

RESERVE  
KFM  
9035  
1973  
.A245a

**RESERVE**  
**LIVES NOT**  
**CIRCULATE**  
**MONTANA**  
**ADMINISTRATIVE**  
**REGISTER**

**STATE LAW LIBRARY**  
**NOV 28 1994**  
**OF MONTANA**

ISSUE NO. 22  
NOVEMBER 23, 1994  
PAGES 2998-3056



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Page Number

TABLE OF CONTENTS

NOTICE SECTION

COMMERCE, Department of, Title 8

8-4-7 (Board of Alternative Health Care) Notice of Public Hearing on Proposed Amendment and Adoption - Required Reports - VBAC Deliveries - Management of Infectious Waste. 2998-3000

8-52-15 (Board of Psychologists) Notice of Proposed Amendment - Required Supervised Experience - Fee Schedule. No Public Hearing Contemplated. 3001-3003

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

12-2-213 (Fish, Wildlife, and Parks Commission) Notice of Proposed Adoption and Amendment - Fishing Contests. No Public Hearing Contemplated. 3004-3006

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36-12-17 Notice of Public Hearing on Proposed Adoption - Reject, Modify or Condition Permit Applications in the Truman Creek Basin. 3007-3008

RULE SECTION

SECRETARY OF STATE, General Provisions, Title 1

AMD Filing, Compiling, Printer Pickup and Publication of the Montana Administrative Register. 3009

Page Number

COMMERCE, Department of, Title 8

(Hard-Rock Mining Impact Board) Corrected  
Notice of Amendment - Administration of the  
Hard-Rock Mining Impact Act. 3010

FAMILY SERVICES, Department of, Title 11

Corrected Notice of Adoption - Youth Care  
Facilities. 3011-3012

Corrected Notice of Amendment, Repeal and  
Adoption - Medical Necessity Requirements  
of Therapeutic Youth Group Homes. 3013-3014

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

REP Informed Consent for Administration of  
Vaccines. 3015

LABOR AND INDUSTRY, Department of, Title 24

NEW Implementation of Safety Committees. 3016-3020

INTERPRETATION SECTION

Opinions of the Attorney General.

29 County Commissioners - Suspension of  
Property Tax Limitations by Rural Fire  
District - Tax Levy in Excess of Property  
Tax Limitations - Elections - Suspension of  
Property Tax Limitations in Taxing Unit,  
Procedure - Fire Districts - Suspension of  
Property Tax Limitations, Procedure -  
Taxation and Revenue - Determination of  
Financial Emergency for Suspension of  
Property Tax Limitations, Procedure. 3021-3024

SPECIAL NOTICE AND TABLE SECTION

Functions of the Administrative Code Committee. 3025  
How to Use ARM and MAR. 3026  
Accumulative Table. 3027-3038  
Board and Council Appointees. 3039-3043  
Vacancies on Boards and Councils. 3044-3056

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

In the matter of the proposed ) NOTICE OF PUBLIC HEARING ON  
amendment of a rule pertaining ) THE PROPOSED AMENDMENT OF  
to required reports and the ) 8.4.507 REQUIRED REPORTS,  
proposed adoption of new rules ) AND THE PROPOSED ADOPTION OF  
pertaining to VBAC deliveries ) NEW RULES PERTAINING TO VBAC  
and management of infectious ) DELIVERIES AND MANAGEMENT OF  
waste ) INFECTIOUS WASTE

TO: All Interested Persons:

1. On December 21, 1994, at 9:00 a.m., a public hearing will be held in the conference room of the Professional and Occupational Licensing Bureau, 111 North Jackson, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

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

"8.4.507 REQUIRED REPORTS (1) through (2)(b) will remain the same.

(3) Direct entry midwives who regularly use the services of non-licensed birth assistants (other than licensed apprentices or birth family members), shall file with the board a comprehensive list of duties which shall clearly indicate the duties undertaken by the birth assistant. The duties shall not include advising, attending or assisting of a woman as per the definition of the practice of direct entry midwifery found at 37-27-103, MCA. The list of duties shall be signed by both the direct entry midwife and the birth assistant, and shall be filed with the board before commencement of duties by the birth assistant."

Auth: Sec. 37-27-105, MCA; IMP: Sec. 37-27-103, 37-27-320, MCA

REASON: The proposed amendment will clarify the use of birth assistants as being confined to those duties which are not advising, attending or assisting a woman, which the statute requires be done by a licensee. The proposed amendment will require reporting of duties outside this definition so the board may monitor use of these unlicensed assistants.

3. The proposed new rules will read as follows:

"I VAGINAL BIRTH AFTER CESAREAN (VBAC) DELIVERIES

(1) A licensed direct entry midwife shall not assume primary responsibility for prenatal care and/or birth attendance for women who have had a previous cesarean section, unless ALL of the following conditions are met:

(a) An informed consent statement, on a form prescribed by the board, shall be signed by all prospective VBAC parents

and the licensee, and retained in the licensee's records. The form shall include:

- (i) educational recommendations;
  - (ii) associated risks and benefits of VBAC at home;
  - (iii) a workable hospital transport plan;
  - (iv) alternatives to VBAC at home;
  - (v) other information as required by the board.
- (b) A workable hospital transport plan must be established for home VBAC. The plan shall include:
- (i) provision for physician back-up, e.g., through the hospital policy on back-up;
  - (ii) place of birth within 30 minutes of transport to the nearest hospital able to perform a cesarean;
  - (iii) readily available phone numbers for physician back-up and nearest hospital, in writing, in client's records;
  - (iv) phone contact with nearest hospital prior to any transport to notify that transport is in progress.
- (c) Licensee shall obtain prior doctor/hospital cesarean records, in writing, prior to acceptance of the woman as a client, and shall analyze the indication for the previous cesarean, and retain the records and a written assessment of the physical and emotional considerations in licensee's files. Records which show a previous classical uterine incision are a contraindication to VBAC at home, and shall require immediate transfer of care of the client. If a licensee is unable to obtain written records, the licensee shall not accept the woman as a client.
- (d) VBAC deliveries shall be performed by a fully licensed midwife (not an apprentice licensee), skilled with VBAC support, able to assess true complications and emergencies, to be present from the onset of active labor, throughout the immediate postpartum period."

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

**REASON:** The proposed new rule will establish standards for evaluation and care of women who have had a previous cesarean birth, but wish to have a VBAC at home with a licensed direct entry midwife in attendance. VBAC birth at home is a controversial subject, with varying statistics on safety, and will therefore be considered high risk insofar as evaluation and strict guidelines for available physician and hospital back-up, but will not require transfer of care to a physician in every case.

**"II MANAGEMENT OF INFECTIOUS WASTE** (1) Each naturopathic physician and direct entry midwife licensed by the board shall store, transport off the premises, and dispose of infectious waste, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labelled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the occupational safety and health administration (OSHA) regulations contained in 29 C.F.R 1910.1030 (1993), which are hereby incorporated by reference. Copies of the federal regulations referenced above are available for public inspection in the office of the Board of

Alternative Health Care, Arcade Building, 111 North Jackson, Helena, Montana, 59620-0407."

Auth: Sec. 37-26-201, 37-27-105, 75-10-1006, MCA; IMP, Sec. 75-10-1006, MCA

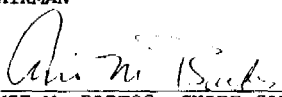
**REASON:** The proposed new rule will set forth the requirements for management of infectious wastes, as mandated by 75-10-1006, MCA, for all licensing boards that license a profession that generates infectious waste, which include naturopathic physicians, and direct entry midwives.

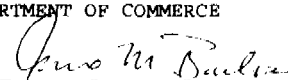
4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Alternative Health Care, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana, 59620-0513, to be received no later than 5:00 p.m., December 21, 1994.

5. Carol Grell, attorney, has been designated to preside over and conduct the hearing.

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

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, November 14, 1994.

BEFORE THE BOARD OF PSYCHOLOGISTS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining	)	OF 8.52.606 REQUIRED SUPER-
to required supervised	)	ISED EXPERIENCE AND
experience and fees	)	8.52.616 FEE SCHEDULE

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On December 23, 1994, the Board of Psychologists proposes to amend the above-stated rules.

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

"8.52.606 REQUIRED SUPERVISED EXPERIENCE (1) will remain the same.

(2) The work described in (1) above should have been done throughout the year under the face-to-face (personal) supervision of a licensed psychologist with training and experience equivalent to that required by the state of Montana for licensing, who is experienced and competent in the skills and knowledge in which the applicant is engaged. Such supervision should have been conducted according to standards at least equivalent to those described in these rules, that the supervision be for at least a minimum of one hour per week throughout the year of experience. Teleconferencing, which allows visual and oral contact via technology, may be allowed upon written request and prior board approval, when unusual circumstances so require.

(3) through (4) will remain the same.

(5) ~~Independent~~ Individual private practice shall not be considered as acceptable professional experience for purposes of the experience requirement. ~~The post-doctoral~~

(6) An acceptable post-doctoral training setting shall have two other licensed mental health professionals participating in training, as approved by the board, in addition to the licensed psychologist supervisor, or more psychologists on staff, both of whom hold current psychologist licenses in this state, or the state in which the training program exists, and ~~The supervisee must be a salaried employee receiving both administrative and clinical supervision from a the supervisor who receives compensation for providing these services.~~

(6) through (e) will remain the same, but will be renumbered (7) through (7) (e).

(f) A licensed psychologist who is supervising shall not be involved in a dual relationship with the supervisee, which would compromise the supervisory relationship, e.g. related by marriage, immediate family, business partnership, etc."

Auth: Sec. 37-1-131, 37-17-202, MCA; IMP, Sec. 37-17-302, MCA

**REASON:** The proposed amendment to (2) will allow teleconferencing for supervision, as this may be the only option available for persons in remote rural areas of the state. The proposed amendment to (5) will clarify the availability of mental health professionals requirement to accommodate a wide variety of practice settings existing in the state.

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

(a) Application fee ~~\$110-00~~ \$175

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

(d) oral examination fee 100

(e) certificate fee 25"

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

**REASON:** The proposed amendments will allow the board to collect fees commensurate with the costs of processing applications, administering oral exams and issuing certificates, which fees are currently too low or non-existent to meet board costs.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Psychologists, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., December 21, 1994.

4. If a person who is directly affected by the proposed amendment wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Psychologists, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., December 21, 1994.

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

-3003-

persons directly affected has been determined to be 20 based on the 198 licensees in Montana.

BOARD OF PSYCHOLOGISTS  
PASTOR JEFF OLSGAARD, CHAIRMAN

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

Annie M. Bartos  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, November 14, 1994.

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

In the matter of adoption of )	NOTICE OF PROPOSED
new Rule I and the amendment of )	ADOPTION AND
Rules 12.7.803, 12.7.804, )	AMENDMENTS
12.7.805 and 12.7.808 relating )	
to fishing contests. )	No Public Hearing
)	Contemplated

To: All Interested Persons

1. On January 27, 1995, the Fish, Wildlife & Parks Commission proposes to amend rules 12.7.803, 12.7.804, 12.7.805 and 12.7.808 and adopt new Rule I relating to fishing contests.

2. The proposed amendments are as follows:

12.7.803 EVALUATION AND RECOMMENDATION (1) The department will evaluate the application and ~~send its evaluation and recommendation to the commission no later than ten days prior to the commission meeting at which the application will be acted upon.~~ based on the criteria set out in subsection (2).

(2) remains the same.

(3) The department will provide an opportunity for public comment on each application by giving public notice of the application.

AUTH: 87-3-121, MCA IMP: 87-3-121, MCA

12.7.804 COMPETING APPLICATIONS (1) When two or more contests are proposed on a single body of water the department will ~~recommend approval of~~ approve applications which have less impact on resources and offer the best opportunities for public benefits by furthering knowledge of angling ethics and aquatic ecology. More than one contest will be allowed on overlapping dates if ~~both meet the criteria and the commission~~ the department determines that natural resources will not be adversely affected. Modifications to be ~~recommended~~ required by the department ~~to the commission~~ will be discussed with the applicant prior to the ~~commission's deliberation~~ department's final action.

AUTH: 87-3-121, MCA IMP: 87-3-121, MCA

12.7.805 DEPARTMENT COMMISSION DECISION (1) Within 90 days of receipt of an application, the ~~commission~~ department will issue a decision. The ~~commission~~ department may approve the application as submitted, approve the application with modifications or deny the application. When an application is approved with modifications, the applicant must respond to the ~~department, or the commission if an appeal is made under New Rule I,~~ department, or the commission if an appeal is made under New Rule I, at least 10 days prior to the scheduled date of the contest that the modifications are acceptable. Failure to do so will constitute withdrawal of the application.

(2) An application may be denied if in the opinion of the ~~department commission~~ any of the following are found to exist:

(a) through (d) remain the same.

(3) The department will notify the applicant and all persons submitting comment of its decision by mail.

AUTH: 87-3-121, MCA IMP: 87-3-121, MCA

12.7.808 WAIVER (1) Upon a showing of good cause, the ~~department commission~~ may waive the application of any rule except where waiver is precluded by statute.

AUTH: 87-3-121, MCA IMP: 87-3-121, MCA

NEW RULE I APPEAL TO THE COMMISSION (1) The applicant or any person supporting or opposing an application may appeal the decision of the department to the commission. An appeal may be made on any grounds or arguments made to the department during the department's evaluation and consideration of the application. A notice of appeal must be filed with the commission within 20 days of written notice of the department's decision.

(2) The commission's decision to approve the application as submitted, to approve the application with modifications or to deny the application will be made on the criteria of ARM 12.7.805. The commission's decision will be final.

AUTH: 87-3-121, MCA IMP: 87-3-121, MCA

3. Rationale: The Fish, Wildlife and Parks Commission is proposing these rule amendments to authorize the department to evaluate and approve fishing contest applications. Under the current rules all fishing contest applications must be approved by the commission. The rule amendments would authorize the department to make these decisions, but an appeal process would be provided under New Rule I such that applicants or the public could request the commission to review the department's action and make the final decision.

The Department receives 30 to 40 fishing contest applications each year; many are annual events that have been repeated for many years. Under existing ARM 12.7.801 through 12.7.808, the contest applications are reviewed and evaluated by the department according to criteria specified in the rules. The department recommends approval, modification, or denial and forwards their recommendations to the commission for final action. Nearly all applications are noncontroversial and are approved by the commission without modification of the department's recommendation.

The proposed change will not alter the effectiveness of the fishing contest review. The rule change does not affect criteria for derby review and it does not affect the opportunity for the applicants or the public to be heard by the commission.


4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Howard Johnson, Department of Fish, Wildlife and Parks, 1420

East Sixth, P.O. Box 200701, Helena, Montana 59620-0701 no later than December 21, 1994.

5. If a person who is directly affected by the proposed rules wishes to express his or her data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments he or she has to Howard Johnson, Department of Fish, Wildlife and Parks, 1420 East Sixth, P.O. Box 200701, Helena, Montana 59620-0701. A written request for hearing must be received no later than December 21, 1994.

6. If the agency receives requests for a public hearing on the proposed rules from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the Administrative Code Committee or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

FISH, WILDLIFE AND PARKS COMMISSION

  
Robert N. Lane  
Rule Reviewer

  
Patrick J. Graham  
Secretary

Certified to the Secretary of State on Nov. 14, 1994.

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

In the matter of the proposed	)	
adoption of a new rule to	)	NOTICE OF PUBLIC
reject, modify or condition	)	HEARING
permit applications in the	)	
Truman Creek Basin	)	

TO: All Interested Persons.

1. On January 5, 1995 at 7:00 PM a public hearing will be held in the conference room of the Fish, Wildlife & Parks building, 490 N. Meridian Rd. in Kalispell, Montana, to consider the adoption of new rule 1.

2. The proposed new rule provides as follows:

**"RULE 1. TRUMAN CREEK BASIN CLOSURE** (1) The Truman Creek Basin means the Truman Creek drainage area, a tributary of Ashley Creek in hydrologic basin 76LJ, in Flathead County, Montana. The Truman Creek Basin designated as the closure area is all that drainage and headwaters originating in the Salish Mountains, Township 26 North, Range 21 and 22 West, MPM, and flowing northwesterly to its confluence with Ashley Creek at a point in Section 18, Township 27 North, Range 22 West, MPM, Flathead County, Montana. The entire Truman Creek drainage, from its headwaters to its confluence with Ashley Creek, including Bales Creek, Emmons Creek, Wild Bill Creek, and all unnamed tributaries, is contained in the closure area as outlined on file map page 6.

(2) The department shall reject all surface water applications to appropriate water within the Truman Creek Basin for any diversions, including infiltration galleries, for any consumptive uses of water during the period from July 15 through August 31.

(3) Applications for nonconsumptive uses during the closure period shall be received and processed. Any permit if issued shall be modified or conditioned to provide that there will be no decrease in the source of supply, no disruption in the stream conditions, and no adverse effect to prior appropriators within the reach of stream between the point of diversion and the point of return. The applicant for a nonconsumptive use shall provide sufficient factual information upon which the department can determine the applicant's ability to meet the conditions imposed by this rule.

(4) Applications for groundwater shall be accepted, however the applicant shall provide sufficient factual information upon which the department can determine whether or not the source of the groundwater is part of or substantially or directly connected to surface water. If it is found that the proposed diversion of groundwater would cause a calculable reduction in the surface water flow during the closure period the application shall be rejected. A calculable reduction

means a theoretical reduction based on credible information as opposed to a measured reduction. If the applicant fails to submit sufficient factual information as required, the application shall be considered defective and shall be processed pursuant to 85-2-302, MCA.

(5) Any application which would utilize a storage facility to impound water only outside the period from July 15 through August 31, and from which water could subsequently be used during any portion of the year, is exempt from these rules. Permit applications for storage, except applications for provisional permits for completed stockwater pits or reservoirs, form no. 605, will be received and processed. All form no. 605 permit applications will be rejected.

(6) Temporary emergency appropriations of water as defined in ARM 36.12.101 and 36.12.105 shall be exempt from this rule.

(7) This rule applies only to applications received by the department after [the date of adoption of this rule].

(8) The department may, if it determines changed circumstances justify it, reopen the basin to additional appropriations and amend this rule accordingly after public notice and hearing."

AUTH: 85-2-112 and 85-2-319, MCA; IMP: 85-2-319, MCA

3. Rationale: On July 14, 1993 a petition was filed pursuant to 85-2-319, MCA with the Department of Natural Resources and Conservation. The petitioners requested Truman Creek basin be closed year round to all new appropriations of water claiming the Truman Creek drainage has been over-appropriated and there is not enough water for the current water rights. In response to the petition the Department conducted a water availability analysis of the basin and concludes the consumptive demands in the Truman Creek drainage basin exceed the available water from July 15 through August 31. The intent of this rule is to preserve existing stream flows for senior appropriators. This rule sets out the class of applications affected, the type of appropriation that is exempt and allows the reopening of the basin through rule amendment, notice and hearing.

4. Interested persons may present their data, views, or arguments either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Teresa McLaughlin, Department of Natural Resources and Conservation, 1520 E. 6th Avenue, Helena, Mt., 59620 postmarked no later than January 11, 1995.

5. Vivian Lighthizer has been designated to preside at and conduct the hearing.

Mark Simonich, Director

  
  
Rule Reviewer

Certified to the Secretary of State November 14, 1994.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF
amendment of ARM 1.2.419	)	ARM 1.2.419
regarding scheduled dates for	)	FILING, COMPILING, PRINTER
the Montana Administrative	)	PICKUP AND PUBLICATION OF
Register	)	THE MONTANA ADMINISTRATIVE
	)	REGISTER

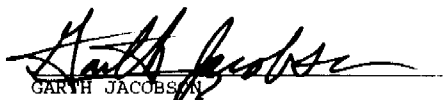
TO: All Interested Persons.

1. On October 13, 1994, the Secretary of State published notice of the proposed amendment of ARM 1.2.419 relating to the compiling, printer pickup and publication of the Montana Administrative Register for 1995 at page 2709 of the 1994 Montana Administrative Register, issue no. 19.

2. A hearing was held on November 2, 1994. No testimony or written comments were received.

3. The Secretary of State adopts the rule as proposed.

  
\_\_\_\_\_  
MIKE COONEY  
Secretary of State

  
\_\_\_\_\_  
GARTH JACOBSON  
Rule Reviewer

Dated this 14th day of November 1994.

BEFORE THE HARD-ROCK MINING IMPACT BOARD  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the amendment, ) CORRECTED NOTICE OF ARM  
of a rule pertaining to the ) 8.104.211 IMPLEMENTATION  
administration of the Hard-Rock ) OF APPROVED IMPACT PLAN  
Mining Impact Act )

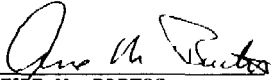
TO: All Interested Persons:

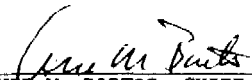
1. On June 23, 1994, the Hard-Rock Mining Impact Board published a notice of public hearing on the proposed amendment of the above-stated rule at page 1627, 1994 Montana Administrative Register, issue number 12. On October 13, 1994, the Board published a notice of adoption at page 2718, 1994 Montana Administrative Register, issue number 19.

2. The Board noted language was inadvertently omitted from ARM 8.104.211(2)(c) in the adoption notice that was in the original proposed notice. The Board also intended to strike the language "as are consistent with the adopted" which was inadvertently omitted in the original proposed notice. Subsection (c) of ARM 8.104.211(2)(c) should have read as follows in the adoption notice:

(c) The affected local governing body may request that the developer make ~~such THE~~ payments ~~as are~~ provided for in the approved impact plan and ~~as are consistent with the adopted IN THE~~ budget or budget amendment of the local government unit. The governing body shall send to the board a copy of each ~~such~~ payment request. Each request must identify the name of the local government unit making the request; the date of the request; the name of the mineral developer responsible for making the payment; the amount of the requested payment; whether the request is for a tax prepayment, grant, or other funds, the purpose of the payment as specified in the approved impact plan; and the sub-account within the impact fund for which the payment is intended. The request must refer to THE ITEM ON THE PAYMENT SCHEDULE OR TO the page or pages in the approved impact plan ~~or its payment schedule~~ on which THE FINANCIAL COMMITMENT AND the purpose of the expenditure ~~and the financial commitment~~ are specified. The request must bear the signatures of the governing body of the affected local government unit.

HARD-ROCK MINING IMPACT BOARD  
MIKE MANUEL, CHAIRMAN

  
ANNIE M. BARTOS  
RULE REVIEWER

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

Certified to the Secretary of State, November 14, 1994.

BEFORE THE DEPARTMENT OF  
FAMILY SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption ) CORRECTED NOTICE OF ADOPTION  
of Rule I pertaining to Youth ) OF RULE I [11.12.111]  
Care Facilities. ) PERTAINING TO YOUTH CARE  
) FACILITIES

TO: All Interested Persons

1. On September 22, 1994, the Department of Family Services published notice of the proposed adoption of Rule I [11.12.111] pertaining to Youth Care Facilities at page 2594 of the 1994 Montana Administrative Register, issue no. 18. On November 10, 1994 the department published notice of the adoption of Rule I [11.12.111] at page 2936 of the 1994 Montana Administrative Register, issue no. 21. In adopting the rule, the department inadvertently failed to address a comment and request for change from the Administrative Code Committee. The comment and the requested change on authorizing and implementing citations have been added to this notice.

2. The department has adopted Rule I as proposed with the following changes:

I. [11.12.111] PERSONS AFFECTED BY DEPARTMENT RECORDS - YOUTH CARE FACILITIES (1) A person, organization or existing youth care facility subject to denial of application or negative licensing action based on findings in department "case records," as defined by ARM 11.5.602, or a person whose presence in a youth care facility is prohibited or restricted based on findings in "case records," as defined by ARM 11.5.602, may request amendment of the records pursuant to ARM 11.5.609. Prior to consideration of the request for amendment, the department may require consent from any person who is a subject of the findings in the case record prior to consideration of the request for amendment, if such person the subject of the findings is not the applicant person, organization or licensee youth care facility requesting the amendment.

~~(2) A person whose presence in a youth care facility is prohibited or restricted based on findings in "case records," as defined by ARM 11.5.602, may contest the prohibition or restriction as provided in subsection (1).~~

~~(3)(2)~~ Any amendment of findings arising from proceedings authorized under this rule may be limited to the particular prohibition or restriction leading to the request for amendment.

~~(4)(3)~~ Decisions on records under this rule may be in addition to, or in conjunction with, contested case proceedings arising from adverse actions affecting community home licenses.

AUTH: Section 52-2-704, 41-3-1003, 41-3-1142, 52-2-111, 2-4-201, MCA IMP: Sections 52-2-702, 52-2-704, 52-2-731, 41-3-1003, 41-3-1142, 52-2-111, 2-4-201, MCA.

3. The department has thoroughly considered all comments received:

**COMMENT:** The authorizing and implementing statutes cited in the proposal are for child day care rules.


**RESPONSE:** The department has amended the notice herein to include proper authorizing and implementing statutes.

**COMMENT:** The reference to persons whose presence in the facilities in (2) should be incorporated into (1). (2) as it exists is confusing in regard to contesting findings. The wording of the last sentence of (1) should also be changed to clarify when additional consent may be required.

**RESPONSE:** The department agrees and in this notice has inserted the language from (2) into (1), deleted (2), and re-numbered the remaining sections. The wording of the last sentence of (1) has also been changed to attempt to clarify when additional consent may be required.

DEPARTMENT OF FAMILY SERVICES

  
Hank Hudson, Director

  
John Melcher, Rule Reviewer

Certified to the Secretary of State, November 14, 1994.

BEFORE THE DEPARTMENT OF  
FAMILY SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment )	CORRECTED NOTICE OF
of Rules 11.12.413 and )	AMENDMENT OF RULES 11.12.413
11.12.416, the repeal of Rule )	AND 11.12.416, THE REPEAL OF
11.12.417 and the adoption of )	RULE 11.12.417, AND THE
Rules I, II, III, IV, and V, )	ADOPTION OF RULES I, II,
VI, VII, and VIII pertaining )	III, IV, V, VI, VII AND VIII
to medical necessity )	PERTAINING TO MEDICAL
requirements of therapeutic )	NECESSITY REQUIREMENTS OF
youth group homes. )	THERAPEUTIC YOUTH GROUP
)	HOMES

TO: All Interested Persons

1. On August 25, 1994, the Department of Family Services published notice of the proposed admendment, repeal and adoption of Rules as set out above pertaining to medical necessity requirements of therapeutic youth group homes at page 2380 of the 1994 Montana Administrative Register, issue no. 16. As stated in the notice, the entire text of Rule 11.12.417 was to have been inserted in the new rule. Rule 11.12.417 was proposed to be repealed based on the transfer of its text to the new rule. The department inadvertently omitted portions of the text. The department also failed to add the omitted portions upon adoption of the new rule. The adoption notice was published on October 13, 1994 at page 2739 of the 1994 Montana Administrative Register, issue no. 19.

2. Except for Rule I, the Rules are amended, adopted, and repealed as proposed. The corrected text including all the provisions of Rule 11.12.417 into Rule I [11.13.102] reads as follows:

11.13.102 THERAPEUTIC YOUTH GROUP HOME. MEDICAL NECESSITY CRITERIA (1) Moderate, campus based and intensive level therapeutic youth group home services must be ordered by a licensed physician, a licensed clinical psychologist, a licensed master level social worker (MSW), or a licensed professional counselor (LPC), and must be authorized by the department.

(a) Providers of moderate level therapeutic youth group home services shall accept placement of only those children who meet at least three of the medical necessity criteria listed in subsection (2) below.

(b) Providers of campus based level therapeutic youth group home services shall accept placement of only those children who meet at least four of the medical necessity criteria listed in subsection (2) below.

(c) Providers of intensive level therapeutic youth group home services shall accept placement of only those children who meet at least five of the medical necessity criteria listed in subsection (2) below.

(2) Medical necessity criteria:

(a) The child is at risk of psychiatric hospitalization or placement in a residential treatment facility licensed by the department of health and environmental sciences of the state of Montana.

(b) The child has been removed from his or her home and has a mental or emotional disorder, the severity of which impairs his or her ability to function in a less restrictive environment.

(c) The child exhibits behavior which indicates disturbances of a severe or persistent nature, or is at risk of developing disturbances due to mental illness or a history of sexual, physical or emotional trauma.

(d) The child is currently placed, or has a history of previous placement(s), at the inpatient psychiatric hospital or a residential treatment facility licensed by the department of health and environmental sciences of the state of Montana and continues to require 24 hour supervision and treatment at a less restrictive level of care.

(e) The child has a poor treatment prognosis in a level of care lower than the moderate or intensive therapeutic youth group home level.

(f) The child has a primary diagnosis of mental illness or serious emotional disturbance (SED) as defined in ARM 46.12.1946, or the child is both SED and developmentally disabled.

(3) Medical Necessity Statement and Referral/Authorization forms must be completed and placed in the client record at the time of moderate, campus based, or intensive level therapeutic youth group home placement.

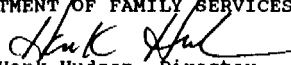
(4) The moderate, campus based or intensive level therapeutic youth group home provider shall ensure appropriate involvement of a lead clinical staff (LCS) in each child's care. This involvement shall include an assessment, development of the treatment plan, and medical necessity determination with redetermination at a minimum of six month intervals. Continued placement at the moderate, campus based or intensive level will be contingent upon medical necessity, achievement of treatment goals as outlined in the treatment plan, and other conditions as set out in the placement agreement required by ARM 11.13.415.

AUTH: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA.

IMP: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA.

3. No comments have been received on this rule-making. The department has adopted the rule as proposed with the correction published in this notice.

DEPARTMENT OF FAMILY SERVICES

  
Hank Hudson, Director

  
John Melcher, Rule Reviewer

Certified to the Secretary of State, November 14, 1994.

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

In the matter of the repeal of	)	NOTICE OF
rule 16.28.713 regarding informed	)	REPEAL OF RULE
consent for administration of	)	
vaccine.	)	

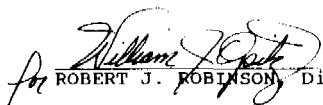
(School Immunization)

To: All Interested Persons

1. On October 13, 1994, the department published notice of the proposed repeal of the above-captioned rule at page 2705 of the Montana Administrative Register, Issue No. 19.

2. The department has repealed the rule as proposed.

3. No comments were received.

  
for ROBERT J. ROBINSON, Director

Certified to the Secretary of State November 14, 1994 .

Reviewed by:

  
Eleanor Parker, DHES Attorney

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

In the matter of the ) NOTICE OF ADOPTION OF  
adoption of rules related to ) RULES I THROUGH V  
the implementation of safety )  
committees ) (SAFETY CULTURE ACT)

TO ALL INTERESTED PERSONS:

1. On September 8, 1994, the Department published notice at pages 2493 to 2497 of the Montana Administrative Register, Issue No. 17, to consider the adoption of new rules I through V.

2. On October 4, 1994, a public hearing was held in Helena concerning the proposed rules at which oral and written comments were received. Additional written comments were received prior to the closing date of October 11, 1994.

3. After consideration of the comments received on the proposed rules, the Department has adopted the rules exactly as proposed. The new rules are numbered as follows:

RULE I [24.30.2542] SAFETY COMMITTEE REQUIRED FOR EVERY EMPLOYER WITH MORE THAN FIVE EMPLOYEES

RULE II [24.30.2543] COMPOSITION OF THE SAFETY COMMITTEE

RULE III [24.30.2544] SCHEDULING OF THE SAFETY COMMITTEE MEETINGS

RULE IV [24.30.2545] ROLE OF THE SAFETY COMMITTEE

RULE V [24.30.2546] SCOPE OF DUTIES OF THE SAFETY COMMITTEE

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

General Comments:

Comment 1: Several comments were received complimenting the work of the Safety Employment Education and Training Advisory Committee in drafting the proposed rules and spoke in favor of the proposed rules.

Response 1: The Department believes the proposed rules balance the needs of the employer and employees in establishing safety committees, while keeping in mind the constraints of federal labor law.

Comment 2: Two commenters objected to the rules on the grounds that they already had safety committees in place which were very effective, but that the rules would seem to require a separate or additional committee besides those structures already in place. Another commenter generally objected to the requirement that a safety committee exist.

Response 2: The Department is required to promulgate rules that implement the Safety Culture Act, including provisions to implement the safety committee provisions found in section 39-71-1505(2)(a), MCA. The Legislature did not provide an "opt out" provision for employers that have already implemented some form of safety committee. While the Department does not intend to require employers to have to form additional safety committees, the Safety Culture Act requires that each employer with more than five employees have a safety committee comprised of employer and employee representatives. The commenters may want to consider approaching the Legislature for a remedy if they disagree with the underlying statute.

Comment 3: A commenter objected to the rules on the ground that it was a member of an industry (health care facilities) that was heavily regulated as to safety already, and that the proposed rules would substantially interfere with the existing safety committee operations.

Response 3: While the Department sympathizes with the commenter, the Montana Safety Culture Act does not provide for an exemption for any industry or employer. Please see response 2, above.

RULE I Comments:

Comment 4: A commenter objected to the provisions of RULE I(3) that comment on the requirements of federal law.

Response 4: The Department believes that the proposed language accurately summarizes a principle contained in Section 8(a)(2) of the National Labor Relations Act of 1935 [Wagner Act], as amended by the Labor-Management Relations Act of 1947 [Taft-Hartley Act]. The Department believes that, based on earlier, informal comments from the commenter made during the drafting process, that the sentence is appropriate to include in the rule as a way of expressing and acknowledging the interplay between state and federal law.

Comment 5: A commenter generally objected to the provisions of RULE I(1), and stated that the provisions exceed the statutory authority of the Department.

Response 5: The Department believes that it has the express rule-making authority to require subject employers to form safety committees. In light of applicable federal labor law, the Department believes that it is appropriate to provide that where a collective bargaining agreement provides for a safety committee, the Department will defer to that agreement and will not provide rules concerning the operation of the safety committee. The Department notes that the commenter objected to

an earlier version of the proposed rules on the grounds that they did not take into account federal labor law.

Comment 6: The same commenter stated that the proposed rules, requiring the employees to select their representatives, creates a bargaining unit within the employer's business, and objected to the rules on that ground.

Response 6: Section 39-71-1505(2)(a), MCA, expressly provides that the safety committee be comprised of employer and employee **representatives**. The Department does not believe that the requirement that employees select their representative (rather than management selecting the employee representatives) creates a "bargaining unit." The Department believes that the recent National Labor Relations Board decisions in Electromation and duPont, interpreting federal labor law, when read in conjunction with § 39-71-1505(2)(a), MCA, require that employers must not dominate safety committees, either in the formation or in the administration of the committee. The Department believes, based on those cases, that management selection of employee representative constitutes employer domination. The Department notes that the commenter raised the existence of those two NLRB cases as the basis for objecting to the previously proposed rules.

Comment 7: A commenter requested that RULE I(3)(e) be amended to state that "the recommendations of the safety committee . . . **will not** be used to establish a standard of care . . . ."

Response 7: The Department believes that it does not have the authority to proclaim that the recommendations do not establish a standard of care, and therefore only expresses its opinion that such recommendations **should not** establish a standard of care. The Legislature did not discuss the effect of a safety committee recommendation in the Safety Culture Act nor did it delegate to the Department the authority to make a rule excluding recommendations as evidence in civil (or criminal) litigation. The commenter may want to consider raising the issue with the Legislature.

#### RULE II Comments:

Comment 8: A commenter objected to the proposed requirement that there be at least as many employee representatives on a committee as management representatives.

Response 8: The Department believes that the recent NLRB decisions in Electromation and duPont, interpreting federal labor law, when read in conjunction with the provision in section 39-71-1505(2)(a) [requiring employer and employee representatives on the safety committee], require that an employer must not dominate safety committees, either in the formation or in the administration of the committee. The Department believes that it is quite likely, in light of Electromation and duPont, that a safety committee with more management representatives than employee representatives would be found by the NLRB to violate federal labor law. In order to

help Montana employers avoid an inadvertent violation of federal labor law, the Department believes that it is appropriate to include a requirement that there be at least as many employee representatives as employer representatives on a safety committee.

Comment 9: One commenter questioned why the provisions of RULE II(3)(a) were included, while another objected to the provisions in their entirety.

Response 9: The Department believes that the provisions of RULE II(3)(a) are needed to avoid conflicts with federal labor law. Under federal labor law, a duly chosen union is the exclusive representative of the workers in the bargaining unit, for matters that affect the terms and conditions of work (such as safety). Because of that principle, a union has the right to decide how to select the persons who will represent employees on a safety committee. The Department believes that it does not have the power to dictate how a union may select employee representatives for the safety committee, due to federal law preemption considerations.

Comment 10: A commenter questioned whether the provisions of RULE II(6) needed elaboration and further clarification, and whether the provisions would force employers to have multiple safety committees.

Response 10: RULE II(6) provides the employer with an option to have multiple safety committees where appropriate. The Department, in consultation with its Safety Employment Education and Training Advisory Committee, believes that the text as written is sufficiently clear. The Department and others (such as workers' compensation insurers) will provide employers with appropriate training to help implement these rules.

Comment 11: Another commenter stated that RULE II(6) "calls for representatives from a labor unit which will put [the employer] in direct violation of [federal labor law]."

Response 11: The provisions of RULE II(6) do not require an employer to have multiple safety committees if there are multiple worksites or types of operations. The Department notes that the requirement that there be employee representatives comes from the underlying statute, § 39-71-1505(2)(a), MCA.

#### RULE III Comments:

Comment 12: A commenter questioned the provisions of RULE III(4) and wondered how that would apply to a safety committee with only one employee representative. Another commenter stated that the quorum requirement itself was too restrictive and unnecessary.

Response 12: The rule provides that a quorum exists when "at least half" of the employer and employee representatives are present. Since a half of a person cannot be present, then the safety committee in the example cited by the commenter can not meet unless the employee representative is present. The

Department believes that the quorum provision is needed not only to avoid sham meetings where either the employer representatives or the employee representatives are not present, but also to avoid issues of employer domination (in violation of federal labor law).

Comment 13: A commenter stated that because of shift work, there would never be at least half of the employee representatives available on site at any one time. The commenter stated that each of four shifts (working rotating shifts) had representatives to the safety committee; and that the employer representatives met separately with each shift's representatives. The commenter stated that the process worked well, and asked the rule accommodate the employer's existing committee structure and scheduling.

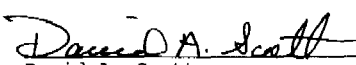
Response 13: The Department believes that the commenter has, in effect, four separate safety committees currently (one for each shift). Because there apparently is a quorum present for each committee meeting for each shift, the Department is of the opinion that the commenter would not need to change its existing structure or scheduling. The Department believes that proposed RULE II allows an employer the flexibility to establish separate committees under the conditions stated.

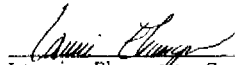
RULE IV Comments:

Comment 14: A commenter stated that RULE IV puts the employer in the position of dominating the safety committee.

Response 14: The Department believes that RULE IV does not put the employer in the position of dominating the safety committee. Montana law does not grant a safety committee the power to implement any recommendations or to unilaterally impose changes in the operations of the employer. Those decisions are the responsibility of management. The Department points out that there is a difference between domination of the safety committee (which is prohibited under federal law) and the exercise of management rights to decide how to operate the business (which is recognized under federal labor law). The Department believes that the NLRB decisions in Electromation and duPont support the Department's position. The Department notes that the commenter raised the existence of those two NLRB cases as the basis for objecting to the previously proposed rules.

5. These rules are effective December 1, 1994.

  
David A. Scott  
Rule Reviewer

  
Laurie Ekanger, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: November 14, 1994.

VOLUME NO. 45

OPINION NO. 29

COUNTY COMMISSIONERS - Suspension of property tax limitations by rural fire district;  
COUNTY COMMISSIONERS - Tax levy in excess of property tax limitations;  
ELECTIONS - Suspension of property tax limitations in taxing unit, procedure;  
FIRE DISTRICTS - Suspension of property tax limitations, procedure;  
TAXATION AND REVENUE - Determination of financial emergency for suspension of property tax limitations;  
TAXATION AND REVENUE - Suspension of property tax limitations, procedure;  
MONTANA CODE ANNOTATED - Sections 15-10-401, -402, -412; -412(10);  
OPINIONS OF THE ATTORNEY GENERAL - 42 Op. Att'y Gen. No. 126 (1988), 42 Op. Att'y Gen. No. 21 (1987).

HELD: The approval of the voters in a rural fire district, following a resolution of its board of directors pursuant to Mont. Code Ann. § 15-10-412(10), is sufficient to allow the board of county commissioners to continue to levy taxes in excess of the limitations established in Mont. Code Ann. §§ 15-10-401 to -412 in following years, without subsequent voter approval each year thereafter, if the voters of the taxing unit have been informed of the amount and the duration of the increase in tax liability.

November 1, 1994

Mr. A.W. "Tony" Kendall  
Carbon County Attorney  
P.O. Drawer 810  
Red Lodge, MT 59068-0810

Dear Mr. Kendall:

You have requested my opinion on the following question:

Is the approval of the voters in a rural fire district, following a resolution of its board of directors pursuant to Mont. Code Ann. § 15-10-412(10), sufficient to allow the board of county commissioners to continue to levy taxes in excess of the limitations established in Mont. Code Ann. §§ 15-10-401 to -412 in following years, without subsequent voter approval each year thereafter?

Your letter explains that your request arises from the actions of the trustees of the Joliet Rural Fire District [the

district], which was created prior to 1986. In January 1993 the trustees of the district passed a resolution "[c]alling for an election to raise the Joliet Rural Fire District property tax limitation imposed by I-105." I-105 is now codified as Mont. Code Ann. §§ 15-10-401 and -402. The voters of the district approved the proposal, and in February 1994 the trustees of the district requested that you seek a writ of mandamus compelling the Carbon County Board of Commissioners to levy the taxes requested by the trustees of the district. You also note that Carbon County has general government powers.

Mont. Code Ann. § 15-10-412(10) sets forth the specific conditions that must be met if a taxing unit desires to avoid the limitation on the amount of taxes levied established by I-105:

(10) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

(a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the taxing unit;

(d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the governing body of the taxing unit has considered; and

(g) a statement of the need for the increased revenue and how it will be used.

Id. As the first sentence of the subsection quoted above makes clear, the tax levy limitations imposed by Mont. Code Ann. §§ 15-10-401 to -412 do not apply if the voters in a taxing unit approve an increase in tax liability following the governing body's passage of a proper resolution.

Attorney General Greely held that Mont. Code Ann. § 15-10-412(10), the subsection of the Montana statutes quoted above, does not require that an election be held each year when a rural

fire district proposes a long-term project entailing long-term tax increases, if the voters are properly notified of the nature of the tax increase. 42 Op. Att'y Gen. No. 126, 497 (1988). You have asked a more general question involving increased taxes for an unspecified period that are not necessarily tied to a specific project. I find nothing in Montana law, especially Mont. Code Ann. § 15-10-412(10), that prevents application of 42 Op. Att'y Gen. No. 126 to the situation you present. That is, voters of a taxing unit may approve one increase in the amount of tax liability--an increase which may be ongoing but must be for a single specified amount for a single specified period of time. This period of time may be of indefinite duration, as long as that is specified. Attorney General Greely held that voters had to be told of the "type and extent" of the increased tax liability they were being asked to approve. My only change in Attorney General Greely's wording would be to add that voters must be informed of "the amount and duration of the increase in tax liability." Section 15-10-412(10) leaves it to the voters to decide if the taxing unit's financial problems are serious enough that the tax limitations should be suspended. I believe this is the plain meaning of the language used in the statute, and thus, I need not proceed further in determining legislative intent. GBN, Inc., v. Montana Dep't of Rev., 249 Mont. 261, 265, 815 P.2d 595, 597 (1991).

You express concern that if the term "financial emergency" used in subsection (10)(b) is interpreted broadly, it may mean the implied repeal of Mont. Code Ann. §§ 15-10-401 and -402. I disagree. The repeal of a statute, either express or implied, is the complete abrogation of one statute by another, Butte & Boston Consol. Mining Co. v. Montana Ore Purchasing Co., 24 Mont. 125, 133, 60 P. 1039, 1042 (1900) (citing Sutherland on Statutory Construction). A broad interpretation would not technically meet the definition of implied repeal. Moreover, Mont. Code Ann. § 15-10-412(10) specifically permits individual taxing units to override I-105, and increase taxes in the individual taxing unit if two conditions are met. 42 Op. Att'y Gen. No. 21, 76, 80-81 (1987) held that the legislature could constitutionally enact such amendments.

The two conditions for overriding I-105 pursuant to Mont. Code Ann. § 15-10-412(10) are: (1) that the governing body of the taxing unit pass a resolution containing seven specified findings, estimates, summaries, and statements; and (2) that following the resolution, the voters in the taxing unit approve the increase in tax liability. A particular type or level of financial emergency is not a condition of the statute. Viewing the term "financial emergency" in the light of other terms used in the subsection, such as "insufficient funds to operate the taxing unit," "funding shortfall," "applicable fund balances are . . . depleted," "no alternative sources of revenue" and "need for increased revenue," I must conclude that a broad reading of the term was intended by the legislature. Wyse v. District Ct., 195 Mont. 434, 437, 636 P.2d 865, 866 (1981);

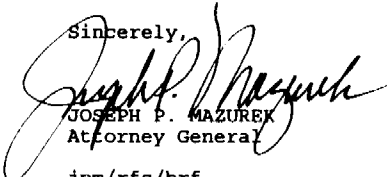
State ex rel. Dunn v. Avers, 112 Mont. 120, 127, 113 P.2d 785, 789 (1941). I conclude that a financial emergency of a particular nature or degree is not required when Mont. Code Ann. § 15-10-412(10) is invoked. It is up to the voters to decide if the taxing unit's financial "emergency" is severe enough to warrant the remedy of suspending property tax limitations.

Throughout this discussion, I have emphasized that the voters of a taxing unit are the ultimate arbiters on questions of a taxing unit's need to suspend tax limitations, and they must be properly informed. I would be going beyond the scope of your question and the opinion process if I were to address the factual issues of the validity of the resolution adopted by the trustees of the Joliet Rural Fire District and whether the voters of the district were given adequate notice of the increase in tax liability. However, I must reiterate that the governing body of a taxing unit is required to include seven very specific matters in its preelection resolution, pursuant to Mont. Code Ann. § 15-10-412(10). If this is done in accordance with statutory mandates, the voters of a taxing unit may vote to override I-105.

THEREFORE, IT IS MY OPINION:

The approval of the voters in a rural fire district, following a resolution of its board of directors pursuant to Mont. Code Ann. § 15-10-412(10), is sufficient to allow the board of county commissioners to continue to levy taxes in excess of the limitations established in Mont. Code Ann. §§ 15-10-401 to -412 in following years, without subsequent voter approval each year thereafter, if the voters of the taxing unit have been informed of the amount and the duration of the increase in tax liability.

Sincerely,



JOSEPH P. MAZUREK  
Attorney General

jpm/rfs/brf

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):

- |  |   |
|--|---|
| <b>Known<br/>Subject<br/>Matter</b>          | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| <b>Statute<br/>Number and<br/>Department</b> | 2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers.   |

# ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1994. This table includes those rules adopted during the period July 1, 1994 through September 30, 1994 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 1994, 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 1994 Montana Administrative Register.

## ADMINISTRATION, Department of, Title 2

- 2.5.201 and other rules - State Purchasing, p. 2469, 2814
- 2.21.137 and other rules - Sick Leave, p. 480, 1407
- 2.21.704 Leave of Absence Without Pay, p. 483, 1409
- 2.21.903 and other rules - Leave of Absence Due to Disability and Maternity, p. 473, 1410
- 2.21.1604 and other rule - Alternate Work Schedules, p. 476, 1411
- 2.21.3702 and other rules - Recruitment and Selection, p. 487, 1412
- 2.21.5006 and other rules - Reduction in Work Force, p. 498, 1419
- 2.21.6701 and other rules - Statewide Employee Incentive Award Program, p. 1784, 2511
- 2.21.8011 Grievances, p. 485, 1421
- 2.21.8109 Equal Employment Opportunity/Affirmative Action, p. 478, 1422
- (Public Employees' Retirement Board)
- I Approval of Requests for Retirement and Authorizing Payment of Retirement Benefits, p. 2686
- I-III Mailing Membership Information about Non-Profit Organizations, p. 508, 2515
- I-XI and other rules - Medical Review of Members - Discontinuance of Disability Retirement Benefits - Procedures for Requesting an Administrative Hearing - Model Rules - Definitions - Disability Application Process - Election of Disability Coverage, p. 1191, 1816, 2106

- 2.43.204 Administrative Procedures for Contested Cases, p. 2039, 2711
- 2.43.305 and other rules - Mailing Membership Information for Non-profit Organizations, p. 2688
- 2.43.509 and other rules - Periodic Medical Review of Disability Retirees - Cancellation of Disability Benefits, p. 2878
- (Teachers' Retirement Board)
- 2.44.405 and other rules - Adjusting Disability Allowances - Interest on Non-Payment for Additional Credits - Creditable Service for Teaching in Private Educational Institutions, p. 2858, 561
- (State Compensation Insurance Fund)
- I and other rules - Optional Deductible Plans - Retrospective Rating Plans - Premium Rates, p. 2690, 2881
- 2.55.320 and other rules - Method for Assignment of Classifications of Employments - Premium Ratesetting - Construction Industry Premium Credit Program - Medical Deductible, p. 597, 1423
- 2.55.324 Premium Ratesetting, p. 1497, 2108
- 2.55.326 Minimum Yearly Premium, p. 981, 1817
- 2.55.327 and other rules - Construction Industry Program - Scheduled Rating for Loss Control Non-compliance Modifier and Unique Risk Characteristics Modifier, p. 2870, 292, 661
- 2.55.404 Scheduled Rating - High Loss Modifiers, p. 661

AGRICULTURE, Department of, Title 4

- I Emergency Rule to Allow the Use of the Pesticide Pirimor Under Section 18 of FIFRA, p. 2109
- I-VIII Rinsing and Disposal of Pesticide Containers, p. 1317, 1988
- I-VIII Pesticide Disposal Program, p. 600, 1280
- 4.2.102 and other rule - Exceptions and Additions for Agricultural Sciences Division - Exceptions and Additions for Plant Industry Division, p. 1501, 1987
- 4.4.312 Process of Payment for Losses, p. 2373, 2712
- 4.5.202 and other rule - Category 1 Noxious Weeds, p. 93, 563
- 4.10.202 and other rules - Classification and Standards for Pesticide Applicators, p. 2883
- 4.15.101 and other rule - Fees - Mediation Scheduling and Agreement Procedures, p. 1499, 1989

STATE AUDITOR, Title 6

- I-II Emergency Adoption - Allowing Credit to Domestic Ceding Insurers - Reduction of Liability for Reinsurance Ceded by Domestic Insurers to Assuming Insurers, p. 564
- I-III Electronic Filing of the Appointment and Termination of Insurance Producers, p. 1323, 1820
- I-XIII Small Employer Carrier Reinsurance Program, p. 1200, 2111

- I-XXIV Small Employer Health Benefit Plans, p. 511, 1528, 1990
- 6.6.5001 and other rules - Small Employer Health Benefit Plans and Reinsurance, p. 2562, 2926  
(Classification and Rating Committee)
- 6.6.8301 Updating References to the NCCI Basic Manual for Workers' Compensation and Employers' Liability Insurance, 1980 Ed., as Supplemented through August 30, 1994, p. 2570
- 6.6.8301 Updating References to the NCCI Basic Manual for Workers' Compensation and Employers' Liability Insurance, 1980 Edition, p. 608, 1669
- 6.10.102 and other rules - Exempting Certain Foreign Securities from Registration - Requiring that Exempt Foreign Savings and Loan Associations be Members of the Federal Deposit Insurance Corporation and that their Certificates of Deposit be Fully Insured by the Federal Deposit Insurance Corporation, p. 95, 569

COMMERCE, Department of, Title 8

(Board of Architects)

- 8.6.405 Reciprocity, p. 715, 1577
- 8.6.407 and other rules - Examination - Individual Seal - Standards for Professional Conduct, p. 2771
- 8.6.407 Examination, p. 983

(Board of Athletics)

- 8.8.2804 and other rules - Licensing Requirements - Contracts and Penalties - Fees - Promoter-Matchmaker, p. 985, 1670

(Board of Chiropractors)

- 8.12.601 and other rules - Applications - Reciprocity - Reinstatement - Interns and Preceptors, p. 1503, 2713
- 8.12.601 and other rules - Applications, Educational Requirements - Renewals - Continuing Education Requirements - Unprofessional Conduct, p. 222, 1578

(Board of Clinical Laboratory Science Practitioners)

- 1 Continuing Education, p. 611, 1671

(Board of Cosmetologists)

- 8.14.401 and other rules - Practice of Cosmetology, Manicuring and Electrolysis, p. 331, 1679, 1822

(Board of Dentistry)

- 8.16.405 and other rules - Fees for Dentists, Dental Hygienists, Anesthesia and Denturists - Dental Hygienist Credentials, p. 2573
- 8.16.602 and other rules - Dental Hygienists - Use of Auxiliary Personnel and Dental Hygienists - Exemptions and Exceptions - Definitions, p. 2743, 1120
- 8.16.904 and other rules - Administration of Anesthesia and Sedation by Dentists - Prohibition - Permits Required for Administration - Minimum Qualifying Standards - Minimum Monitoring Standards - Facility Standards - On-site Inspection of Facilities, p. 2478, 1130

- 8.16.1002 and other rules - Continuing Education - Requirements and Restrictions, p. 988, 1506, 2627  
(State Electrical Board)
- 8.18.402 and other rules - Applications - General Responsibilities - Temporary Permit - Fees - Examinations - Continuing Education - Pioneer Electrician Certificates, p. 225, 951  
(Board of Hearing Aid Dispensers)
- 8.20.402 and other rules - Fees - Examinations - Licensees from Other States, p. 717, 2714  
(Board of Horse Racing)
- 8.22.302 and other rules - Board of Stewards - Definitions - Annual License Fees - General Provisions - Permissible Medication - Programs - Exacta Betting, p. 2774
- 8.22.501 and other rules - Definitions - Licenses - Fees - Clerk of Scales - General Provisions - Grooms - Jockeys - Owners - Declarations and Scratches - Claiming - Paddock to Post - Permissible Medication, p. 547, 1282
- 8.22.1402 and other rule - Permissible Medication - Trifecta Wagering, p. 1507, 2128  
(Board of Landscape Architects)
- 8.24.409 and other rule - Fee Schedule - Renewals, p. 991, 1579  
(Board of Medical Examiners)
- 8.28.502 and other rules - Requirements for Licensure - Unprofessional Conduct - Definitions with Regard to the Practice of Acupuncture, p. 613, 1580
- 8.28.1501 and other rules - Physician Assistants - Definitions - Qualifications - Applications - Fees - Utilization Plans - Protocol - Temporary Approval - Informed Consent - Termination and Transfer - Unprofessional Conduct, p. 720, 1582  
(Board of Nursing)
- 8.32.304 and other rules - Advanced Practice Registered Nurses - Executive Director - Examinations - Inactive Status - Schools - Prescriptive Authority - Clinical Nurse Specialists - Delegation of Nursing Tasks, p. 100, 1424
- 8.32.425 Fees, p. 2375, 2815
- 8.32.1501 and other rules - Prescriptive Authority, p. 615, 1326, 2518, 2716  
(Board of Nursing Home Administrators)
- 8.34.414A Application for Examinations, p. 993, 2822  
(Board of Occupational Therapy Practices)
- 8.35.402 and other rules - Definitions - Use of Modalities, p. 116, 663  
(Board of Outfitters)
- 8.39.518 and other rules - Fees - Misconduct, p. 2377, 2823  
(Board of Pharmacy)
- 8.40.404 and other rules - Fees - Out-of-State Mail Service Pharmacies, p. 2073, 2586, 571

- (Board of Physical Therapy Examiners)  
8.42.402 and other rules - Examinations - Fees - Licensure by Endorsement - Foreign-Trained Applicants, p. 996, 1583
- (Board of Professional Engineers and Land Surveyors)  
8.48.407 and other rule - Affiliation with National Associations - Complaint Process, p. 1625, 2935
- (Board of Radiologic Technologists)  
8.56.602A Permits, p. 2886
- (Board of Real Estate Appraisers)  
8.57.401 and other rules - Definitions - Application Requirements - Course Requirements - Continuing Education - Fees, p. 727, 1584  
8.57.402 and other rule - Appraisal Reports - Application Requirements, p. 2696
- (Board of Realty Regulation)  
8.58.406C and other rule - Application for Equivalency -- Broker - Grounds for License Discipline - General Provisions - Unprofessional Conduct, p. 730, 1585  
8.58.411 Fee Schedule, p. 2698  
8.58.419 Grounds for License Discipline - General Provisions - Unprofessional Conduct, p. 232, 667
- (Board of Respiratory Care Practitioners)  
8.59.402 Definitions, p. 123, 668  
8.59.601 and other rules - Continuing Education, p. 2700
- (Board of Sanitarians)  
8.60.408 Standards of Registration Certificate, p. 349, 952
- (Board of Speech-Language Pathologists and Audiologists)  
8.62.413 and other rule - Fees - Schedule of Supervision - Contents, p. 1327, 1992
- (Board of Passenger Tramway Safety)  
I-II Board Engineer Conducting Acceptance Inspection - Conference Call Meetings, p. 2703  
8.63.501 Adoption of the ANSI Standard, p. 351, 1136
- (Board of Veterinary Medicine)  
8.64.802 and other rules - Applications for Certification - Qualification - Management of Infectious Wastes, p. 1329, 1993
- (Building Codes Bureau)  
8.70.101 Incorporation by Reference of Uniform Building Code, p. 1331, 1994  
8.70.101 and other rules - Building Codes, p. 2173, 299, 670
- (Banking and Financial Institutions Division)  
I-II and other rules - Retention of Bank Records - Investment Securities, p. 355, 1137  
8.80.104 and other rules - Semi-Annual Assessments Upon Banks, Investment Companies and Trust Companies - Fees for Approval of Automated Teller Machines and Point-of-Sale Terminals, p. 353, 1143  
8.80.307 Dollar Amounts to Which Consumer Loan Rates are to be Applied, p. 359, 953
- (Board of Milk Control)  
8.86.301 and other rule - Establishment of the Class III for Milk in the State - Purchase and Sale of Surplus Milk between Distributors within the State, p. 1334

(Banking and Financial Institutions Division)

- 8.87.202 and other rules - Investigation Responsibility - Application Procedures and Requirements for a Certificate of Authorization for a State Chartered Bank - Assuming Deposit Liability of Any Closed Bank - Merger of Affiliated Banks - Establishment of New Branch Banks - Discovery and Hearing Procedures - Application Requirement, p. 361, 1146

(Local Government Assistance Division)

- I Administration of the 1994 Treasure State Endowment (TSEP) Program, p. 125, 1589
- I Administration of the 1994 Federal Community Development Block Grant (CDBG) Program, p. 127, 1587
- 8.94.4102 and other rules - Report Filing Fees Paid by Local Government Entities - Financial Statements - Incorporation by Reference of Various Standards, Accounting Policies and Federal Laws and Regulations under the Montana Single Audit Act, p. 999, 2430, 2717

(Hard-Rock Mining Impact Board)

- 8.104.101 and other rules - Administration of the Hard-Rock Mining Impact Act, p. 1627, 2718

(Board of Housing)

- 8.111.405 Income Limits and Loan Amounts, p. 5, 577
- (Montana State Lottery)
- 8.127.407 and other rule - Retailer Commissions - Sales Staff Incentive Plan, p. 1002, 1823, 1995
- 8.127.1007 Sales Staff Incentive Plan, p. 1947

#### EDUCATION, Title 10

(Superintendent of Public Instruction)

- 10.10.301A and other rules - School Funding and Tuition, p. 1006, 1824
- 10.16.1302 and other rules - Special Education School Funding, p. 2576

(Board of Public Education)

- I Teacher Certification - Surrender of a Teacher Specialist or Administrator Certificate, p. 817, 2525
- I Teacher Certification - Area of Specialized Competency, p. 237, 954
- 10.55.601 Accreditation Standards; Procedures, p. 1642, 2524
- 10.57.301 Teacher Certification - Endorsement Information, p. 815, 1690
- 10.57.501 Teacher Certification - School Psychologists, School Social Workers, Nurses and Speech and Hearing Therapists, p. 234, 955
- 10.58.102 and other rules - Teacher Certification - Teacher Education Programs Standards, p. 735, 2722
- 10.64.355 Emergency Amendment - School Bus Body Standards, p. 956
- 10.64.355 Transportation - Bus Body, p. 733, 2526
- 10.65.101 Hours and Days of Instruction - Policy Governing Pupil Instruction - Related Days Approved for Foundation Program Calculations, p. 1640, 2527

FAMILY SERVICES, Department of, Title 11

- I Smoke Free Environment in Day Care Facilities, p. 2890
- I Youth Care Facilities - Persons Affected by Department Records, p. 2594, 2936
- I and other rules - Day Care Facilities - Legally Unregistered Providers Participating in Day Care Benefits' Programs, p. 129, 958
- I-II Community Homes for the Developmentally or Physically Disabled - Persons Affected by Department Records, p. 2596, 2939
- I-II and other rules - Counting Children Considered to be in Day Care - Infant Needs of Non-Infants - Defining Day Care Center, Family Day Care Home and Group Day Care Home, p. 2389, 2740
- I-II Placement of Children with Out-of-State Providers, p. 1338, 1996
- 11.2.203 Requests for Hearings Upon Notification of Adverse Action, p. 2888
- 11.5.501 and other rules - Child Protective Services, p. 1792, 2431
- 11.5.601 and other rules - Case Records of Abuse and Neglect, p. 1789, 2433
- 11.5.602 and other rule - Case Records of Abuse or Neglect, p. 238, 1290
- 11.7.901 Adoption and Incorporation of the Regulations of the Association of Administrators of the Interstate Compact on the Placement of Children, p. 621, 1294
- 11.8.304 Violations of Aftercare Agreements, p. 819, 1590
- 11.12.413 and other rules - Medical Necessity Requirements of Therapeutic Youth Group Homes, p. 2380, 2739
- 11.14.103 Registration and Licensing of Day Care Facilities, p. 2393, 2742
- 11.14.104 Day Care Facilities - Persons Affected by Department Records, p. 2598, 2938

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

- I Classifying Certain Types of Actions Taken Under the River Restoration Program as Categorical Exclusions, p. 1649, 2129
- I Nonresident Hunting License Preference System, p. 242, 1834
- I-V and other rules - Wildlife Habitat, p. 1644
- I-X Block Management Program, p. 1064, 1691
- 12.6.901 No Wake Speed Zone in Bigfork Bay of Flathead Lake, p. 2600
- 12.6.901 Emergency Amendment - Extending the No Wake Speed Zone in Bigfork Bay of Flathead Lake, p. 2434
- 12.6.901 Establishment of a No Wake Speed Zone on Portions of the Blackfoot and Clark Fork Rivers, Missoula County, p. 825, 1699

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

- I Integrated Solid Waste Management Plan, p. 1510
- I Water Quality Permit and Degradation Authorization Fees, p. 2489, 393, 672
- I-III Drinking Water and Ice Regulations, p. 2474, 2832
- I-V Air and Water Quality - Procedures and Criteria for the Certification of Air and Water Pollution Equipment as Eligible for Special Property Tax Treatment, p. 2482
- I-V Establishing Administrative Enforcement Procedures for the Public Water Supply Act, p. 2398
- I-IX and other rules - Implementation of the Water Quality Act's Nondegradation Policy, p. 2723, 849, 2136
- I-X Water Quality - Use of Mixing Zones, p. 835, 2136
- I-XIII Home Infusion Therapy Licensing, p. 882
- 16.8.708 and other rules - Air Quality - Incorporation of Federal Air Quality Rules and Incorporation of the Montana Source Testing Protocol and Procedures Manual, p. 2043, 2828
- 16.8.945 and other rules - Air Quality - Prevention of Significant Deterioration of Air Quality, p. 2048, 2829
- 16.8.1301 and other rules - Air Quality - Open Burning of Christmas Tree Waste - Open Burning for Commercial Film or Video Productions, p. 867, 2528
- 16.8.1413 and other rule - Air Quality - Opacity Requirements at Kraft Pulp Mills, p. 1654
- 16.8.1903 and other rule - Air Quality - Air Quality Operation and Permit Fees, p. 2052
- 16.8.1907 Air Quality - Fees for the Smoke Management Program, p. 1511, 2130
- 16.8.1908 Air Quality - Fees for Christmas Tree Wastes and Commercial Film Production Open Burning, p. 2054, 2830
- 16.10.101 Food, Drugs and Cosmetics - Incorporating Federal Food Standards, p. 2395, 2743
- 16.10.239 and other rules - Minimum Performance Requirements for Local Health Authorities, p. 1797, 2941
- 16.10.501 and other rules - Bottled Drinking Water and Ice Regulations, p. 2404, 2831
- 16.10.701 and other rules - Campgrounds - Trailer Courts and Campgrounds, p. 2602, 2892
- 16.10.1001 Annual Jail Inspections, p. 2041, 2629
- 16.10.1311 Swimming Pool Inspections - Indication of What Constitutes a Full Facility Inspection and a Critical Point Inspection of a Public Bathing Place or Swimming Pool, p. 1513, 1998
- 16.20.202 and other rules - Drinking Water - Setting Standards for Public Drinking Water that Incorporate Federal Requirements for Phase II and V Contaminants and Lead and Copper, p. 1362, 2131
- 16.20.603 and other rules - Water Quality - Surface Water Quality Standards, p. 2737, 827, 2136

- 16.20.604 Water Quality - Water Use Classifications--Clark Fork  
- Columbia River Drainage Except the Flathead and  
Kootenai River Drainages, p. 2707
- 16.20.1003 and other rules - Water Quality - Ground Water  
Quality Standards - Mixing Zones - Water Quality  
Nondegradation, p. 244, 846, 2136
- 16.24.104 and other rules - Children's Special Health Services  
- Standards for the Children's Special Health  
Services Program, p. 1340, 1836
- 16.28.202 and other rules - Communicable Diseases - Reportable  
Diseases, p. 623, 1295
- 16.28.713 Informed Consent for Administration of Vaccine,  
p. 2705
- 16.28.1005 Tuberculosis Control Requirements for Schools and Day  
Care Facilities, p. 1652, 2305
- 16.30.801 and other rules - Emergency Medical Services -  
Reporting of Exposure to Infectious Diseases,  
p. 1251, 1704
- 16.32.110 Health Planning - Certificate of Need Required  
Findings and Criteria, p. 639, 1296
- 16.32.356 and other rules - Adult Day Care - Licensure of Adult  
Day Care Centers, p. 1255, 1838
- 16.32.373 and other rules - Standards for Licensure of  
Hospices, p. 631, 2436
- 16.32.380 and other rules - Personal Care - Licensure of  
Personal Care Facilities, p. 1342, 2306
- 16.32.396 Kidney Treatment Centers, p. 2782
- 16.32.399G Medical Assistance Facilities - Medical Assistance  
Facilities Emergency Services, p. 2480, 2833
- 16.32.922 Personal Care Facilities - Fees for Inspecting  
Personal Care Facilities, p. 2784
- 16.32.1001 Adult Day Care Center Services, p. 2780
- 16.44.303 and other rules - Solid and Hazardous Waste -  
Hazardous Waste Management - Use of Used Oil as a  
Dust Suppressant, p. 556, 2532
- 16.45.1201 and other rules - Underground Storage Tanks -  
Underground Storage Tank Installer and Inspector  
Licensing - Tank Permits - Tank Inspections -  
Inspector Licensing Fees, p. 1221, 2744
- 16.47.342 Review of Corrective Actions Plans, p. 2786

TRANSPORTATION, Department of, Title 18

- 18.7.302 and other rules - Motorist Information Signs, p. 137,  
674
- 18.8.101 and other rules - Motor Carrier Services (Formerly  
"Gross Vehicle Weight"), p. 2875, 1148

JUSTICE, Department of, Title 23

- I-VII Regional Youth Detention Services, p. 2886, 579
- I-XI and other rules - Instituting Procedures for the  
Revocation or Suspension of the Certification of  
Peace Officers and Other Public Safety Officers -

- Procedures for Peace Officer Standards and Training, p. 893, 1449
- 23.4.201 and other rules - Sampling Bodily Substances for Drug and Alcohol Analysis, p. 2788
- 23.5.101 State Adoption of Federal Hazardous Materials Regulations, p. 1469, 141, 578
- 23.15.102 and other rules - Crime Victims Compensation, p. 1381, 1999
- 23.16.101 and other rules - Public Gambling, p. 2406, 2834

LABOR AND INDUSTRY, Department of, Title 24

- I-IV Implementation of Education-based Safety Programs for Workers' Compensation Purposes, p. 257, 1156
- I-V and other rule - Workers' Compensation Data Base System - Attorney Fee Rule, p. 2487, 2893
- I-V Safety Culture Act - Implementation of Safety Committees, p. 2493
- I-IX Groups of Business Entities Joining Together for the Purchase of Workers' Compensation Insurance, p. 9, 681
- I-XI Workers' Compensation Data Base System, p. 1949, 2630
- I-XIX and other rules - Claims for Unpaid and Underpaid Wages - Calculation of Penalties, p. 367, 1152
- (Workers' Compensation Judge)
- 24.5.322 and other rules - Procedural Rules of the Court, p. 248, 675
- 24.11.202 and other rules - Unemployment Insurance Benefit Eligibility, p. 2056, 2835, 2951
- 24.16.9007 Montana's Prevailing Wage Rate, p. 912, 1705
- 24.29.101 Organizational Rule for the Former Division of Workers' Compensation, p. 2351
- 24.29.1416 Applicability of Rules and Statutes in Workers' Compensation Matters - Applicability of Date of Injury, Date of Service, p. 143, 679
- 24.29.1513 and other rules - Utilization and Medical Fee Schedules for Workers' Compensation Matters, p. 146, 680
- 24.30.1703 Fees for Construction Blaster Licenses, p. 2491

STATE LANDS, Department of, Title 26

- I-XXV and other rules - Regulation of Hard Rock Mining or Exploration, p. 1956, 2952
- 26.3.180 and other rules - Recreational Use of State Lands, p. 641, 1844, 2539
- 26.3.186 and other rules - Authorizing and Regulating Enrollment of State Lands in Block Management Areas, p. 1071, 2002
- 26.4.201 and other rules - Opencut Mining Act, p. 914, 1871
- 26.4.301 and other rules - Refusal to Issue Operating Permits because of Violation of Reclamation or Environmental Laws, p. 2498
- 26.4.301 and other rules - Regulation of Prospecting for Coal and Uranium, p. 2414

- 26.4.301 and other rules - Regulation of Strip and Underground Mining for Coal and Uranium, p. 2064, 2957

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- I Reject, Modify or Condition Permit Applications in the Willow Creek Basin, p. 1809, 2640  
I-VI Horizontal Wells and Enhanced Recovery Tax Incentives, p. 925, 1875  
36.16.102 and other rules - Water Reservations, p. 262, 1297  
36.22.604 and other rules - Issuance, Expiration, Extension and Transfer of Permits - Horizontal Wells, p. 2792

PUBLIC SERVICE REGULATION, Department of, Title 38

- I-XII Motor Carrier of Property, p. 2894  
38.2.3909 Stenographic Recording and Transcripts, p. 929, 2010  
38.3.201 and other rules - Registration of Intrastate, Interstate and Foreign Motor Carriers to Implement New Federal Requirements on Single State Registration, p. 275, 964  
38.3.2504 and other rules - Tariff Fee - Tariff Symbols, All Relating to Motor Carriers, p. 14, 965  
38.5.2202 Pipeline Safety - Adopting Federal Rules Applicable to Liquefied Natural Gas Facilities and Reenacting the Existing Rule, p. 2794

REVENUE, Department of, Title 42

- I-II Limited Liability Companies, p. 931, 1721  
I-VIII Regulation of Cigarette Marketing, p. 375, 1453, 1722  
42.11.301 and other rules - Agency Franchise Agreements for the Liquor Division, p. 2097, 2625  
42.11.301 Opening a New Liquor Store, p. 1475, 2418  
42.12.103 and other rules - Liquor Licenses and Permits, p. 2003, 2423  
42.12.128 Catering Endorsement, p. 2094, 2626  
42.12.222 Revocation or Suspension of a Liquor License, p. 2505, 2974  
42.15.308 Adjusted Gross Income, p. 657, 1720  
42.16.104 Net Operating Loss Carryback, p. 1657, 2352  
42.21.106 and other rules - Personal Property, p. 2897  
42.21.162 Personal Property Taxation Dates, p. 2907, 685  
42.22.1311 and other rules - Industrial Trend Tables, p. 2916  
42.23.606 and other rules - Estimated Tax Payments, p. 1659, 2353  
42.25.1201 and other rules - Horizontal Wells, p. 1663, 2354

SECRETARY OF STATE, Title 44

- 1.2.419 Filing, Compiling, Printer Pickup and Publication Dates for the Montana Administrative Register, p. 2709

(Commissioner of Political Practices)

- 44.10.331 Limitations on Receipts from Political Committees to Legislative Candidates, p. 659, 2442
- 44.12.107 Waiver of Registration Fees of State Government Employees Who Register as Lobbyists, p. 2425, 2749

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

- I Exceptions to the Developmental Disabilities Placement Rules, p. 2811
- I and other rule - Contractor Allotments for Community Block Grants, p. 933, 1725
- I-IV Recovery by the State Auditor's Office of Debts Owed to the Department, p. 2796
- I-IX Child Support Enforcement Suspension of Licenses Process, p. 1386, 2447
- I-X and other rules - Review and Modification of Support Orders, p. 1392, 2011
- 46.10.101 Safeguarding and Sharing of AFDC Information, p. 2800
- 46.10.108 and other rules - AFDC and Food Stamp Monthly Reporting Requirements, p. 1271, 2543
- 46.10.314 and other rules - Transitional Child Care, p. 1400, 2542
- 46.10.403 AFDC Standards and Payment Amounts Concerning Shared Living Arrangements, p. 1264, 1726
- 46.10.403 AFDC Income Standards and Payment Amounts, p. 1090, 1728
- 46.10.803 and other rules - AFDC JOBS Program, p. 1515, 2356
- 46.12.204 Medicaid Requirements for Co-Payments, p. 286, 686
- 46.12.503 and other rules - Medicaid Coverage and Reimbursement of Inpatient and Outpatient Hospital Services, p. 1076, 1732
- 46.12.571 Ambulatory Surgical Centers, p. 949
- 46.12.590 and other rules - Medicaid Coverage and Reimbursement of Residential Treatment Services, p. 1111, 1744
- 46.12.702 Medicaid Outpatient Drugs, p. 1525, 2443
- 46.12.802 and other rules - Medicaid Coverage and Reimbursement of Wheelchairs and Wheelchair Accessories, p. 1811, 2546
- 46.12.1107 and other rules - Medicaid Coverage of Services Provided to Recipients Age 65 and Over in Institutions for Mental Diseases, p. 936, 1591, 1878
- 46.12.1222 and other rules - Medicaid Coverage and Reimbursement of Nursing Facility Services, p. 1096, 1881
- 46.12.1901 and other rules - Targeted Case Management for Developmental Disabilities, p. 2803
- 46.12.2002 Medicaid Coverage of Abortion Services in Cases of Rape or Incest, p. 2427, 2975
- 46.12.3803 Medically Needy Income Standards, p. 1109, 1750
- 46.12.5002 and other rules - Passport to Health Program, p. 2507, 2983
- 46.13.303 and other rules - Low-Income Energy Assistance Program, p. 1983, 2642

#### 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 October, 1994, are published. Vacancies scheduled to appear from December 1, 1994, through February 28, 1995, 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 November 9, 1994.

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

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1994

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Education Joint Planning &amp; Coordination Committee (Governor)</b>			
Mr. Wilbur Anderson	Governor	not listed	10/13/1994
Dillon			10/13/1996
Qualifications (if required): member of the Board of Public Education			
Dr. Jeff Baker	Governor	not listed	10/13/1994
Helena			10/13/1996
Qualifications (if required): Commissioner of Higher Education			
Mr. Wayne Buchanan	Governor	not listed	10/13/1994
Helena			10/13/1996
Qualifications (if required): Executive Secretary of the Board of Public Education			
Mr. Jim Kaze	Governor	not listed	10/13/1994
Havre			10/13/1996
Qualifications (if required): member of Board of Regents			
Ms. Nancy Keenan	Governor	not listed	10/13/1994
Helena			10/13/1996
Qualifications (if required): Superintendent of Public Instruction			
Governor Marc Racicot	Governor	not listed	10/13/1994
Helena			10/13/1996
Qualifications (if required): Governor			
<b>Board of Health and Environmental Sciences (Health and Environmental Sciences)</b>			
Dr. Frank Munshower	Governor	Meske	10/13/1994
Bozeman			1/1/1997
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1994

Appointee	Appointed by	Succeeds	Appointment/End Date
<b>Board of Outfitters (Commerce)</b>			
Mr. Robin Cunningham	Governor	Chase	10/1/1994
Gallatin Gateway			10/1/1997
Qualifications (if required):	representative of District 2		
<b>Mr. Paul Roos</b>			
Helena	Governor	Ekstrom	10/1/1994
Qualifications (if required):	representative of District 1		10/1/1997
<b>Building Codes Advisory Council (Commerce)</b>			
Mr. John Allen	Director	reappointed	10/1/1994
Helena			9/30/1996
Qualifications (if required):	State Electrical Board		
<b>Mr. Don Cape</b>			
Belgrade	Director	reappointed	10/1/1994
Qualifications (if required):	mobile homes		9/30/1996
<b>Ms. Linda Cockhill</b>			
Helena	Director	reappointed	10/1/1994
Qualifications (if required):	public member		9/30/1996
<b>Mr. Lee Ebeling</b>			
Great Falls	Director	reappointed	10/1/1994
Qualifications (if required):	engineers		9/30/1996
<b>Mr. Richard Grover</b>			
Missoula	Director	reappointed	10/1/1994
Qualifications (if required):	Board of Plumbers		9/30/1996
<b>Mr. Craig Kerzman</b>			
Kalispell	Director	reappointed	10/1/1994
Qualifications (if required):	municipal building official		9/30/1996

**BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1994**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Building Codes Advisory Council (Commerce) cont.</b>			
Mr. Robert Ross	Director	reappointed	10/1/1994
Kalispell			9/30/1996
Qualifications (if required):	home builder		
Ms. Mitzi Schwab	Director	reappointed	10/1/1994
Helena			9/30/1996
Qualifications (if required):	Health and Environmental Sciences		
Mr. Bruce Suenram	Director	reappointed	10/1/1994
Helena			9/30/1996
Qualifications (if required):	state fire marshal		
Mr. Stan Todd	Director	reappointed	10/1/1994
Big Timber			9/30/1996
Qualifications (if required):	building contractors		
Mr. Jay Whitney	Director	Palmquist	10/1/1994
Helena			9/30/1996
Qualifications (if required):	not listed		
<b>Historical Records Advisory Council (Historical Society)</b>			
Mr. Timothy Bernardis	Governor	reappointed	10/6/1994
Crow Agency			10/6/1996
Qualifications (if required):	public member		
Mr. Robert M. Clark	Governor	reappointed	10/6/1994
Helena			10/6/1996
Qualifications (if required):	public member		
Mr. Brian Cockhill	Governor	reappointed	10/6/1994
Helena			10/6/1996
Qualifications (if required):	represents Historical Society		

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1994

Appointee	Appointed by	Succeeds	Appointment/End Date
<b>Historical Records Advisory Council</b> (Historical Society) cont.			
Ms. Ellen Crain	Governor	not listed	10/6/1994
Butte			10/6/1996
Qualifications (if required):	public member		
Ms. Connie Erickson	Governor	reappointed	10/6/1994
Helena			10/6/1996
Qualifications (if required):	public member		
Ms. Peggy Lamberson Bourne	Governor	reappointed	10/6/1994
Great Falls			10/6/1996
Qualifications (if required):	public member		
Ms. Kathryn Otto	Governor	reappointed	10/6/1994
Helena			10/6/1996
Qualifications (if required):	state archivist		
Ms. Marie L. Torosian	Governor	reappointed	10/6/1994
St. Ignatius			10/6/1996
Qualifications (if required):	public member		
<b>Private Security Patrol Officers and Investigators</b> (Commerce)			
Mr. Greg Noose	Governor	Reap	10/24/1994
Bozeman			8/1/1996
Qualifications (if required):	represents Peace Officers Standards & Training Advisory Council		
<b>Water and Wastewater Operators Advisory Council</b> (Health and Environmental Sciences)			
Mr. Lee Leivo	Governor	reappointed	10/16/1994
Big Fork			10/16/2000
Qualifications (if required):	wastewater plant operator		

**VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Agricultural Land Valuation Advisory Committee</b>		
Mr. Jerry Allen, Corvallis	(Revenue) Governor	1/1/1995
Qualifications (if required): public member		
Mr. Jim Almond, Billings	Governor	1/1/1995
Qualifications (if required): represents grazing interests		
Ms. Marge Boulware, Miles City	Governor	1/1/1995
Qualifications (if required): represents multiple use farmers/ranchers		
Mr. Earl Bricker, Moore	Governor	1/1/1995
Qualifications (if required): represents non-irrigated cropland users		
Mr. Michael Grove, White Sulphur Springs	Governor	1/1/1995
Qualifications (if required): represents financial institution		
Mr. Chase Hibbard, Helena	Governor	1/1/1995
Qualifications (if required): legislator		
Ms. Carol Irvin, Columbia Falls	Governor	1/1/1995
Qualifications (if required): represents urban interests		
Ms. Mona L. Nutting, Red Lodge	Governor	1/1/1995
Qualifications (if required): represents local government		
Mr. Jerry Nylen, Fairfield	Governor	1/1/1995
Qualifications (if required): represents organized irrigation district water users		
Mr. Don Steinbeisser, Sidney	Governor	1/1/1995
Qualifications (if required): public member		
Mr. John Stuenkel, Sidney	Governor	1/1/1995
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Agricultural Land Valuation Advisory Committee</b> Mr. Bob Story, Jr., Park City Qualifications (if required): represents individual water users	(Revenue) cont. Governor	1/1/1995
Mr. Myles Watts, Bozeman Qualifications (if required): not specified	Governor	1/1/1995
<b>Agricultural Loan Authority</b> (Agriculture) Mr. Bernard Harkness, Dell Qualifications (if required): livestock farmer	Governor	1/7/1995
Mr. Everett Shortland, Conrad Qualifications (if required): Director of the Department of Agriculture	Governor	1/1/1995
Mr. John Swanz, Judith Gap Qualifications (if required): grain farmer	Governor	1/1/1995
Mr. John Witte, Miles City Qualifications (if required): representative from a commercial lending institution	Governor	1/1/1995
<b>Alfalfa Seed Committee</b> (Agriculture) Mr. Thomas W. Matchett, Chinook Qualifications (if required): member from Alfalfa Seed Association	Governor	12/21/1994
Mr. Gayle Patrick, Malta Qualifications (if required): member from Alfalfa Seed Association	Governor	12/21/1994
<b>Appellate Defender Commission</b> Mr. Ric Holden, Glendive Qualifications (if required): public member	Governor	1/1/1995
Mr. Tom McElwain, Butte Qualifications (if required): public member	Governor	1/1/1995

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Aeronautics (Commerce)</b>		
Mr. Leland F. Ford, Missoula	Governor	1/1/1995
Qualifications (if required): member at large		
<b>Mr. Robert M. Hector, Billings</b>		
Qualifications (if required): airline representative	Governor	1/1/1995
<b>Mr. Greg Mecklenburg, Belgrade</b>		
Qualifications (if required): actively involved in aviation education	Governor	1/1/1995
<b>Ms. Sharel Stroh, Havre</b>		
Qualifications (if required): fixed base operator	Governor	1/1/1995
<b>Board of Chiropractors (Commerce)</b>		
Dr. Marvin S. Harris, Great Falls	Governor	1/1/1995
Qualifications (if required): chiropractor		
<b>Board of Crime Control (Justice)</b>		
Mr. Craig Anderson, Glendive	Governor	1/1/1995
Qualifications (if required): representative of juvenile justice		
<b>Mr. Randy H. Beellingham, Billings</b>		
Qualifications (if required): represents Youth Justice Council	Governor	1/1/1995
<b>Mayor Fred A. Brown, Libby</b>		
Qualifications (if required): represents local executives	Governor	1/1/1995
<b>Mr. Gary Buchanan, Billings</b>		
Qualifications (if required): public member	Governor	1/1/1995
<b>Sen. Delwyn Gage, Out Bank</b>		
Qualifications (if required): legislator	Governor	1/1/1995

**VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Crime Control</b> (Justice) cont. Judge Gregory P. Mohr, Sidney Qualifications (if required): represents lower courts	Governor	1/1/1995
Rep. Mary Lou Peterson, Eureka Qualifications (if required): represents House of Representatives	Governor	1/1/1995
<b>Board of Health and Environmental Sciences</b> (Health and Environmental Sciences) Mr. Remington Kohrt, Darby Qualifications (if required): active interest in public health and economic welfare of state	Governor	1/1/1995
Dr. Dennis Schreffler, Billings Qualifications (if required): licensed professional in human health service	Governor	1/1/1995
Mr. Jeremy Thane, Missoula Qualifications (if required): attorney	Governor	1/1/1995
<b>Board of Horseracing</b> (Commerce) Mr. Malcom E. Adams, Roscoe Qualifications (if required): resides in 2nd district	Governor	1/20/1995
Mr. Steve Christian, Whitefish Qualifications (if required): resides in 5th district	Governor	1/20/1995
<b>Board of Housing</b> (Commerce) Ms. Barbara Hamlin, Helena Qualifications (if required): public member	Governor	1/1/1995
Mr. Dean J. Mart, Great Falls Qualifications (if required): experienced in economics and finance	Governor	1/1/1995

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Housing</b> (Commerce) cont. Mr. Bob Thomas, Stevensville Qualifications (if required): informed and experienced in housing and economics	Governor	1/1/1995
<b>Board of Investments</b> (Commerce) Ms. Maureen J. Fleming, Missoula Qualifications (if required): representative of labor	Governor	1/1/1995
Mr. Earl W. Johnson, Helena Qualifications (if required): representative of business and finance	Governor	1/1/1995
Mr. William S. Macfadden, Great Falls Qualifications (if required): public member	Governor	1/1/1995
Mr. F. Lee Robinson, Malta Qualifications (if required): representative of business and finance	Governor	1/1/1995
<b>Board of Labor Appeals</b> (Labor and Industry) Mr. Stephen A. Birch, Great Falls Qualifications (if required): state employee	Governor	1/1/1995
<b>Board of Natural Resources and Conservation</b> (Natural Resources and Conservation) Mr. John Bailey, Livingston Qualifications (if required): informed and experienced in natural resources and conservation	Governor	1/1/1995
Mr. Gerald Fedra, Glasgow Qualifications (if required): informed and experienced in natural resources and conservation	Governor	1/1/1995
Mr. Jack Galt, Helena Qualifications (if required): informed and experienced in natural resources and conservation	Governor	1/1/1995

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Occupational Therapy Practice</b> (Commerce) Ms. Lynn Baden, Missoula Qualifications (if required): consumer	Governor	12/31/1994
Ms. Lynn R. Davis, Billings Qualifications (if required): occupational therapist	Governor	12/31/1994
<b>Board of Oil and Gas Conservation</b> (Natural Resources and Conservation) Mr. Warren H. Ross, Chinook Qualifications (if required): non-industry land owner	Governor	1/1/1995
Mr. Dean A. Swanson, Billings Qualifications (if required): representative of oil and gas industry	Governor	1/1/1995
Mr. Denzil R. Young, Baker Qualifications (if required): atty living in mineral producing county, doesn't own rights	Governor	1/1/1995
<b>Board of Pardons</b> (Institutions) Rep. David Hoffman, Sheridan Qualifications (if required): attorney	Governor	1/1/1995
<b>Board of Passenger Tramway Safety</b> (Commerce) Mr. Merv Erickson, Missoula Qualifications (if required): employee from U.S. Forest Service working in field	Governor	1/1/1995
<b>Board of Personnel Appeals</b> (Labor and Industry) Mr. Don K. Klepper, Missoula Qualifications (if required): management representative	Governor	1/1/1995
Mr. Willis M. McKeon, Malta Qualifications (if required): represents management	Governor	1/1/1995

**VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Public Education (Education)</b>		
Ms. Anita A. Johnson, Lewistown Qualifications (if required): resides in 2nd Congressional District and affiliated with Republican Party	Governor	2/1/1995
<b>Board of Social Work Examiners and Professional Counselors (Commerce)</b>		
Dr. Ieta Livoti, Helena Qualifications (if required): professional counselor	Governor	1/1/1995
Ms. Antoinette Fraser Rosell, Billings Qualifications (if required): professional counselor	Governor	1/1/1995
Mr. Richard A. Simonton, Glendive Qualifications (if required): public member	Governor	1/1/1995
<b>Board of Social and Rehabilitation Appeals (Social and Rehabilitation Services)</b>		
Ms. Jolene Goodover, Great Falls Qualifications (if required): public member	Governor	1/1/1995
<b>Board of Speech Pathologists and Audiologists (Commerce)</b>		
Mr. Christian D. Grover, Helena Qualifications (if required): audiologist	Governor	12/31/1994
Ms. Jane L. Hudson, Billings Qualifications (if required): speech pathologist	Governor	12/31/1994
<b>Child Support Services Advisory Council (Social and Rehabilitation Services)</b>		
Ms. Kathleen Fleury, Helena Qualifications (if required): none specified	Director	1/9/1995

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Children's Trust Fund Board</b> (Family Services) Mr. Gary Acevedo, Pablo Qualifications (if required): public member	Governor	1/1/1995
Mr. Kirk Astroth, Belgrade Qualifications (if required): state government agency involved in education and social work with kids	Governor	1/1/1995
Ms. Judy Birch, Helena Qualifications (if required): public member	Governor	1/1/1995
Mr. Larry Epstein, Cut Bank Qualifications (if required): public member	Governor	1/1/1995
Mr. Richard Kerstein, Billings Qualifications (if required): public member	Governor	1/1/1995
Mr. Randy Koutnik, Helena Qualifications (if required): public member	Governor	1/1/1995
<b>Coal Board</b> (Commerce) Dr. Thomas E. Finch, Butte Qualifications (if required): educator from first Congressional District	Governor	1/1/1995
Ms. Alice Jagiello, Colstrip Qualifications (if required): educator	Governor	1/1/1995
Ms. Helena S. Maclay, Florence Qualifications (if required): attorney from first Congressional District	Governor	1/1/1995

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Commission for Human Rights</b> (Labor and Industry) Mr. Dennis Limberhand, Lame Deer Qualifications (if required): public member	Governor	1/7/1995
Ms. Jane Meyer, Great Falls Qualifications (if required): public member	Governor	1/7/1995
<b>Developmental Disabilities Planning and Advisory Council</b> (Social and Rehabilitation Services) Rep. Betty Lou Kasten, Brockway Qualifications (if required): representative	Governor	1/1/1995
<b>Fish, Wildlife and Parks Commission</b> (Fish, Wildlife and Parks) Ms. Elaine K. Allestad, Big Timber Qualifications (if required): from Fish & Game District IV	Governor	1/1/1995
Mr. James D. Rector, Glasgow Qualifications (if required): from Fish & Game District II	Governor	1/1/1995
<b>Hard-Rock Mining Impact Board</b> (Commerce) Mr. John F. Gardner, Butte Qualifications (if required): representative of hard-rock mining industry and from Western Congressional District	Governor	1/1/1995
Mr. Mike Manuel, Fairfield Qualifications (if required): school board trustee	Governor	1/1/1995

# VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Highway Commission</b> (Highways) Mr. Roy M. Duff, Whitefish Qualifications (if required): from District V	Governor	1/1/1995
Mr. Ed B. Smith, Dagmar Qualifications (if required): from District IV	Governor	1/1/1995
<b>Judicial Nomination Commission</b> (Judicial) Mr. Frank Stock, Polson Qualifications (if required): lay member	Governor	1/1/1995
<b>Milk Control Board</b> (Commerce) Dr. R. Clyde Greer, Bozeman Qualifications (if required): Democrat from Congressional District 1	Governor	1/1/1995
Mr. Michael F. Kleese, Stevensville Qualifications (if required): Democrat from Congressional District 1	Governor	1/1/1995
<b>Montana Arts Council</b> (Education) Ms. Kathy Doeden, Miles City Qualifications (if required): has interest in arts	Governor	2/1/1995
Ms. Bebe Kezar, Whitefish Qualifications (if required): has interest in arts	Governor	2/1/1995
Mr. Jack W. Nickels Jr., Fort Peck Qualifications (if required): has interest in arts	Governor	2/1/1995
Mr. James Whitlock, Hamilton Qualifications (if required): has interest in arts	Governor	2/1/1995
Mr. Larry D. Williams, Great Falls Qualifications (if required): none specified	Governor	2/1/1995

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

Board/current position holder	Appointed by	Term end
<b>Montana Health Facility Authority Board</b> (Commerce)		
Ms. Gayle Carpenter, Helena	Governor	1/1/1995
Qualifications (if required): public member		
<b>Public Housing Task Force</b> (Administration)		
Mr. Paul Bankhead, Heron	Governor	12/1/1994
Qualifications (if required): Governor's representative		
Ms. Ronda Carpenter, Great Falls	Governor	12/1/1994
Qualifications (if required): represents Montana Landlords Association		
Sen. Chris Christiaens, Great Falls	Governor	12/1/1994
Qualifications (if required): legislator		
Mr. Tim Evans, Missoula	Governor	12/1/1994
Qualifications (if required): represents Montana Realtors Association		
Mr. David Gentry, Missoula	Governor	12/1/1994
Qualifications (if required): represents physically disabled persons		
Mr. Kevin Hager, Great Falls	Governor	12/1/1994
Qualifications (if required): represents Association of Housing Officials		
Mr. Dan Hickey, Billings	Governor	12/1/1994
Qualifications (if required): represents Public Housing Authority		
Ms. Patt Leikam, Billings	Governor	12/1/1994
Qualifications (if required): represents low income groups		
Ms. Jan Martin, Helena	Governor	12/1/1994
Qualifications (if required): represents Montana Bankers Association		

# VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Public Housing Task Force</b> (Administration) cont.		
Ms. Nora Nelson, Havre	Governor	12/1/1994
Qualifications (if required): represents Montana Association of Counties		
Mr. Bill Pierce, Helena	Governor	12/1/1994
Qualifications (if required): represents Montana Building Association		
Mr. Jeff Regnier, Billings	Governor	12/1/1994
Qualifications (if required): represents League of Savings Institutes		
Mr. Jeff Rupp, Bozeman	Governor	12/1/1994
Qualifications (if required): represents Human Resource Development Council		
Ms. Nancy Stephenson, Great Falls	Governor	12/1/1994
Qualifications (if required): represents Neighborhood Housing Services		
Rep. Norm Wallin, Bozeman	Governor	12/1/1994
Qualifications (if required): legislator		
Mr. Tom Welch, Dillon	Governor	12/1/1994
Qualifications (if required): represents League of Savings Institutes		
<b>Science and Technology Development Board</b> (Commerce)		
Mr. Rick Hill, Helena	Governor	1/1/1995
Qualifications (if required): experienced in finance		
Dr. Rebecca W. Mahurin, Bozeman	Governor	1/1/1995
Qualifications (if required): from private sector with experience in technology development		
Mr. Robert B. Noble, III, Great Falls	Governor	1/1/1995
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- December 1, 1994 through February 28, 1995

Board/current position holder	Appointed by	Term end
<b>Science and Technology Development Board</b> (Commerce) cont. Mr. James A. Stevenson, Billings Qualifications (if required): represents private sector	Governor	1/1/1995
<b>State Lottery Commission</b> (Commerce) Mr. Dwaine J. Iverson, Shelby Qualifications (if required): is a certified public accountant	Governor	1/1/1995
<b>Try Another Way State Employees Task Force</b> (Governor) Ms. Barbara Neuwerth, Helena Qualifications (if required): none specified	Director	1/1/1995
Ms. Judy Reese, Helena Qualifications (if required): none specified	Director	1/1/1995
Mr. David Rusoff, Helena Qualifications (if required): none specified	Director	1/1/1995
Ms. Jo Anne Thun, Helena Qualifications (if required): none specified	Director	1/1/1995
<b>Water Pollution Control Advisory Council</b> (Health and Environmental Sciences) Mr. Tom Lee, Kalispell Qualifications (if required): water recreation representative	Governor	1/7/1995