board of Nursing.

Declaratory Ruling

1. The term "professional nursing", as found at section 37-8-101(3)(a), is defined as including the administration . . . of . . . treatments prescribed by physicians, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. The insertion of Peripherally Inserted Central Catheters is a treatment that may be prescribed by a physician. Thus, insertion of Peripherally Inserted Central Catheters is within the scope of practice of a registered professional nurse in the state of Montana, subject to the limitations herein.

2. Under ARM section 8.32.1403(4), a registered nurse is to practice through the use of collaboration and/or referral when appropriate, and is to provide an environment conducive to safety and health. The Board of Nursing interprets this section to require that the insertion of Peripherally Inserted Central Catheters, if done by registered nurses, be limited to primary hospital settings and physicians' offices. The nurse

is to have licensed, trained personnel assist in the insertion. There must be immediate emergency services available, and follow-up placement x-ray to confirm proper placement of PICC's.

3. Under ARM 8.32.1404(3), a registered nurse is to obtain instruction and supervision as necessary when implementing nursing techniques or practices. The Board of Nursing interprets this section to require adequate training of a registered nurse prior to insertion of PICC's. A registered nurse, prior to undertaking insertion of PICC's, must complete training, involving both didactic and preceptored components. the training must afford multiple opportunities for placement of PICC's, opportunities to assess complications and treatments, and opportunities for multiple maintenance of PICC's.

4. A registered nurse, in order to continue with insertion of PICC's, must maintain proficiency through continued education, demonstration, & Quality Assurance monitoring.

DATED this 11th day of August, 1993.

BOARD OF NURSING

BY: Nancy Hoyer, RN, CNA
NANCY HOYER, RN, CNA
PRESIDENT

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	)	AMENDED DECLARATORY
in Montana and the Application of the	)	RULING
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. On July 6, 1993, the Department issued a Declaratory Ruling in this matter. See 14 Mont. Admin. Reg. 1679 (1993). In paragraph 3 of that Declaratory Ruling the Department noted that since D.A. Davidson stated its proposed investment company would invest primarily if not exclusively in federally tax-exempt obligations, the issue of dividends paid deductions addressed in the ruling would be limited to whether the Department would allow a dividends paid deduction with respect to obligations issued by the State of Montana or its political subdivisions.

3. In a letter dated July 16, 1993, D.A. Davidson asked the Department to amend its Declaratory Ruling to address the issue of whether a Montana based regulated investment company ("RIC") would be entitled to a dividends paid deduction concerning "taxable" stocks and bonds. The Department now issues this amended ruling.

4. The facts upon which this amended ruling is made are the same as the facts enumerated in the original ruling.

5. The question of law upon which this amended ruling will be made is whether the proposed RIC would be entitled to a "dividends paid" deduction concerning otherwise "taxable" stocks and bonds when reporting its income under the Montana Corporation License or Income Tax as administered by the Montana Department of Revenue. This question primarily involves the application of §§ 15-31-113 and 15-31-114, MCA, and related provisions of the Internal Revenue Code.

ANALYSIS

The following paragraphs are hereby incorporated in the analysis of the Department's original ruling:

6. In contrast to dividends paid from the income earned on state and local bonds, the Internal Revenue Code specifically provides a dividends paid deduction with respect to dividends paid from the earnings of taxable stocks and bonds. The rationale for this is that shareholders receiving dividends from taxable stocks and bonds are subject to tax on those dividends. An RIC that satisfies the federal requirements (enumerated in § 851, IRC et seq.) relating to distribution of net income and diversification of investments is generally taxed as a pass-through entity that acts as a partial conduit of income to its shareholders. Hervey, 10 T.M., Taxation of Regulated Investment Companies. Thus the income earned on such stocks and bonds does not escape taxation.

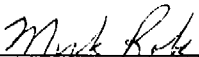
7. Thus, the proposed RIC would be entitled to a dividends paid deduction concerning dividends paid from the earnings of "taxable" stocks and bonds, provided the RIC meets the requirements set forth in the Internal Revenue Code. Section 15-31-114, MCA, incorporates the dividends paid deduction provided by federal tax law. Since § 852, IRC, specifically provides such a deduction for taxable stocks and bonds, the same deduction exists in Montana tax law by reference.

AMENDED DECLARATORY RULING

8. In addition to the Department's original ruling in this matter, it is further ruled that if the proposed regulated investment company meets the requirements set forth in the Internal Revenue Code for regulated investment companies, it would be allowed a dividends paid deduction concerning dividends paid to shareholders from income received on "taxable" stocks and bonds. Montana taxpayers receiving dividends from taxable stocks and bonds would be required to include the dividends in their Montana adjusted gross income.

DATED this 16th day of August, 1993.

MONTANA DEPARTMENT OF REVENUE


MICK ROBINSON
Director

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 16th day of August, 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
3 Third Street North
Great Falls, Montana 59401

William R. Goetz
Attorney at Law
220 South Sixth Street
Minneapolis, Minnesota 55402

David 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 June 30, 1993. This table includes those rules adopted during the period July 1, 1993 through September 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 June 30, 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 1993 Montana Administrative Register.

ADMINISTRATION, Department of, Title 2

- 2.21.908 and other rules - Disability and Maternity Leave - Sick Leave - Parental Leave for State Employees, p. 827, 2372
(Public Employees' Retirement Board)
I-II Establishment and Implementation of Family Law Orders Splitting and Paying Montana Public Retirement Benefits, p. 1580
I-V Retirement Incentive Program Provided by HB 517, p. 742
I-V Emergency Adoption of Rules on the Retirement Incentive Window for Certain PERS Members, p. 933
2.43.418 Accrual and Payment of Interest for Previous Periods of Elected Service, p. 496, 1199
2.43.609 Funding Available for Post-Retirement Adjustments, p. 359, 1200
(Teachers' Retirement Board)
I-II Implementing the Provisions of SB 173 Pertaining to the Establishment and Implementation of Family Law Orders, p. 1584
2.44.201 and other rules - Adopting the Current Model Procedure Rules - Updating the Calculation of Part-Time Service - Clarifying the Retirement Effective Date - Correcting Benefit Amount Quoted - Requiring Copies of Member's Contracts be Submitted When

Applying for Retirement Benefits - Clarifying Investment Earning Available for Post Retirement Adjustments - Implementing Amendments to SB 226 Adopted by the First 1992 Special Legislative Session Relating to the Teachers' Retirement System, p. 492, 1201

(State Compensation Mutual Insurance Fund)

- 2.55.101 and other rules - Organization of the State Fund - Open Meetings - Establishment of Premium Rates, p. 748, 1635
- 2.55.320 and other rule - Method for Assignment of Classifications of Employments - Construction Industry Premium Credit Program, p. 970, 1485
- 2.55.324 and other rules - Establishment of Premium Rates, p. 1, 340

AGRICULTURE, Department of, Title 4

- I-III and other rules - Civil Penalties Relating to Beekeeping in Montana - Designating Regulated Bee Diseases - Clarifying the Apiary Registration Forfeiture Procedure - Restrictions on Apiary Registration, p. 1588
- I-IV and other rules - Importation of Mint Plants and Equipment Into Montana - Field Inspection - Mint Oil Fee, p. 750, 1637
- I-IX and other rules - Civil Penalties - Inspection Fees - Assessment Fees - Produce Grades Relating to the Distribution of Produce in Montana - Verification of Produce Grown in Montana - Commodity Grade and Charges - Control of Apples - Grading of Cherries - Wholesalers and Itinerant Merchants, p. 1163, 1636
- 4.4.316 and other rules - Liability on all Crops - Time Policy Becomes Effective - Cut Off Date, p. 361, 939
- 4.12.3007 and other rules - Civil Penalties Relating to the Distribution of Seed in Montana - Seed License Fees - References to Seed Processing Plants - Seed Buyers and Seed Public Warehouses - Bonding of Seed Buyers and Seed Public Warehouses, p. 972, 1486

STATE AUDITOR, Title 6

- I-IV Prohibiting Unfair Discrimination for Previously Uninsured Personal Automobile Insurance Applicants, p. 2436, 674
- I-LV Administration and Enforcement of Laws Regulating Standards for Companies Considered to be in Hazardous Financial Condition - Annual Audited Reports - Life and Health Reinsurance Agreements - Reports by

- Holding Company Systems - Establishing Accounting Practices and Procedures to be Used in Annual Statements - Credit for Reinsurance, Including Letters of Credit - Standards for Valuation of Insurer Securities and Other Invested Assets, p. 1726 and other rules - Medicare Supplement Insurance, p. 979, 1487
- 6.6.502 (Classification and Rating Committee)
- I-IX Temporary Rules on Matters Subject to Notice and Hearing Before the Classification and Rating Committee, p. 1173, 1638
- I-X Matters Subject to Notice and Hearing Before the Classification and Rating Committee, p. 1781

COMMERCE, Department of, Title 8

- (Board of Alternative Health Care)
- 8.4.301 and other rules - Fees - Licensing by Examination - Direct Entry Midwife Apprenticeship Requirements - Unprofessional Conduct - High Risk Conditions - Consultation on Transfer Conditions - Required Reporting, p. 1055, 1639
- (Board of Athletics)
- 8.8.2801 and other rules - Kickboxing, p. 363, 1109, 1320
- (Board of Chiropractors)
- I and other rule - Interns and Preceptors - Fees - Applications, p. 1592
- (Board of Dentistry)
- 8.16.601 and other rules - Introduction - Dental Auxiliaries - Exams - Licensure by Credentials - Unprofessional Conduct - Qualifying Standards - Dental Auxiliaries - Denturist Interns, p. 2229, 393
- (Board of Hearing Aid Dispensers)
- 8.20.401 and other rules - Traineeship Requirements - Fees - Record Retention - Unethical Conduct - Complaints - Disciplinary Actions - Testing Procedures - Continuing Educational Requirements - Notification - Definitions - Forms of Bills of Sale Contracts and Purchase Agreements - Inactive Status, p. 197, 534
- (Board of Horse Racing)
- 8.22.502 and other rules - Licenses Issued for Conducting Parimutuel Wagering - Daily Double Feature - Requirements of Licensee - Pool Calculations, p. 1595
- 8.22.612 and other rule - Veterinarians: State or Practicing - Trainers, p. 277, 535
- (Board of Landscape Architects)
- 8.24.409 Fee Schedule, p. 325
- (Board of Medical Examiners)
- I Practice of Acupuncture - Unprofessional Conduct, p. 498, 1322

- 8.28.1501 and other rules - Definitions - Utilization Plans - Protocol - Informed Consent - Prohibitions - Supervision - Prescriptions - Allowable Functions - Revocation or Suspension of Approval - Prescribing/Dispensing Authority - Scope of Practice - Termination and Transfer - Training of Physician Assistants, p. 2677, 341, 395
(Board of Funeral Service)
- 8.30.407 and other rules - Fees - Unprofessional Conduct - Crematory Facility Regulation - Casket/Containers - Shipping Cremated Human Remains - Identifying Metal Disc - Processing of Cremated Remains - Crematory Prohibitions, p. 1787
(Board of Nursing)
- 8.32.406 and other rule - Licensure for Foreign Nurses - Prescribing Practices, p. 385, 1202
(Board of Nursing Home Administrators)
- 8.34.414 and other rule - Examinations - Reciprocity Licenses, p. 2686, 264, 396
(Board of Occupational Therapy Practice)
- 8.35.414 Therapeutic Devices, p. 1598
(Board of Optometrists)
- I-III Surgery - Aspects of Surgery Prohibited - Anterior Segment Defined - Optometrist's Role in Post-Operative Care, p. 2625, 398
- 8.36.401 and other rules - Board Meetings - Applications for Examination - Examinations - Reciprocity - General Practice Requirements - Fees - Applicants for Licensure, p. 1447
(Board of Outfitters)
- 8.39.502 Licensure - Outfitter Qualifications, p. 327
8.39.503 Licensure - Outfitter Examination, p. 2688, 343
(Board of Private Security Patrol Officers & Investigators)
- 8.50.428 and other rules - Experience Requirements - Insurance Requirements - Fees, p. 1450
(Board of Psychologists)
- 8.52.604 and other rules - Application Procedures - Examination - Fee Schedule, p. 1792
(Board of Public Accountants)
- 8.54.407 Qualifications for a License as a Licensed Public Accountant, p. 1453
(Board of Radiologic Technologists)
- 8.56.409 and other rules - Examinations - Renewals - Fees - Permits - Permit Fees, p. 1455
(Board of Real Estate Appraisers)
- 8.57.401 and other rule - Definitions - Experience Requirements, p. 501, 1642
(Board of Realty Regulation)
- 8.58.406A and other rules - Applications - Trust Accounts - Continuing Education - Unprofessional Conduct - Property Management, p. 1063, 1909

- (Board of Respiratory Care Practitioners)
8.59.501 and other rules - Applications - Temporary Permits - Renewals - Continuing Education, p. 1458
- (Board of Social Work Examiners and Professional Counselors)
8.61.402 and other rule - Licensure Requirements for Social Workers and Professional Counselors, p. 92, 1325
- (Board of Speech-Language Pathologists and Audiologists)
8.62.502 and other rules - Aide Supervision - Nonallowable Functions of Aides, p. 1795
- (Weights and Measures Bureau)
8.77.102 and other rule - Fees for Testing and Certification - License Fee Schedule for Weighing and Measuring Devices, p. 1077, 1501
- (Milk Control Bureau)
8.79.301 Licensee Assessments, p. 95, 400
- (Financial Division)
8.80.101 and other rules - Banks - Reserve Requirements - Investment in Corporate Stock - Investments of Financial Institutions - Limitations on Loans - Loans to a Managing Officer, Officer, Director or Principal Shareholder - Corporate Credit Unions, p. 1599
- (Board of Milk Control)
8.86.301 Monthly Calculation of the Class I Milk Paid to Producers, p. 1797
8.86.301 Emergency Amendment - Calculating the Class I Milk Paid to Milk Producers, p. 1203
8.86.301 Class I Producer Prices - Inter-Plant Hauling Rates, p. 329
- (Local Government Assistance Division)
8.94.3701 and other rules - 1985 and 1986 Federal Community Development Block Grant Program - Administration of the 1993 Federal Community Development Block Grant Program, p. 205, 536
8.94.4102 Report Filing Fees Paid by Local Government Entities Under the Montana Single Audit Act, p. 755, 1328
- (Board of Investments)
8.97.1301 and other rules - Definitions - Seller/Services Approval Procedures - Loan Loss Reserve Account, p. 1247
- (Business Development Division)
8.99.401 and other rules - Microbusiness Finance Program, p. 1800
- (Board of Housing)
8.111.405 and other rule - Income Limits and Loan Amounts - Cash Advances - Reverse Annuity Mortgage Loan Provisions, p. 503, 1207
- (Montana State Lottery)
8.127.101 Organizational Rule - Retailer Commission - Sales Staff Incentive Plan, p. 2486, 401

EDUCATION, Title 10

(Superintendent of Public Instruction)

- 10.6.101 and other rules - School Controversy Contested Cases Rules of Procedure, p. 2110, 344
- 10.16.901 and other rules - Special Education, p. 757, 1913 (Board of Public Education)
- 10.55.601 Accreditation Standards: Procedures, p. 2690, 682
- 10.56.101 Student Assessment, p. 2693, 683
- 10.57.211 Test for Teacher Certification, p. 1463
- 10.57.404 Teacher Certification - Class 4 Vocational Education, p. 387, 940
- 10.64.301 and other rules - Transportation - Definitions - Bus Chassis - Bus Body - Special Education Vehicle - LP Gas Motor Fuel Installation - General - Application - Special Equipment, p. 207, 684

(State Library Commission)

- 10.101.101 Organization of the State Library Agency, p. 1461

FAMILY SERVICES, Department of, Title 11

- I Qualifications of Respite Care Providers, p. 1251
- 11.7.313 Foster Care Payments, p. 589, 1208
- 11.7.601 and other rules - Youth Care Facilities - Foster Care Support Services, p. 1086, 1505
- 11.12.101 and other rules - Youth Care Facilities, p. 1079, 1506
- 11.12.101 Definition of Youth, p. 591, 1209
- 11.12.101 and other rules - Maternity Homes Licensed as Youth Care Facilities, p. 102, 403
- 11.12.401 Administration of Youth Group Homes, p. 812
- 11.14.102 and other rules - Family and Group Day Care Homes Providing Care Only to Infants - Day Care Facility Registration for Certain In-Home Providers for the Purpose of Receiving State Payment, p. 97, 941
- 11.14.103 and other rules - Day Care Facility Licensing and Registration Requirements, p. 333, 1210
- 11.14.605 State Payment for Day Care Services, p. 279, 541
- 11.18.125 and other rule - Community Homes for Persons with Developmental Disabilities - Community Homes for Persons who are Severely Disabled, p. 2630, 149

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

- 12.3.402 License Refunds, p. 105, 951, 1330
- 12.5.301 Yellow Perch as Nongame Species in Need of Management, p. 389, 953

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

- I-III Health Care Facility Licensing - Licensure Standards for Residential Treatment Facilities, p. 1809

16-8/26/93

Montana Administrative Register

- I-VI Establishing Procedures for Local Water Quality District Program Approval - Procedures for Granting Enforcement Authority to Local Water Quality Districts, p. 2445, 543
- I-XXV Air Quality Bureau - Operating Permits for Certain Stationary Sources of Air Pollution, p. 1817
- I-XXXIV and other rules - Air Quality - Air Quality Permitting - Prevention of Significant Deterioration - Permitting in Nonattainment Areas - Source Testing - Protocol and Procedure - Wood Waste Burners, p. 1264
- 16.8.1903 and other rule - Air Quality - Air Quality Operation and Permit Fees, p. 1807
- 16.14.406 Solid and Hazardous Waste - Disposal Fees for Solid Waste, p. 1318, 1931
- 16.14.501 and other rules - Solid Waste Management, p. 814, 1645
- 16.16.803 Subdivisions - Subdivision Review Fees for RV Parks and Campgrounds, p. 283, 542
- 16.24.104 Children's Special Health Services - Eligibility Requirements for the Children's Special Health Services Program, p. 1262, 1933
- 16.28.701 and other rules - School Immunization Requirements, p. 505, 1214
- 16.32.302 Licensing and Certification - Updating References to National Construction Codes, p. 1178, 1658
- 16.38.301 and other rules - Public Health Lab and Chemistry Lab - Addressing Laboratory Fees for Food, Consumer Safety and Occupational Health Analysis, p. 1812
- 16.42.302 and other rules - Occupational and Radiological Health - Asbestos Abatement Requirements - Permit - Accreditation - Course Fees - Remedies for Violations, p. 215, 549
- 16.44.106 and other rules - Solid and Hazardous Waste - Regulation of Hazardous Waste Facilities and Generators - Identification of Hazardous Waste, p. 232, 555
- 16.44.125 and other rules - Hazardous Waste - Facility Permit Fees - Hazardous Waste Management - Attorney's Fees in Court Action Concerning Release of Records, p. 1254
- 16.44.202 and other rule - Hazardous Waste - Underground Injection Wells, p. 1608

CORRECTIONS AND HUMAN SERVICES, Department of, Title 20

- 20.3.413 and other rules - Certification System for Chemical Dependency Personnel, p. 2633, 151
- (Board of Pardons)
- 20.25.101 and other rules - Revision of the Rules of the Board of Pardons, p. 2639, 297

JUSTICE, Department of, Title 23

- I Issuance of Seasonal Commercial Driver's License, p. 1610
- I Affidavit Form for an Indigence Financial Statement, p. 1465
- I-II Montana Peace Officer Standards and Training - Public Safety Communications Officers, p. 519, 1513
- I-II Probation and Parole Officer Certification, p. 521, 1514
- I-VI and other rules - Rules of the Fire Prevention and Investigation Bureau Describing the Revision of Licensure Requirements for Persons Selling, Installing or Servicing Fire Protection Equipment - Other Provisions Dealing with Fire Safety, p. 1855
- 23.5.101 State Adoption of Federal Hazardous Materials Regulations, p. 1469
- 23.12.101 and other rules - Department of Justice Standardization of Criminal History Information Collection - Implementation of an Arrest Numbering System, p. 2246, 556
- 23.14.404 Peace Officers Standards and Training, p. 2450, 559

LABOR AND INDUSTRY, Department of, Title 24

- 24.9.314 and other rule - Document Format, Filing and Service - Exceptions to Proposed Orders, p. 2695, 298, 560
- 24.16.9007 Prevailing Wage Rates - Service Occupations, p. 391, 1331
- 24.29.702G and other rule - Groups of Employers that Self-Insure for Workers' Compensation Purposes, p. 1613
- 24.29.1402 Liability for Workers for Medical Expenses for Workers' Compensation Purposes - Payment of Medical Claims, p. 1870
- 24.29.1403 and other rules - Medical Services for Workers' Compensation - Selection of Physician - Physicians Reports - Relative Value Fee Schedule - Treatment and Reporting, p. 107, 404
- 24.29.1409 Travel Expense Reimbursements for Workers' Compensation Purposes, p. 1872
- 24.29.1416 Applicability of Rules and Statutes in Workers' Compensation Matters - Applicability of Date of Injury, Date of Service, p. 1876
- 24.29.1504 and other rules - Selection of Treating Physician for Workers' Compensation Purposes, p. 1878
- 24.29.1531 and other rules - Chiropractic Services and Fees in Workers' Compensation Matters, p. 1089, 1659

STATE LANDS, Department of, Title 26

- I Assessment of Fire Protection Fees for Private Lands Under Direct State Fire Protection, p. 1881

16-8/26/93

Montana Administrative Register

- 26.3.180 and other rules - Recreational Use of State Lands -
Posting of State Lands to Prevent Trespass, p. 1471

LIVESTOCK, Department of, Title 32

- 32.2.401 Fees for Slaughterhouse, Meat Packing House or Meat
Depot License, p. 1180

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- I Reject, Modify or Condition Permit Applications in
the Sharrott Creek Basin, p. 1101, 1515
I-VII Requiring Measuring Devices on Watercourses
Identified as Chronically Dewatered, p. 2454, 561,
1668
36.12.101 and other rules - Definitions - Application and
Special Fees - Issuance of Interim Permits - Testing
and Monitoring, p. 593, 1335A

PUBLIC SERVICE REGULATION, Department of, Title 38

- I-II Electric Utility Line Maintenance - Electric Utility
Nominal Voltage and Variance Range, p. 523, 1672
38.5.102 and other rules - Minimum Filing Requirements -
Procedures for Class Cost of Service - Rate Design,
p. 596, 1669
38.5.2601 and other rules - Telecommunications Services and
General Utility Tariff - Price List Filing
Requirements, p. 2699, 1336
38.5.3345 Change in Customer's Interexchange Carrier -
Deferring of Implementation Until September 1, 1993,
p. 285

REVENUE, Department of, Title 42

- I Tax Information Provided to the Department of
Revenue, p. 1192
42.2.602 and other rules - Taxpayer Appeal Rules, p. 247, 570
42.11.211 and other rules - Liquor Division, p. 2492, 158, 434
42.11.301 Opening a New Liquor Store, p. 1475
42.15.101 and other rules - Change of Domicile, p. 244, 571
42.15.121 and other rule - Taxation of Indian Income, p. 2719,
242, 1674
42.17.105 Computation of Withholding, p. 525, 1111
42.18.105 and other rules - Property Reappraisal for Taxable
Property in Montana, p. 1182
42.22.101 and other rules - Centrally Assessed Companies,
p. 131, 435
42.26.101 and other rules - Corporation License Tax Multistate
Activities, p. 250, 572

SECRETARY OF STATE, Title 44

- I and other rule - Fees for Limited Liability Companies - Fees Charged for Priority Handling of Documents, p. 1885.
- I-IV Commissioning of Notary Publics, p. 1883

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

- I Specified Low Income Medicare Beneficiaries, p. 1103, 1542
- I Statistical Sampling Audits, p. 2272, 441
- I-VIII and other rules - Individual Habilitation Plans, p. 881, 1353
- 46.8.1203 and other rules - Developmental Disabilities Aversive Procedures, p. 890, 1356
- 46.10.318 and other rule - Emergency Assistance to Needy Families with Dependent Children, p. 1479
- 46.10.403 AFDC Assistance Standards, p. 908, 1360
- 46.10.406 AFDC Resources, p. 135, 345
- 46.10.505 and other rule - Specially Treated Income for AFDC, p. 918, 1517
- 46.10.807 and other rules - AFDC JOBS Program, p. 638, 1361
- 46.12.503 and other rules - Medicaid Reimbursement for Inpatient and Outpatient Hospital Services, p. 607, 1520
- 46.12.516 Medicaid Coverage of Intermediate Level Therapeutic Youth Group Home Treatment, p. 1106, 1540
- 46.12.555 and other rules - Medicaid Personal Care Services, p. 922, 1363
- 46.12.583 and other rule - Organ Transplantation, p. 604, 1367
- 46.12.590 and other rules - Inpatient Psychiatric Services, p. 646, 1369
- 46.12.602 and other rule - Medicaid Dental Services, p. 1888
- 46.12.806 Durable Medical Equipment - Oxygen, p. 531, 1112
- 46.12.1222 and other rules - Medicaid Nursing Facility Reimbursement, p. 662, 1385
- 46.12.1226 and other rule - Nursing Facility Reimbursement, p. 8, 685
- 46.12.1928 Targeted Case Management for Adults, p. 920, 1397
- 46.12.1930 and other rules - Targeted Case Management for Adults with Severe and Disabling Mental Illness and Youth with Severe Emotional Disturbance, p. 1901
- 46.12.3002 Medically Needy, p. 913, 1398
- 46.12.4002 and other rules - AFDC-Related Institutionalized Individuals, p. 905, 1399
- 46.13.203 and other rules - Low Income Energy Assistance Program (LIEAP), p. 1618
- 46.13.301 and other rules - Low Income Energy and Weatherization Assistance Programs, p. 527, 1113
- 46.25.101 and other rules - General Relief Assistance and General Relief Medical, p. 1195, 1678
- 46.25.725 Income for General Relief Assistance, p. 139, 346

16-8/26/93

Montana Administrative Register

BOARD APPOINTEES AND VACANCIES

House Bill 424, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of HB 424 was that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments made in July, 1993, are published. Vacancies scheduled to appear from September 1, 1993, through November 30, 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 August 5, 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: JULY, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Aging Advisory Council (Governor)			
Ms. Dorothea C. Neath	Governor	reappointed	7/18/1993
Helena			7/18/1996
Qualifications (if required):	member from Region IV		
Ms. Pauline Nikolaisen	Governor	reappointed	7/18/1993
Kalispell			7/18/1996
Qualifications (if required):	member from Region IV		
Ms. Mary Alice Rehbein	Governor	reappointed	7/18/1993
Lambert			7/18/1996
Qualifications (if required):	member from Region I		
Ms. Vi Thomson	Governor	reappointed	7/18/1993
Missoula			7/18/1996
Qualifications (if required):	member from Region XI		
Agricultural Development Council (Agriculture)			
Ms. Julie Burke	Governor	reappointed	7/1/1993
Glasgow			7/1/1996
Qualifications (if required):	active in agriculture		
Mr. Everett Snortland	Governor	Morse, Jr.	7/1/1993
Conrad			7/1/1996
Qualifications (if required):	active in agriculture		
Mr. John Swanz	Governor	reappointed	7/1/1993
Judith Gap			7/1/1996
Qualifications (if required):	active in agriculture		

BOARD AND COUNCIL APPOINTEES: JULY, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Alfalfa Leaf-cutting Bee Committee (Agriculture)			
Mr. Tim Wetstein	Governor	reappointed	7/1/1993
Joliet			7/1/1996
Qualifications (if required): member of Montana Alfalfa Seed Association			
Board of Clinical Laboratory Science Practitioners (Commerce)			
Ms. Sonja Bennett	Governor	new position	7/6/1993
Billings			4/16/1997
Qualifications (if required): clinical laboratory science practitioner			
Ms. Loraine Kay Crull	Governor	new position	7/6/1993
Missoula			4/16/1997
Qualifications (if required): clinical laboratory science practitioner			
Ms. Eileen Flynn	Governor	new position	7/6/1993
Townsend			4/16/1997
Qualifications (if required): public member			
Dr. John Pullman	Governor	new position	7/6/1993
Butte			4/16/1997
Qualifications (if required): physician who directs high complexity laboratory			
Ms. JoAnn Schneider	Governor	new position	7/6/1993
Clancy			4/16/1997
Qualifications (if required): clinical laboratory science practitioner			
Board of Livestock (Livestock)			
Mr. Duane Braaten	Governor	Herzog	7/6/1993
Kalispell			3/1/1999
Qualifications (if required): swine producer			

BOARD AND COUNCIL APPOINTEES: JULY, 1993

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Oil and Gas Conservation (Natural Resources and Conservation)			
Mr. Denizil R. Young	Governor	Nelson	7/8/1993
Baker			1/1/1995
Qualifications (if required):	atty living in mineral producing county, doesn't own rights		
Board of Public Education (Education)			
Ms. Barbara Keim	Governor	Thomas	7/8/1993
Billings			2/1/2000
Qualifications (if required):	resides in District IV		
Board of Regents (Education)			
Ms. L. Colleen Conroy	Governor	Mathers	7/6/1993
Hardin			2/1/1994
Qualifications (if required):	Republican residing in the Eastern District		
Committee on Telecommunication Services for the Handicapped (Social and Rehabilitation Services)			
Mr. Scott H. Almdale	Governor	Poster	7/1/1993
Kalispell			7/1/1996
Qualifications (if required):	handicapped member		
Mr. Ron Bibler	Governor	McDowell	7/1/1993
Great Falls			7/1/1995
Qualifications (if required):	handicapped member		
Ms. Joan Mandeville	Governor	reappointed	7/1/1993
Helena			7/1/1996
Qualifications (if required):	represents Montana's Independent Local Phone Exchange Co.		
Ms. Rebecca Plagemeyer	Governor	reappointed	7/1/1993
Helena			7/1/1996
Qualifications (if required):	member of InterLATA interchange carriers		

BOARD AND COUNCIL APPOINTEES: JULY, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Committee on Telecommunication Services for the Handicapped (Social and Rehabilitation Services) cont.			
Mr. Edward G. VanTighem	Governor	reappointed	7/1/1993
Great Falls			7/1/1996
Qualifications (if required):	handicapped member		
Developmental Disabilities Planning and Advisory Council (Social and Rehabilitation Services)			
Dr. Tom Seekins	Governor	Offner	7/30/1993
Missoula			1/1/1996
Qualifications (if required):	representative of the university program		
Health Care Authority Board (Health and Environmental Sciences)			
Rep. Dorothy Bradley	Governor	not listed	7/31/1993
Bozeman			0/0/0
Qualifications (if required):	none specified		
Dr. Amos R. Little, Jr.			
Helena	Governor	reappointed	7/29/1993
Qualifications (if required):	public member		
Mr. Lloyd Lockrem, Jr.			
Billings	Governor	not listed	7/31/1993
Qualifications (if required):	none specified		
Mr. John T. Molloy			
Great Falls	Governor	not listed	7/31/1993
Qualifications (if required):	none specified		
Ms. Marget (Maggie) Newman			
Ronan	Governor	not listed	7/31/1993
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES: JULY, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Health Care Authority Board	(Health and Environmental Sciences)	cont.	
Mr. Donald J. Rush	Governor	not listed	7/31/1993
Sidney			0/0/0
Qualifications (if required):	none specified		
Historical Society Board of Trustees	(Education)		
Dr. Thomas A. Foor	Governor	Conner	7/1/1993
Missoula			7/1/1998
Qualifications (if required):	Anthropologist/Archeologist member		
Ms. Anne Hibbard	Governor	Hibbard	7/1/1993
Helena			7/1/1996
Qualifications (if required):	public member		
Mr. William M. Holt	Governor	reappointed	7/1/1993
Lolo			7/1/1998
Qualifications (if required):	public member		
Ms. Vicki A. McCarthy	Governor	Hornby	7/1/1993
Billings			7/1/1998
Qualifications (if required):	public member		
Judicial Standards Commission	(Justice)		
Judge John Warner	Chief Justice	Sullivan	7/1/1993
Havre			6/30/1997
Qualifications (if required):	none specified		
Montana Mint Committee	(Agriculture)		
Mr. Brian Schweitzer	Governor	reappointed	7/1/1993
Whitefish			7/1/1996
Qualifications (if required):	active mint grower		

BOARD AND COUNCIL APPOINTEES: JULY, 1993

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Motorcycle Safety Advisory Committee (Office of Public Instruction)			
Mr. Robert E. Brown	Superintendent	reappointed	7/1/1993
Glasgow			7/1/1995
Qualifications (if required):	certified motorcycle safety instructor		
Ms. Anita Drews	Attorney General	not listed	7/1/1993
East Helena			7/1/1997
Qualifications (if required):	none specified		
Mr. Timothy W. Lindeborg	Governor	Wherley	7/1/1993
Bonner			7/1/1997
Qualifications (if required):	represents motorcycle group		
Mr. Guy Ronald Smith	Director	reappointed	7/1/1993
Sunburst			7/1/1997
Qualifications (if required):	certified motorcycle safety instructor		
Noxious Weed Advisory Council (Agriculture)			
Mr. Barry Bowles	Director	not listed	7/1/1993
Townsend			6/30/1995
Qualifications (if required):	Herbicide Dealer & Applicator		
Mr. Dane Castleberry	Director	not listed	7/1/1993
Ekalaka			6/30/1995
Qualifications (if required):	Livestock Production		
Ms. Linda Ellison	Director	not listed	7/1/1993
Bozeman			6/30/1995
Qualifications (if required):	Sportsman/Wildlife Group		
Mr. Leo Giacometto	Director	not listed	7/1/1993
Helena			6/30/1995
Qualifications (if required):	council chairman		

BOARD AND COUNCIL APPOINTEES: JULY, 1993

Appointee	Appointed by	Succeeds	Appointment/End Date
Noxious Weed Advisory Council			
Mr. Charles M. Jarecki	(Agriculture) cont.	not listed	7/1/1993
Polson			7/1/1995
Qualifications (if required):	member at large		
Mr. Douglas Johnson	Director	not listed	7/1/1993
Great Falls			6/30/1995
Qualifications (if required):	Montana Weed Control Association		
Ms. Mercy Knowlton	Director	not listed	7/1/1993
Poplar			6/30/1995
Qualifications (if required):	Agriculture Crop Production		
Mr. Lonnie McCurdie	Director	not listed	7/1/1993
Conrad			6/30/1995
Qualifications (if required):	Consumer Group		
Rep. Bob Thoft	Director	not listed	7/1/1993
Stevensville			6/30/1995
Qualifications (if required):	Biological Research & Control		
Tourism Advisory Council (Commerce)			
Ms. Thelma M. Baker	Governor	Krott	7/1/1993
Missoula			7/1/1996
Qualifications (if required):	public member		
Mr. Arnold D. "Smoke" Elser	Governor	reappointed	7/1/1993
Missoula			7/1/1996
Qualifications (if required):	public member		
Ms. Peggy Guthrie	Governor	Hoovestol	7/1/1993
Choteau			7/1/1996
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES: JULY, 1993

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Tourism Advisory Council			
Mr. Larry McRae	(Commerce) cont.		7/1/1993
Kalispell	Governor	reappointed	7/1/1996
Qualifications (if required):	public member		
Ms. Lisa Reid Perry	Governor	Elliot	7/1/1993
Shepherd			7/1/1995
Qualifications (if required):	public member		
Western Interstate Commission on Education			
(Education)			
Ms. Emily Swanson	Governor	Nathe	7/8/1993
Bozeman			6/19/1994
Qualifications (if required):	public member		

16-8/26/93

Montana Administrative Register

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

Board/current position holder	Appointed by	Term end
Air Pollution Control Advisory Council (Health and Environmental Sciences)	Governor	11/8/1993
Mr. Ronald E. Burnam, Billings Qualifications (if required): practicing physician	Governor	11/8/1993
Mr. Clifford Cox, Winston Qualifications (if required): agricultural representative	Governor	11/8/1993
Mr. Ed Handl, Butte Qualifications (if required): chemical engineer	Governor	11/8/1993
Mr. Rodney A. James, Butte Qualifications (if required): practicing registered professional chemical or environmental engineer	Governor	11/8/1993
Mr. Terry Konkright, Superior Qualifications (if required): manufacturing industry	Governor	11/8/1993
Mr. Stephen L'Heureux, Great Falls Qualifications (if required): urban planning consultant	Governor	11/8/1993
Mr. Joe Nelson, Walkerville Qualifications (if required): labor representative	Governor	11/8/1993
Mr. Martin Perga, Laurel Qualifications (if required): representative of fuel industry	Governor	11/8/1993
Dr. Earl Pruyn, Missoula Qualifications (if required): practicing veterinarian	Governor	11/8/1993
Mr. Paul Sawyer, Butte Qualifications (if required): conservationist	Governor	11/8/1993

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
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
Mrs. Lillian La Croix, Missoula Qualifications (if required): public member	Governor	9/1/1993

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Outfitters (Commerce)		
Mr. George Kelly, Hardin	Governor	10/1/1993
Qualifications (if required): licensed outfitter from District V		
Mr. Jerry Wells, Helena	Governor	10/1/1993
Qualifications (if required): member from Fish, Wildlife and Parks		
Mr. Clair A. Willits, Jr., Great Falls	Governor	10/1/1993
Qualifications (if required): public member		
Board of Psychologists (Commerce)	Governor	9/1/1993
Ms. Alice Omang, Helena		
Qualifications (if required): public member		
Dr. David Schuldborg, Missoula	Governor	9/1/1993
Qualifications (if required): licensed psychologist engaged in teaching psychology		
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 -- September 1, 1993 through November 30, 1993	Board/current position holder	Appointed by	Term end
Data Processing Advisory Council (Administration) cont.			
Mr. Terry Johnson, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. C. John Kinna, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Bob Marks, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Mike Micone, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Richard Miller, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Douglas M. Mitchell, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Jesse Munro, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. William J. Opitz, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Jim Oppedahl, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Robert Person, Helena	Director		10/15/1993
Qualifications (if required): none specified			
Mr. Andrew Poole, Helena	Director		10/15/1993
Qualifications (if required): none specified			

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

Board/current position holder	Appointed by	Term end
Data Processing Advisory Council (Administration) cont.		
Rep. Joe Quilici, Butte	Director	10/15/1993
Qualifications (if required): none specified		
Mr. Dennis Sheehy, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Mr. David Toppen, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Mr. Wayne Wetzel, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Mr. Steve Yeakel, Helena	Director	10/15/1993
Qualifications (if required): none specified		
Election Advisory Council (Secretary of State)		
Ms. Karen Amende, Broadus	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Rep. Verner L. Bertelson, Ovando	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Wendy Cromwell, Missoula	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Ms. Coral Cummings, Libby	Secretary of State	10/1/1993
Qualifications (if required): none specified		
Mr. Bill Driscoll, Butte	Secretary of State	10/1/1993
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Election Advisory Council (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		
Flathead Basin Commission (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. Elna Darrow, Big Fork	Governor	10/1/1993
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Flathead Basin Commission (Governor) cont. Mr. Al Elser, Kalispell Qualifications (if required): Ex-officio member/represent Fish, Wildlife & Parks	Governor	10/1/1993
Mr. Larry Wilson, Columbia Falls Qualifications (if required): public member	Governor	10/1/1993
Historic Preservation Review Board (Education) Dr. Thomas A. Foor, Missoula Qualifications (if required): archaeologist	Governor	10/1/1993
Job Training Coordinating Advisory Council (Labor and Industry) Ms. M. Colleen Allison, Columbia Falls Qualifications (if required): none specified	Governor	9/26/1993
Mr. Duane L. Ankney, Colstrip Qualifications (if required): none specified	Governor	9/26/1993
Mr. Forrest "Buck" Boles, Helena Qualifications (if required): none specified	Governor	9/26/1993
Ms. Barbara Campbell, Deer Lodge Qualifications (if required): none specified	Governor	9/26/1993
Mr. Tom Dahl, Havre Qualifications (if required): none specified	Governor	9/26/1993
Ms. Helen Kellicut, Deer Lodge Qualifications (if required): none specified	Governor	9/26/1993
Mr. Marvin McMichael, Missoula Qualifications (if required): none specified	Governor	9/26/1993

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 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 Belgum, 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 -- September 1, 1993 through November 30, 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. Hyyppa, 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 Schmoeyer-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

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

Board/current position holder	Appointed by	Term end
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
Sen. Dorothy Eck, Bozeman Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 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	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Charlotte Kilroy, Butte	Director	10/26/1993
Qualifications (if required): none specified		
Mr. Mike Mahoney, Deer Lodge	Director	10/26/1993
Qualifications (if required): none specified		
Rep. William T. "Red" Menahan, Anaconda	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Rosemary G. Rawls, Butte	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Terri Stanisich, Dillon	Director	10/26/1993
Qualifications (if required): none specified		
Local Youth Services, Glasgow (Family Services)		
Mr. Arthur Arnold, Hinsdale	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Mary Lou Broadbrooks, Malta	Director	10/26/1993
Qualifications (if required): none specified		
Mr. Tom McAnally, Wolf Point	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Harriet McCoy, Plentywood	Director	10/26/1993
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 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 Eissingner, 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 -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Glendive (Family Services) cont. 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
Rep. 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 -- September 1, 1993 through November 30, 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	cont. Director	10/26/1993
Mr. Wally Jewell, Helena Qualifications (if required): none specified	Director	10/26/1993
Rep. Jim Rice, 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 (Family Services) Ms. Pat DeLong, Thompson Falls Qualifications (if required): none specified	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
Rep. Tom Lee, Bigfork Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

Board/current position holder	Appointed by	Term end
Local Youth Services, Kalispell (Family Services) cont. Mr. Melvin R. Mohler, Swan Lake Qualifications (if required): none specified	Director	10/26/1993
Local Youth Services, Miles City (Family Services) Mr. Ernie Big Horn, Miles City Qualifications (if required): none specified	Director	10/26/1993
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 Qualifications (if required): none specified	Director	10/26/1993
Mr. Jon Ellingson, Missoula Qualifications (if required): none specified	Director	10/26/1993

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Local Youth Services, Missoula (Family Services) cont.		
Ms. Mary Ann Moon, Missoula	Director	10/26/1993
Qualifications (if required): none specified		
Rep. Harry "Spook" Stang, St. Regis	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Mary Taylor, Missoula	Director	10/26/1993
Qualifications (if required): none specified		
Ms. Judy Wing, Missoula	Director	10/26/1993
Qualifications (if required): none specified		
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		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1993 through November 30, 1993

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Group Benefits Advisory Council		
Mr. Dave Evenson, Helena	(Administration) cont.	9/1/1993
Qualifications (if required): none specified	Director	
Ms. Debbie Gebase, Boulder		
Qualifications (if required): none specified	Director	9/1/1993
Mr. Ken Givens, Helena		
Qualifications (if required): none specified	Director	9/1/1993
Ms. Sheila Hogan, Butte		
Qualifications (if required): none specified	Director	9/1/1993
Mr. Tom McCarthy, Warm Springs		
Qualifications (if required): none specified	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	(Health and Environmental Sciences)	10/16/1993
Qualifications (if required): none specified	Governor	