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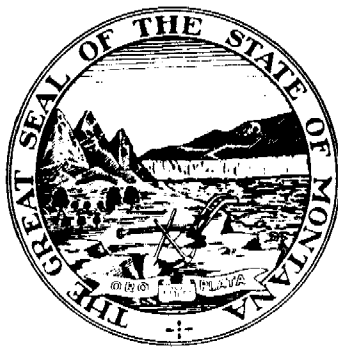
MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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BEFORE THE DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed amendment of a rule pertaining to general rules of the department, repeal of a rule pertaining to process servers, and repeal of rules pertaining to polygraph examiners, private employment agencies and public contractors)	NOTICE OF PROPOSED AMENDMENT OF A GENERAL RULE PERTAINING TO THE DEPARTMENT OF COMMERCE, REPEAL OF A RULE PERTAINING TO PROCESS SERVERS AND THE REPEAL OF RULES PERTAINING TO POLYGRAPH EXAMINERS, PRIVATE EMPLOYMENT AGENCIES AND PUBLIC CONTRACTORS
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NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 25, 1995, the Department of Commerce proposes to amend a rule pertaining to general department personnel, and repeal rules pertaining to process servers, polygraph examiners, private employment agencies and public contractors.

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

"8.2.207 GENERAL (1) Citizens desiring information about anything contained in these rules or about anything concerning the department of commerce and public participation should contact the department, ~~appropriate division personnel listed below. Their names and addresses are as follows:~~

~~Keith Colbo, Director, Department of Commerce,
1424 9th Avenue, Helena, Montana 59620~~

~~Andy Poole, Administrator, Management Services Division
1424 9th Avenue, Helena, Montana 59620~~

~~Sam Hubbard, Administrator, Office of Science and
Technology Development, 1424 9th Avenue, Helena,
Montana 59620~~

~~Jim Kembel, Administrator, Business Regulation and
Licensing Division, 1424 9th Avenue, Helena, Montana
59620~~

~~Bill Fogarty, Administrator, Division of Transportation;
1424 9th Avenue, Helena, Montana 59620~~

~~Mike Ferguson, Administrator, Aeronautics Division,
2630 Airport Road, Helena, Montana 59620~~

~~Fred Napier, Commissioner of Financial Institutions;
1424 9th Avenue, Helena, Montana 59620~~

~~Steve Huntington, Administrator, Office of Economic Analysis, 1424 9th Avenue, Helena, Montana 59620~~

~~Bob Panceich, Administrator, Montana Economic Development Board, 1520 6th Avenue, Helena, Montana 59620~~

~~John Wilson, Administrator, Montana Promotion Division, 1424 9th Avenue, Helena, Montana 59620~~

~~Newell Anderson, Administrator, Local Government Assistance Division, Cogswell Building, Helena, Montana 59620~~

~~Jay McLeod, Administrator, Board of Housing, 2011 11th Avenue, Helena, Montana 59620~~

~~Jack C. Nielson, Administrator, Montana Health Facility Authority, 1520 6th Avenue, Helena, Montana 59620~~

~~Donald Clayborn, Coordinator, Indian Affairs, 1210 6th Avenue, Helena, Montana 59620~~

Auth: Sec. 2-3-103, MCA; IMP, Sec. 2-3-103, MCA

REASON: This amendment is necessary to eliminate the need to update the personnel chart when changes occur. The personnel chart is available on the state bulletin board system and is also available upon written request to the Department.

3. The Department is proposing to repeal ARM 8.2.401, the text of which can be located at page 8-51, Administrative Rules of Montana. The authority section is 25-1-1104, MCA and the implementing section is 25-1-1104, MCA. The reason for the proposed repeal is that the process server examination fee is located at 8.50.437(7)(a) under the rules for Private Security Patrolmen and Investigators located at page 8-1384, Administrative Rules of Montana. This rule is duplicative and unnecessary.

4. The Department is proposing to repeal ARM 8.47.401 through 8.47.405, the text of which can be located at pages 8-1269 through 8-1276, Administrative Rules of Montana. The authority section is 37-62-102, MCA, and the implementing sections are 37-62-202, 37-62-203, 37-62-204, 37-62-205, 37-62-206, 37-62-207, 37-62-208, MCA. The rules are being repealed because House Bill 518, (Uniform Professional Licensing and Regulation Services Act) enacted by the 1995 Legislature, repealed the governing statutes for Polygraph Examiners.

5. The Department is proposing to repeal ARM 8.51.101 through 8.51.701, the text of which can be located at pages 8-1399.99 through 1400.19, Administrative Rules of Montana. The authority section is 39-5-103, MCA, and the implementing sections are 39-5-101, 39-5-102, 39-5-201, 39-5-301, 39-5-304, 39-5-309, 39-5-311, 39-5-312, MCA. The rules are being repealed because House Bill 518 (Uniform Professional Licensing and Regulation Services Act), enacted by the 1995 Legislature,

repealed the governing statutes for Private Employment Agencies.

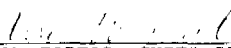
6. The Department is proposing to repeal ARM 8.115.301 through 8.115.316, the text of which can be located at pages 8-4201 through 8-4220, Administrative Rules of Montana. The authority sections are 2-15-133, 15-50-103, 37-71-103, MCA, and the implementing sections are 15-50-101, 15-50-203, 15-50-211, 15-50-212, 15-50-213, 37-71-101, MCA. The rules are being repealed because House Bill 601, enacted by the 1995 Legislature, repealed the governing statutes for Public Contractors.


7. Interested persons may submit their data, views or arguments concerning the proposed amendment and repeals in writing to Steve Meloy, Bureau Chief, Professional and Occupational Licensing Bureau, 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., November 24, 1995.

8. If a person who is directly affected by the proposed amendment and repeals 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 Steve Meloy, Bureau Chief, Professional and Occupational Licensing Bureau, 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., November 24, 1995.

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

DEPARTMENT OF COMMERCE

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


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

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

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment and repeal of rules) AND REPEAL OF RULES PERTAIN-
pertaining to the horse racing) ING TO THE HORSE RACING
industry) INDUSTRY

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 25, 1995, the Board of Horse Racing proposes to amend ARM 8.22.703, 8.22.709 and 8.22.1621, and repeal ARM 8.22.1001 through 8.22.1025.
2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.22.703 EXERCISE PERSONS (1) will remain the same.

(2) No exercise person shall ride or exercise any horse on the race track without wearing a protective helmet and boots which shall be approved by the board or a representative of the board. Each exercise person must wear a safety vest when riding on the track. The safety vest shall weigh no more than two pounds and shall be designed to provide shock absorbing protection to the upper body of at least a rating of five as defined by the British equestrian trade association (BETA).

(3) will remain the same."

Auth: Sec. 23-4-104, 23-4-202, MCA; IMP, Sec. 23-4-104, MCA

REASON: The proposed rule will require use of safety vests by exercise persons to promote better safety on the track and reduce potential injury liability for workers' compensation coverage. Use of safety vests is currently required for licensed jockeys, and has proven successful in injury prevention.

"8.22.709 PONY PERSONS (1) will remain the same.

(2) No pony person or outrider shall pony or parade any horse on the track without wearing a protective helmet and boots with heels which shall be approved by the board or representative of the board. Each pony person must wear a safety vest when riding on the track. The safety vest shall weigh no more than two pounds and shall be designed to provide shock absorbing protection to the upper body of at least a rating of five as defined by the British equestrian trade association (BETA).

(3) through (5) will remain the same."

Auth: Sec. 23-4-104, 23-4-202, MCA; IMP, Sec. 23-4-104, MCA

REASON: The proposed rule will require use of safety vests by pony persons to promote better safety on the track and reduce

potential injury liability for workers' compensation coverage. Use of safety vests is currently required for licensed jockeys, and has proven successful in injury prevention.

"8.22.1621 WITHHOLDING TAX (1) Effective January 2, 1977, the payor of a parimutuel payoff that is over \$1,000 \$5,000 and 300 to 1 odds must withhold federal income tax on the total winnings payment at a 28 percent rate.

(2) will remain the same."

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

REASON: The proposed amendment will bring the Montana rule in line with Federal regulations effective 1/1/93, which require federal income tax withholding at the rate of 28% on winnings of \$5,000 or more if the winnings are 300 times greater or more than the wager.

3. The following rules are proposed for repeal: ARM 8.22.1001 through 8.22.1018 and 8.22.1020 through 8.22.1025. The text of the rules can be located at pages 8-701 through 8-716.20, Administrative Rules of Montana. The authority section is 23-4-104, MCA, and the implementing sections are 23-4-104, 23-4-105, MCA. The Harness Horse Racing Rules contained in sub-chapter 10 are proposed for repeal, as they have been determined to be unnecessary by a rule review mandated by HJR 5 of the 1995 Legislature, as there is currently no harness horse racing being conducted in Montana.

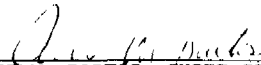
4. Interested persons may submit their data, views or arguments concerning the proposed amendments and repeals in writing to the Board of Horse Racing, 1520 East Sixth, Room 50, P.O. Box 200512, Helena, Montana 59620-0512, to be received no later than 5:00 p.m., November 24, 1995.

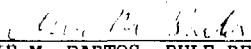
5. If a person who is directly affected by the proposed amendments and repeals wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Horse Racing, 1520 East Sixth, Room 50, P.O. Box 200512, Helena, Montana 59620-0512, to be received no later than 5:00 p.m., November 24, 1995.

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

will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 70 based on the 700 licensees in Montana.

BOARD OF HORSE RACING
JAMES SCOTT, D.V.M., CHAIRMAN

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


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

BEFORE THE BOARD OF NURSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining) THE PROPOSED AMENDMENT,
to advanced practice registered) REPEAL AND ADOPTION OF RULES
nursing; licensure by examina-) PERTAINING TO THE PRACTICE OF
tion, re-examination, licensure) NURSING
by endorsement, foreign nurses,)
temporary permits, inactive)
status, conduct of nurses,)
fees, duties of the president,)
approval of schools, annual)
report)

TO: All Interested Persons:

1. On November 30, 1995, at 9:00 a.m., a public hearing will be held in the conference room of the Professional and Occupational Licensing Bureau, Lower Level, Arcade Building, 111 N. Jackson, Helena, Montana, to consider the proposed repeal and adoption of rules pertaining to schools of nursing.

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

"8.32.304 ADVANCED PRACTICE NURSING TITLE (1) through (2)(f) will remain the same.

(g) American academy of nurse practitioners.

(h) oncology nursing certification corporation."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: This amendment is being proposed because the board has approved this certifying body and its national examination to provide certification for oncology advanced practice registered nurses.

"8.32.305 EDUCATIONAL REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO ADVANCED PRACTICE REGISTERED NURSING (1) and (1)(a) will remain the same.

(b) For original recognition after June 30, 1995, a master's degree from an accredited nursing education program, as defined in ~~subsection~~ (1)(a), which prepares the nurse for the advanced practice registered nurse recognition applied for; and individual certification from a board-approved certifying body. Nurse specialists Advanced practice registered nurses who completed an accredited advanced practice registered nurse program and obtained national certification prior to June 30, 1995, may be recognized in Montana.

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

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The proposed amendment reflects the replacement of the term "nurse specialist" by "advanced practice registered nurse" and is necessary to comply with statutory changes in the language.

"8.32.402 LICENSURE BY EXAMINATION (1) The board shall administer the national council licensing examinations for registered nurse licensure and practical nurse licensure ~~at such time and place announced by the board by computerized adaptive testing (CAT).~~ Each examination differs from ~~previously any other administered examinations. The board shall give due publicity in advance of each examination.~~

(2) and (3) will remain the same.

(4) The application for licensure by examination and the examination fee shall be submitted to the board office ~~no later than eight weeks prior to the examination date.~~

(5) Applicants shall have completed all educational requirements of the program ~~14 days prior to the examination date~~ and all credentials shall be received in the board office ~~ten days prior to the examination date being made eligible to test.~~

~~(6) The application for the examination and the appropriate fee shall be submitted to the national council licensing examination (NCLEX). The postmark deadline for submitting the examination application is eight weeks prior to the examination date.~~

(7) through (10) will remain the same but are renumbered (6) through (9).

~~(10)(11) Candidates who fail shall receive the results of the examination and notice of the next scheduled examination date are not eligible to re-test for 90 days.~~

(12) will remain the same but is renumbered (11).

~~(12)(13) Individual~~ Results of the examination shall not be released to anyone unless release is authorized by the candidate in writing.

(14) will remain the same but is renumbered (13).

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-406, 37-8-416,
MCA

REASON: The proposed rule reflects the Board's adoption of computerized testing, available on a daily basis.

"8.32.403 RE-EXAMINATION - REGISTERED NURSE

(1) Candidates who fail the licensing examination will be permitted to retake the examination after 90 days."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-406,
37-8-416, MCA

REASON: The prohibition on retakes of the examination for 90 days is necessary to allow sufficient time for the national testing agency to adjust the pool of test questions.

"8.32.404 RE-EXAMINATION - PRACTICAL NURSE

(1) Candidates who fail the licensing examination will be permitted to retake the examination after 90 days."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, 37-8-406,
37-8-416, MCA

REASON: The prohibition on retakes of the examination for 90 days is necessary to allow sufficient time for the national testing agency to adjust the pool of test questions.

"8.32.405 LICENSURE BY ENDORSEMENT (1) through (h)(iii) will remain the same.

(i) ~~The~~ required fees for licensure by endorsement as specified in subchapter 11.

(2) and (3) will remain the same.

~~(4) Under section 37-8-407 and 417, MCA, where an applicant for licensure without examination seeks permission to be employed by a health care agency pending licensure, a statement of intention to practice consisting of an affidavit containing information prescribed by the board and an affidavit from the intended employer is required.~~

~~(a) The affidavit of the nurse shall contain a statement that the nurse is currently lawfully entitled to practice nursing in a named state and record the number of the license held in said state.~~

~~(b) The affidavit of the health care agency in which the nurse is seeking employment shall have a statement to the effect that the official of the health care agency has verified the licensure, current registration and current entitlement of such nurse to practice nursing in the mentioned state of the United States or province of Canada."~~

Auth: Sec. 37-8-202, MCA; IMP, Sec. ~~37-8-407~~, ~~37-8-417~~, 37-1-304, MCA

REASON: Sections 37-8-407 and 37-8-417, MCA, have been repealed by House Bill 518 (the Uniform Professional Licensing and Regulation Procedures Act). The statutes governing out-of-state applicants for licensure by endorsement is now found at 37-1-304, MCA, effective October 1, 1995. That section no longer allows temporary practice pending verification of licensure from another state.

"8.32.406 LICENSURE FOR FOREIGN NURSES (1) will remain the same.

~~(2) Candidates whose credentials cannot be verified as required shall be evaluated individually on the basis of supplemental preparation or other appropriate evidence of professional competency.~~

(3) through (4) will remain the same but are renumbered (2) through (3)."

Auth: Sec. 37-8-202, MCA; IMP, Sec. ~~37-8-407~~, ~~37-8-417~~, 37-8-406, 37-8-416, MCA

REASON: The proposed amendment is necessary to achieve consistency in evaluating foreign trained applicants in reliance on the passage of the COGFIN exam as provided in (3).

"8.32.408 TEMPORARY PRACTICE PERMIT (1) Graduates of approved professional or practice United States nursing education programs may be granted a temporary ~~work~~ permit to practice professional or practical nursing, respectively, ~~pending the results of the first licensing examination~~

~~scheduled by the board following such graduation, provided that:~~

(a) application for Montana licensure, supporting credentials and fee have been submitted and approved by the executive director of the Montana board of nursing ~~by the appropriate date; and~~

(b) the graduate has also applied for and been accepted for the first a licensing examination scheduled no later than 90 days following graduation.

(2) The temporary permit shall remain valid until the graduate is notified of the results of the licensing examination scheduled by the applicant under (1)(b).

~~(3) A professional or practical nurse graduate who has applied for licensure by examination in another state, may be granted a temporary work permit and accept employment as a professional or practical nurse in Montana, provided that:~~

~~(a) the graduate has submitted a completed application, the required fee for Montana licensure by endorsement, and verification from the board of nursing in the state of licensure by examination that the graduate has been accepted for the appropriate licensing examination.~~

~~(4) The temporary work permit shall remain valid until the graduate is notified of the results of the licensing examination and if the graduate passes the licensing examination, the temporary work permit shall remain valid until the Montana board of nursing is notified that the graduate has passed the National Council Licensing Examination and that a license has been issued by the state of licensure by endorsement.~~

~~(5) A professional or practical nurse who is currently licensed in another jurisdiction may be granted a temporary work permit and accept employment in Montana as a professional or practical nurse, provided that the nurse meets the Montana state board of nursing's criteria for licensure and the nurse has submitted:~~

~~(a) a completed application for Montana licensure by endorsement and supporting credentials which have been approved by the executive director, an application for a temporary permit, the required affidavit signed by the intended employer and the required fee.~~

~~(b) the temporary work permit shall remain valid for 90 days or until the applicant is granted or denied a license, whichever time period is shorter.~~

~~(c) a temporary work permit shall not be issued to an applicant whose license is under investigation or disciplinary action of a board in another jurisdiction.~~

~~(6) (3) The Any nurse who is employed under a temporary work practice permit shall function only under the supervision of a registered nurse, physician, dentist, osteopath, or podiatrist, who is on the premises where and when the permittee is working and is specifically assigned the responsibility of supervising the performance of the temporary work practice permittee.~~

~~(7) Foreign educated applicants for licensure by examination or endorsement are not eligible for a temporary work permit unless such applicant has been licensed by~~

~~examination in another United States jurisdiction."~~

Auth: Sec. ~~37-8-202~~, MCA; ~~IMP~~, Sec. ~~37-1-305~~, 37-8-103, 37-8-430, MCA

REASON: New section 37-1-305(2), MCA, sets forth the conditions under which a temporary practice permit is issued. The amendments to the current rule are necessary to comply with this section. In addition, the requirement to schedule to sit for the licensing examination within 90 days of graduation is necessary to address public safety concerns that may arise when graduates delay in taking the exam. The reason for the remaining changes in the rule are set forth under ARM 8.32.405 and 8.32.406. Other amendments to the rule (related to applicants for licensure who are currently licensed in another state) are necessary to be consistent with 37-1-305(1), MCA, which requires verification of licensure in good standing from the other state or states in which the applicant is licensed before a temporary practice permit may be issued.

~~"8.32.412 INACTIVE STATUS (1) Licensees who have not paid the renewal fee for the current year are automatically placed on inactive status on January 1 of each year. Licensees of such individuals are considered lapsed for purposes of applying 37-8-443, MCA.~~

~~(1) A licensed nurse who wishes to retain a license but who will not be practicing nursing may obtain an inactive status license upon submission of an application and payment of the appropriate fee. An individual licensed on inactive status may not practice nursing during the period in which he or she remains on inactive status.~~

~~(2) An individual may not remain licensed on inactive status for longer than three years without re-establishing qualifications for licensure, including, but not limited to, passage of the licensing examination.~~

~~(3) An individual licensed on inactive status may convert his or her license to active status by submission of an appropriate application and payment of the renewal fee for the year in question."~~

Auth: Sec. ~~37-8-202~~, MCA; ~~IMP~~, Sec. ~~37-8-431~~, MCA

REASON: The proposed amendments are necessary to require that a licensee affirmatively place his or her license on inactive status thereby providing notice of the period after which the licensee will be required to re-establish qualifications.

~~"8.32.413 CONDUCT OF NURSES (1) will remain the same.~~

~~(2) Unprofessional conduct, for purposes of defining subsection (5) of 37-8-441, MCA, 37-1-307, MCA, in addition to unprofessional conduct listed at 37-1-136, MCA, the following being unique, is determined by the board to mean behavior (acts, omissions, knowledge, and practices) which fails to conform to the accepted standards of the nursing profession and which could jeopardize the health and welfare of the people and shall include, but not be limited to, the following:~~

~~(a) through (d) will remain the same.~~

~~(e) violating the confidentiality of information or knowledge concerning the patient;~~

(f) and (g) will remain the same, but will be renumbered (e) and (f).

~~(h) being unfit to perform because of physical or psychological impairment;~~

~~(i) using alcohol or other drugs to the point that there is interference with job performance;~~

(j) and (k) will remain the same, but will be renumbered (g) and (h).

~~(l) (j) appropriating medications, supplies or personal items of the patient or agency diversion of a medication for any purpose;~~

(m) will remain the same, but will be renumbered (j).

~~(n) falsifying records submitted to the department;~~

(o) through (r) will remain the same, but will be renumbered (k) through (n).

~~(s) resorting to fraud, misrepresentation or deceit in taking the licensing examination or in obtaining a license;~~

(t) will remain the same, but will be renumbered (o).

~~(u) aiding, abetting, assisting, or hiring an individual person to violate or circumvent any law of duly promulgated rule intended to guide the conduct of a nurse or any other licensed health care provider;~~

~~(v) permitting or allowing another person to use his/her nursing license or permit for any purpose;~~

~~(w) (p) failing to report, to the board of nursing facts information known to the individual regarding the incompetent, unethical, or illegal practice of any licensed health care professional, or unlicensed person practicing nursing any possible violation of the statutes and rules relating to nursing;~~

~~(x) having a nursing license denied, revoked, suspended, placed on probation or voluntarily surrendered in another state or jurisdiction for any reason that would constitute a basis for disciplinary action in this state;~~

(y) will remain the same, but will be renumbered (q).

~~(z) violation of a final order from the board; and~~

~~(aa) having been found guilty of a crime that relates adversely to the licensee's practice of nursing or to the ability of the licensee to practice nursing;~~

~~(ab) failing to participate and cooperate in a professional and occupational licensing bureau investigation."~~

Auth: Sec. 37-1-136, 37-1-319, 37-8-202, MCA; IMP, Sec. 37-1-136, 37-1-319, 37-8-202, 37-8-441, MCA

REASON: The proposed amendments are necessitated by the recent enactment of House Bill 518, the Uniform Professional Licensing and Regulation Procedures Act, which sets forth unprofessional conduct. The subsections proposed for deletion unnecessarily repeat statutory language contained in the new law.

"8.32.425 FEES (1) through (11) will remain the same.

(12) The fee for inactive status is \$20."

Auth: Sec. 37-1-319, 37-8-202, MCA; IMP, Sec. 37-1-134, 37-8-202, MCA

REASON: This proposed amendment to the fee schedule is necessary because the Department must set fees commensurate with program area costs, and the board is allowing licensees to place their licenses on an inactive status which they could not do previously.

"8.32.605 DUTIES OF THE PRESIDENT (1) and (1)(a) will remain the same.

(b) appoint members to serve on committees as may be created and ~~shall~~ may serve as ex-officio members of all committees with the exception of the screening panel;

(c) through (e) will remain the same."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA

REASON: The amendment is necessary because of the split in the function of the board between complaint screening panel members and members who will adjudicate a final decision as required by House Bill 518 (Uniform Professional Licensing and Regulation Procedures Act.)

"8.32.802 SURVEY AND APPROVAL OF SCHOOLS (1) through (5)(c) will remain the same.

(d) Site visit reviewers shall be appointed by the board, and will include, but not be limited to, the executive ~~secretary~~ director of the board and an outside reviewer with expertise in relation to the type of program being reviewed.

(6) will remain the same.

(7) Following the board's review and decision, written notification regarding approval of the program and the board's recommendations will be sent to the ~~administrator of the institution with a copy to the dean, director or coordinator of the program.~~

(8) through (11) will remain the same."

Auth: Sec. 37-8-202, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: The proposed amendments are necessary to correct terminology and reflect the sufficiency of sending the report to the individuals listed.

"8.32.806 ANNUAL REPORT (1) through (2)(n) will remain the same.

(o) ~~three~~ twelve current copies of the school catalog;

(p) will remain the same."

Auth: Sec. 37-8-202, 37-8-301, MCA; IMP, Sec. 37-8-301, 37-8-302, MCA

REASON: The change is necessary because all nine board members and three administrative staff members require copies to review.

3. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Nursing, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than the close of hearing on November 30, 1995.

4. Colleen Graham, attorney, has been designated to preside over and conduct this hearing.

BOARD OF NURSING
JEAN BALLANTYNE, MN, RN,
PRESIDENT

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

(Annie M. Bartos)
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining) OF 8.64.402 FEES AND THE
to fees and the adoption of a) ADOPTION OF A NEW RULE
new rule pertaining to) PERTAINING TO LICENSEES FROM
licensees from other states) OTHER STATES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 25, 1995, the Board of Veterinary Medicine proposes to amend and adopt the above-stated rules.

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

"8.64.402 FEE SCHEDULE

(1) through (1)(c) will remain the same.

(d) Application for licensees from other states 200

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

Auth: Sec. 37-1-134, 37-18-202, MCA; IMP, Sec. 37-1-134, 37-18-302, 37-18-303, 37-18-307, 37-1-304, 37-18-401, 37-18-405, MCA

REASON: The proposed amendment will create a fee for applicants who hold licenses in another state, in keeping with the proposed new rule allowing this method of licensure. The new fee is commensurate with costs of processing and granting such licenses. The veterinary technologists licensing provisions were repealed and the interlined cites are no longer applicable.

3. The proposed new rule will read as follows:

"I LICENSURE OF OUT-OF-STATE APPLICANTS (1) A license to practice veterinary medicine in the state of Montana may be issued at the discretion of the board provided the applicant meets all of the following requirements:

(a) The candidate has graduated from and holds a degree/diploma from a school of veterinary medicine accredited or approved by the American veterinary medical association council on education as evidenced by a certified copy of the transcript sent directly from the veterinary school. Graduates of foreign veterinary schools must have completed the requirements of the American veterinary medical association's education commission for foreign veterinary graduates (E.C.F.V.G.).

(b) The candidate has passed the national board examination and the clinical competency test with a converted score of 70 or greater as received by the board from the official score reporting agency, or have been licensed on the basis of a competency (not jurisprudence) examination by a veterinary examination board under the laws of another state of the United States or a Canadian province.

(c) The candidate holds a valid and unrestricted license to practice veterinary medicine in another state or jurisdiction, and has been continuously in practice for five years immediately preceding the date of application to Montana. Official written verification of such licensure status must be received by the board directly from the other states or jurisdictions.

(d) The candidate's license to practice veterinary medicine has had no disciplinary sanction during the last five years of licensure and no license suspension or license revocation at any time.

(e) The candidate provides a work history of all employment, concurrent as well as consecutive, starting at the date of application and working back to graduation.

(f) The candidate has completed and filed with the board an application for licensure, and the required application fee.

(g) The candidate has not previously taken and failed to pass the veterinary licensing examination in this state.

(h) The candidate has passed a jurisprudence examination prepared to measure the competence of the applicant regarding the statutes and rules governing the practice of veterinary medicine in Montana with a score of 70% or greater. If the candidate fails the jurisprudence examination, it may not be re-taken for six months."

Auth: Sec. 37-1-131, 37-18-202, MCA; IMP, Sec. 37-1-304, MCA

REASON: The proposed new rule will set forth the requirements for admission of licensees from other states as provided for in 37-1-304, MCA, mandated by House Bill 518 of the 1995 Legislature. This rule will allow licensure of veterinarians who have a license in another state, and who meet the criteria in the rule, to be licensed without taking the oral and practical state examinations now required of all applicants.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment and adoption in writing to the Board of Veterinary Medicine, 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., November 24, 1995.

5. If a person who is directly affected by the proposed amendment and adoption wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Veterinary Medicine, 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., November 24, 1995.

6. If the Board receives requests for a public hearing on the proposed amendment and adoption from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendment and adoption, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a

hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 94 based on the 940 licensees in Montana.

BOARD OF VETERINARY MEDICINE
KENNETH BRUCHEZ, DVM, PRESIDENT

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

BEFORE THE BOARD OF MILK CONTROL
OF THE STATE OF MONTANA

In the matter of proposed	)	NOTICE OF PROPOSED
amendments to rule 8.86.301 as	)	AMENDMENTS
it relates to elimination of)	
minimum wholesale and retail	)	NO PUBLIC HEARING
prices; as it relates to	)	CONTEMPLATED
producer price formulas.)	
	)	DOCKET #23-95

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

1. On December 7, 1995, the Board of Milk Control
(Board) proposes to amend rule 8.86.301. The effective date
will be January 1, 1996.

2. The rule as proposed to be amended provides as
follows: (text of rule with matter to be omitted interlined
and new matter added, then underlined)

"8.86.301 PRICING RULES

(1)-(c) Remains the same.

~~(2) Terminology. Names of products and finished product
test specifications set forth in the appropriate price
announcement are classifications for pricing purposes under
the Milk Control Act only, and are not intended to interfere
with or supersede applicable labeling, packaging, weights, and
measures, or sanitation laws or regulations.~~

~~(3)(2) Maximum prices. Nothing contained herein shall
be construed as prohibiting the payment of higher prices to
producers, or charging of lower hauling rates from plant-to-
plant, or charging of higher wholesale and retail prices than
those prices and rates as fixed in this rule or in price
announcements issued hereunder.~~

~~(4) Contract termination.~~

~~(a) Any existing contracts with public and/or state
institutions must be renegotiated in compliance with the
prices ordered by the appropriate price announcement within
ninety (90) days or on the new bid date, whichever is sooner.~~

~~(b) Any existing school contracts must be renegotiated
in compliance with the appropriate price announcement.~~

~~(5) Prices to public and/or state institutions. Prices
to be paid for fluid milk sold to public and/or state~~

~~institutions in the state of Montana are fixed by the board of milk control at ninety-two percent (92%) of the regular wholesale price and such institutional prices are to be computed and made a part of the appropriate price announcement.~~

~~(6)(3) Formula for fixing class I price at the producer and all resale levels level.~~

(a) The minimum prices which shall be paid to producers by distributors in the state of Montana shall be calculated by either applying the flexible economic formula described below or the ~~Minnesota-Wisconsin series~~ Basic Formula Price plus three dollars and fifteen cents (\$3.15) whichever price is lower. The flexible economic formula utilizes a November 1969 base equalling 100, an interval of 4.5 and consists of seven (7) factors. The factors and their assigned weights are as follows:

	FACTOR	WEIGHT	CONVERSION FACTOR
(i)	Unemployment US (6.67 (3.8 - C) + 100)	.05	5%
(ii)	Unemployment MT. (6.67 (6.1 - C) + 100)	.10	10%
*(iii)	Weekly Wages - Total private (Revised and seasonally adjusted)	15%	.13297873
(iv)	Prices Received by Farmers - MT. ('47 - '49 = 100)	15%	.22960139
(v)	Mixed Dairy Feed	20%	.32258065
(vi)	Alfalfa Hay	12%	.48000000
(vii)	Prices Paid by Farmers - US ('67 - '88) <u>('90 - '92 = 100)</u>	23%	.41990335 <u>.78879240</u>
		100%	

*Note: The reported revised weekly wage - total private is seasonally adjusted by dividing each month's revised figures by the following factors: Jan. - .9867; Feb. - .9832; March - .9809; April - .9822; May - .9911; June - 1.0053; July - 1.0165; August - 1.0261; Sept. - 1.0136; Oct. - 1.0192; Nov. - 1.0047; Dec. - .9905.

The following table will be used in computing producer prices:

TABLE I

Producer price determination using above formula with November, 1969 - 100 and an interval - 4.5

FORMULA INDEX	PRICE PER CWT
201.5 - 205.1	\$13.01
206.0 - 209.6	13.24
210.5 - 214.1	13.47
215.0 - 218.6	13.70
219.5 - 223.1	13.93
224.0 - 227.6	14.16
228.5 - 232.1	14.39
233.0 - 236.6	14.62
237.5 - 241.1	14.85
242.0 - 245.6	15.08
246.5 - 250.1	15.31
251.0 - 254.6	15.54
255.5 - 259.1	15.77
260.0 - 263.6	16.00
264.5 - 268.1	16.23
269.0 - 272.6	16.46
273.5 - 277.1	16.69
278.0 - 281.6	16.92
282.5 - 286.1	17.15
287.0 - 290.6	17.38

(1)(b) The class I butterfat differential will be calculated by multiplying the average Chicago area butterfat price (grade A 92 score) by or most recently reported by the United States department of agriculture, by .118 and the resulting answer from this calculation shall be rounded to nearest half cent. When milk does not test 3.5 percent butterfat, the price per CWT will be adjusted by the above resulting calculation for each .1 percent the butterfat test moves up or down.

The butterfat differential will be recalculated each time the producer price is adjusted up or down by at least \$0.23 per hundredweight.

(b) ~~The flexible economic formula which shall be used in calculating minimum on the farm wholesale and retail, jobber, wholesale, institutional and retail prices of class I milk in the state of Montana utilizes a November, 1969 base equalling 100, an interval of 5.3 and consists of five (5) economic factors. It is used to calculate incremental deviations from the price which was calculated for the first quarter of 1974. The factors and their assigned weights are as follows:~~

		CONVERSION	
FACTOR	WEIGHT	FACTOR	
(i) Weekly wages total private revised	50%	.4035187	
(ii) Wholesale price index (US)	20%	.7806202	

(iii) Pulp, paper and allied products (UG)	12%	.3299850
(iv) Industrial machinery (UG)	6%	.1558846
(v) Motor vehicle and equipment (UG)	4%	.0945103
	100%	

NOTE: The reported revised weekly wages total private is seasonally adjusted by dividing each months revised figures by the factors listed above in paragraph (6)(a).

The following table will be used in computing distributor prices.

TABLE II

Handler incremental deviation from last official reading of present formula. (December, 1973 - 122.10; Formula Base - November, 1969; Interval - 5.3.)

FORMULA INDEX	HANDLER INCREMENTAL DEVIATION
196.70 - 200.94	0.19
202.00 - 206.24	0.20
207.30 - 211.54	0.21
212.60 - 216.84	0.22
217.90 - 222.14	0.23
223.20 - 227.44	0.24
228.50 - 232.74	0.25
233.80 - 238.04	0.26
239.10 - 243.34	0.27
244.40 - 248.64	0.28
249.70 - 253.94	0.29
255.00 - 259.24	0.30
260.30 - 264.54	0.31
265.60 - 269.84	0.32
270.90 - 275.14	0.33
276.20 - 280.44	0.34
281.50 - 285.74	0.35
286.80 - 291.04	0.36
292.10 - 296.34	0.37
297.40 - 301.64	0.38
302.70 - 306.94	0.39
308.00 - 312.24	0.40
313.30 - 317.54	0.41
318.60 - 322.84	0.42
323.90 - 328.14	0.43

(c) Detailed information on converting the above factors in both formulas the producer formula (3)(a) to a current weighted value can be obtained by contacting the milk control bureau, 1520 Br. 6th Ave., room 50, Helena, Montana 59620, phone (406) 444-2875.

(d) The factors in both formulas the producer formula will be converted to a weighted value as soon as practicable after the first of each month.

(e) For each 4.5 points that the weighted index advances or retreats, prices paid to producers will increase or decrease twenty-three cents (\$0.23) per hundredweight. For each officially announced increase or decrease in producer prices, the wholesale price of all fluid milk items will increase or decrease by the amount of the increase or decrease in raw product cost.

(f) For each 5.3 points that the distributor weighted index increases or decreases, the wholesale price of one-half (1/2) gallon of whole milk will increase or decrease one cent (\$0.01). Prices for all other milk items are calculated by historic factors in relation to one-half (1/2) gallon of whole milk. Three (3) quart containers of homo and low fat will be priced at one and one-half (1 1/2) times the one-half (1/2) gallon container. It is impractical to reproduce all such factors herein, but they may be obtained at the board office, Room 50, Lee Metcalf Building, Helena, Montana 59620, phone (406) 444-2875.

(g) The minimum wholesale price will be marked up ten percent (10%) to arrive at minimum retail prices.

(h) Special wholesale prices for retail grocery stores will be based on the provisions contained in subsections (i), (ii), (iii) and (iv) below.

(i) The minimum full service wholesale price for retail grocery stores will be calculated by multiplying the minimum retail prices by a factor of eighty-seven percent (87%). The minimum wholesale prices charged to retail grocery stores by distributors and paid by retail grocery stores to distributors shall be at this price if the distributor provides any ordering services, shelf stocking services, outdated product credit services, or retail price marking services to the retail grocery store. All fluid milk purchased by retail grocery stores pursuant to this subsection (i) must be paid within fifteen (15) days after invoicing.

(ii) The minimum drop shipment wholesale price for retail grocery stores that purchase their fluid milk without the provision of any of the services outlined in (i) shall be calculated by multiplying the minimum retail prices by a factor of eighty-three percent (83%). Distributors selling fluid milk to retail grocery stores at this price will not be allowed to provide services to retail grocery stores, other

than delivery of the fluid milk products to the back room refrigerated storage area of the retail stores. In the event the distributor or his agents provide any other service to the retail grocery store, the minimum wholesale price paid for the milk products by the retail grocery store to the distributor shall be the full service wholesale price as set forth in (i) above. Distributors selling fluid milk to retail grocery stores at this price will be allowed to make deliveries of fluid milk products no more than four (4) times per week, and each delivery must be for a minimum of \$150.00. In the event a distributor or his agents provide delivery of fluid milk products more than four (4) times per week, the minimum wholesale price paid for the fluid milk products by the retail grocery store to the distributor shall be the full service wholesale price set forth in section (i) above. All fluid milk purchased by retail grocery stores pursuant to this subsection (ii) must be paid within fifteen (15) days after invoicing.

(iii) The minimum wholesale price for fluid milk purchased by retail grocery stores at the distributor's dock will be calculated by multiplying the minimum retail price by a factor of seventy-eight percent (78%). All fluid milk purchased by retail grocery stores at the distributor's dock must be paid for within fifteen (15) days after invoicing. Delivery of such fluid milk shall be FOB the distributor's dock. The retail grocery store can pick up milk at the distributor's dock with its own equipment or by a contract hauler retained by and paid by the retail grocery store or can have the milk delivered by the distributor. If the distributor delivers the milk to the retail grocery store a delivery charge based upon the cost of delivery, which shall be a minimum of three and one-half percent (3.5%) of the retail grocery store's invoice. The distributor shall not provide any service of any type to retail grocery stores purchasing milk pursuant to this subsection (iii). In order for a retail store to be eligible to purchase fluid milk products from a distributor at this pricing level, the retail grocery store must purchase a minimum of one thousand (1000) gallons of fluid milk products per week.

(iv) Retailers are prohibited from purchasing fluid milk at more than one pricing level as set forth in subsections (i), (ii) and (iii) from any one distributor in any single billing period which constitutes a period of at least two weeks. Distributors are prohibited from selling fluid milk to any retail grocery store at more than one pricing level as set forth in subsections (i), (ii) and (iii) to any one retailer in any single billing period.

(v) The minimum wholesale price for fluid milk purchased by wholesale grocery distribution centers will be

calculated by multiplying the minimum retail price by a factor of seventy-eight percent (78%). All fluid milk purchased by wholesale grocery distribution centers must be paid for within fifteen (15) days after invoicing. Delivery of such fluid milk shall be FOB the wholesale grocery distribution center's dock or distributor's dock. A wholesale grocery distribution center must purchase a minimum of one thousand (1000) gallons of fluid milk products per week from a distributor to be eligible to purchase fluid milk products at this pricing level. The minimum resale price to retail grocery stores will be a full service or a drop shipment wholesale price.

(i) Minimum jobber prices will be calculated by multiplying the difference between the applicable wholesale price and raw product cost times a factor of 55.59% with the resulting answer being added to the current raw product cost. The jobber prices calculated will be the minimum jobber prices.

(j) On the farm wholesale and retail pricing:

(i) The minimum on the farm retail price for pasteurized milk in any container size is the same as the lowest calculated and established jobber price.

(ii) The minimum on the farm retail price for raw milk sold in one half (1/2) gallon containers is eleven cents (\$0.11) less than the lowest calculated and established jobber price for raw milk in such containers.

(iii) The minimum on the farm price for raw milk sold in one (1) gallon containers is twenty-two cents (\$0.22) less than the lowest calculated and established jobber price for raw milk in such containers.

(k) Low fat chocolate two percent milk will be priced by adding the difference between whole white milk and whole chocolate milk to the price of white low fat two percent milk. Monthly price announcements will be amended accordingly.

(l) A special price on low fat milk, low fat chocolate milk, and homogenized milk in half (1/2) pints purchased by elementary and high schools is hereby established at ninety-two percent (92%) of the regular wholesale price with monthly price announcements amended accordingly.

(7)(4) Formula for fixing class II price to be paid to producers.

(a)-(b) Remains the same.

(8)(5) Formula for fixing the class III price to be paid to producers.

(a)-(b)(vi) Remains the same.

(c) Any new producer entering the market after the effective date of this rule will be accorded plant usage for his milk until he has established a production record for a period not to exceed six (6) months exclusive of the months of May, June, and July. After he has established a production

~~record, such producer will participate in milk shipped to other markets on the same basis as all other plant producers.~~

~~(d) In the event that total class III usage allocated to producers must be shipped to another market because of inventory differences supplying regular plant class III usage, then all producers will share in such usage pro rata. This rule is maximum and permissive in that a plant is not required to charge its producers for shipments to other markets.~~

~~(e)(c) Price paid to producers for class III milk will be computed and announced monthly in accordance with the above formula and the price calculated during the current month will be the price paid during the succeeding month.~~

~~(9)(6) Freight allowances and handling charges for bulk milk involved in inter-plant transfers.~~

~~(a)-(d) Remains the same.~~

~~(e) Producers must be paid for their bulk milk transferred between plants by the exporting or transmitting distributor in accordance with the current price announcement at the prices therein specified or fixed pursuant to statutory formula for the class or use in which it is ultimately used or sold. A freight allowance which is no more than that fixed in sub-paragraph (a) of paragraph 9~~

~~(6)(a) of this rule may be deducted from such payments by the exporting or transmitting distributor paying the freight charges.~~

~~(f) Remains the same.~~

~~(10) Products not specified. Any unassigned quantity or new product hereafter marketed, but not specifically priced under the appropriate price announcement, will be assigned a price which will be the logical multiple or fraction of the nearest quantity or product to which a specific price has been fixed by the appropriate price announcement, until a specific price or formula for price is ordered by this board as a result of the regular hearing procedure and based upon actual cost experience of the industry. THE BOARD OF MILK CONTROL MUST BE GIVEN THIRTY (30) DAYS WRITTEN NOTICE PRIOR TO THE INTRODUCTION OF A NEW PRODUCT IN THE STATE OF MONTANA.~~

~~(11) Jobber and/or independent contractor prices. Minimum prices that must be charged to jobbers and/or independent contractors by distributors for packaged milk products are set forth in the appropriate price announcement.~~

~~(12)(7) Supervening federal or state law. No price established by any formula set forth in this rule shall be charged if the same be contrary to any supervening federal or state law, rule or regulation. Should any minimum prices published by this board under this rule exceed the limitations imposed by such laws, rules or regulations, such prices shall be reduced to the extent of such excess, even though such reduction may impair a uniform or complete application of the price fixing formula, or any of the same, set out in this~~

rule. The prices, as so modified, shall be respected and enforced as the minimum prices established under this rule.

~~(13)~~ (8) Monthly price announcements.

(a) Monthly price announcements will be issued pursuant to paragraph 6(3) of this rule. ~~Producer, jobber, institutional, wholesale, retail and on-the-farm wholesale and retail~~ prices will be uniform and identical throughout the state of Montana.

(b) In the event that recalculation of the formula indices does not indicate a change in prices producer price, that circumstance also will be announced.

~~(c) Prices announced pursuant to subsection 6 of this rule are stated in United States of America (USA) currency. When currency other than USA currency is used to purchase milk, compliance with minimum pricing rules will be determined by converting the foreign currency to USA currency at the exchange rate posted at the nearest bank holding a USA national bank or a Montana state bank charter."~~

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

3. Rule 8.86.301 is being amended to make changes which comply with legislative changes as a result of passage of Senate Bill #364, which eliminated statutory authority to set minimum wholesale and retail prices. Paragraph (6)(a) was amended to maintain the status quo because the base period on the prices paid by "Farmers - US" had been changed. Paragraphs (8)(c) and (d) are being deleted because paragraph (8)(b) had been amended in both dockets #88-88 and #1-90, changing the meaning of the entire paragraph, making sub-paragraph (c) and (d) no longer necessary. Paragraphs (8)(c) and (d) should have been deleted in docket #88-88.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to the Milk Control Bureau, 1520 East Sixth Avenue-Room 50, PO Box 200512, Helena, MT 59620-0512, no later than November 23, 1995.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written comments he has to the Milk Control Bureau, 1520 East Sixth Avenue-Room 50, PO Box 200512, Helena, MT 59620-0512. A written request for hearing must be received no later than November 23, 1995.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10 percent (10%) or twenty-five (25), whichever is less, of the persons who are directly affected by the proposed amendment, from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent (10%) of those persons directly affected has been determined to be 27 persons based on an estimate of licensed resident and nonresident producers, in-state and out-of-state distributors, jobbers, and producer-distributors.

MONTANA BOARD OF MILK CONTROL
MILTON J. OLSEN, Chairman

By: E. E. "Cork" Mortenson
Cork Mortenson, Exec. Secretary
Board of Livestock

By: Lon Mitchell
Lon Mitchell, Rule Reviewer
Livestock Chief Legal Counsel

Certified to the Secretary of State October 16, 1995.

BEFORE THE BOARD OF HOUSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining	)	OF 8.111.303 FINANCING
to financing programs, lend-	)	PROGRAMS, 8.111.305
ing institutions and income	)	QUALIFIED LENDING INSTITU-
limits and loan amounts	)	TIONS AND 8.111.405 INCOME
	)	LIMITS AND LOAN AMOUNTS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 25, 1995, the Board of Housing proposes to amend the above-stated rules.

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

"8.111.303 FINANCING PROGRAMS (1) through (2)(e) will remain the same.

(3) No person or family qualifying for a loan under the board's single family program may obtain more than one loan at a time under the board's programs ~~provided, however, that a second loan may be approved by the board if the person or family relocates their principal residence by more than thirty statutory miles, as determined by the shortest highway route on the official Montana highway map in effect at that time.~~

(4) through (6) will remain the same."

Auth: 90-6-104, 90-6-106, 90-6-108, MCA; IMP, Sec. 90-6-104, 90-6-106, MCA

REASON: The board is proposing this amendment to allow additional subsequent Board of Housing loans to borrowers relocating their principal residence within thirty statutory miles of a prior principal residence.

"8.111.305 QUALIFIED LENDING INSTITUTIONS (1) through (2)(c) will remain the same.

(d) a certificate of errors and omissions insurance coverage in a minimum amount as is required by the program documents for each bond issue in which the lending institution participates and a fidelity bond of an amount currently required by the FHA but not less than \$300,000.

(e) through (7) will remain the same."

Auth: Sec. 90-6-104, 90-6-106, 90-6-108, MCA; IMP, Sec. 90-6-104, 90-6-106, MCA

REASON: The board is proposing this amendment to achieve adequate security for performance by approved lenders under the board's programs.

"8.111.405 INCOME LIMITS AND LOAN AMOUNTS (1) The annual income limits to be eligible for a reverse annuity mortgage loan shall not exceed the following:

(a) ~~one person household, \$10,500.00;~~

(b) ~~two person household, \$13,800.00;~~

(c) ~~three person household and up, \$15,500.00;~~

200% of the poverty level per household size as set forth by the U.S. Department of Health and Human Services, changing each year.

(2) will remain the same."

Auth: Sec. 90-6-104, 90-6-106, 90-6-507, MCA; IMP, Sec. 90-6-104, 90-6-106, 90-6-503, MCA

REASON: The Board is proposing these amendments to achieve adequate flexibility to periodically change the maximum dollar amount of a loan dependent upon current Federal poverty guidelines.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Housing, 2001 11th Avenue, P.O. Box 200528, Helena, Montana 59620-0528, to be received no later than 5:00 p.m., November 23, 1995.

4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Housing, 2001 11th Avenue, P.O. Box 200528, Helena, Montana 59620-0528, to be received no later than 5:00 p.m., November 23, 1995.

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

BOARD OF HOUSING
BOB THOMAS, CHAIRMAN

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

ANNE M. BARTOS
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

BEFORE THE SCIENCE AND TECHNOLOGY DEVELOPMENT BOARD
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF 8.122.601 APPLICATION
to seed capital technology) PROCEDURES FOR A SEED CAPITAL
loans) TECHNOLOGY LOAN - SUBMISSION
) AND USE OF EXECUTIVE SUMMARY

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 25, 1995, the Science and Technology Development Board proposes to amend the above-stated rule.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.122.601 APPLICATION PROCEDURES FOR A SEED CAPITAL TECHNOLOGY LOAN - SUBMISSION AND USE OF EXECUTIVE SUMMARY

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

(4) Upon receipt of the executive summary, will be evaluated the staff will evaluate the executive summary to determine whether the proposal complies with (2) above and the applicable statutory criteria. If the board staff determines that the executive summary meets these requirements, the summary and staff review will be provided to the board. The board may then direct the staff to request the applicant to submit a complete business plan and the proposal will be advanced to the threshold review phase. If the staff determines that the executive summary does not comply with (2) above and the applicable statutory criteria, the applicant will be so informed and the board will be notified of all applicants not meeting these requirements.

Auth: Sec. 90-3-204, MCA; IMP, Sec. 90-3-204, MCA

REASON: Adoption of the proposed amendment is necessary to streamline review of executive summaries and to expedite the application process for eligible applicants. The proposed amendment allows the staff, which does the primary work in review of executive summaries under the current rule, to decide whether an applicant meets the basic criteria for further consideration of its proposal by the board.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Science and Technology Development Board, 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., November 25, 1995.

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 Science and Technology Development Board, 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., November 25, 1995.

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

SCIENCE AND TECHNOLOGY
DEVELOPMENT BOARD
REBECCA MAHARIN, 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, October 16, 1995.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC
ARM 16.18.301-305, 307-308, and) HEARING FOR PROPOSED
16.18.310 regarding the wastewater) ADOPTION OF AMENDMENTS
treatment works revolving fund)
rules to authorize loans for)
certain solid waste management)
and stormwater control projects.)

(Water Quality)

To: All Interested Persons

1. On December 7, 1995, at 8:00 a.m. or as soon thereafter as it may be heard, the board will hold a public hearing in the Director's Conference Room, Room 111 of the Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the amendment of the above-captioned rules.

2. The proposed amendments to the state revolving fund rules appear as follows:

16.18.301 PURPOSE (1)-(2) Remain the same.

(3) The ~~board~~ department of natural resources and conservation may also adopt rules that address measures for protecting the financial solvency of the wastewater treatment works revolving fund, including measures requiring debt security requirements for loans.

AUTH: 75-5-1105, MCA; IMP: 75-5-1105, MCA

16.18.302 DEFINITIONS In this subchapter, the following terms have the meanings indicated below and are supplemental to the definitions contained in 75-5-103, ~~and~~ 75-5-1102, ~~and~~ 75-10-103, MCA; ~~and~~ sections 601 through 607 of the Federal Water Pollution Control Act, 33 USC 1251-1387, as amended; ~~and~~ ARM Title 36, chapter 24.

(1) Remains the same.

(2) "Department" means the Montana department of environmental quality provided for in 2-15-3501, MCA.

(3) "Federal act" means the federal act as defined in 75-5-1102(3), MCA.

~~(4)~~ (4) "Municipality" means municipality as defined in 75-5-1102(5), MCA. Municipality may include a county, a county water and sewer district, or a solid waste district.

~~(5)~~ (5) "Non-point source" means a diffuse source of pollutants resulting from the activities of man over a relatively large area, the effects of which normally must be addressed or controlled by a management or conservation practice, the source of pollutants which originates from diffuse runoff, seepage, drainage or infiltration.

(5)-(7) Remain the same but are renumbered (6)-(8).

~~(8) (2) "Sewage system" means any device for collection or conducting sewage, industrial wastes or an ultimate disposal point a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.~~

(10) "Solid waste management system" means a system that controls the storage, treatment, recycling, recovery or disposal of solid waste, and for purposes of this chapter, improvements to a solid waste management system that qualify as a non-point source project, including:

- (a) acquisition of land for the system;
- (b) installation of liners;
- (c) monitoring of wells;
- (d) construction and closure of a landfill, transfer station, container site, incinerating facility, or composting facility; and
- (e) all necessary and related equipment required for operation of a solid waste management system.

(11) "Storm drainage or storm sewer system" means a device or system for the collection, conveyance, disposal or treatment of storm waters and runoff.

(9)-(10) Remain the same but are renumbered (12)-(13).

AUTH: 75-5-1105, MCA; IMP: 75-5-1102, MCA

16.18.303 USE OF THE FUND--ELIGIBLE ACTIVITIES FOR FUND ASSISTANCE (1) The fund may be used to:

(a) Provide financial assistance to municipalities for development construction, renovation, rehabilitation, expansion or improvement of publicly owned treatment works as described in section 212 of the federal act, including but not limited to:

(i) preliminary planning to determine the feasibility of the treatment works, engineering or architectural designs, plans and working drawings; or and

(ii) construction of treatment works, including devices and systems used in the storage, conveyance, treatment, recycling and reclamation of municipal wastewater, storm water runoff, or combined sewer overflows.

(b) Remains the same.

(c) Provide financial assistance to municipalities for construction, renovation, rehabilitation, expansion or improvement of solid waste management systems identified as a non-point source pollution control management project under section 319 of the federal act, including but not limited to:

(i) preliminary planning to determine the feasibility of the solid waste management system, engineering or architectural, plans and working drawings; and

(ii) acquisition and construction of a solid waste management system including land, facilities, container sites and equipment related to the system;

(c)-(e) Remain the same but are renumbered (d)-(f).

AUTH: 75-5-1105, MCA; IMP: 75-5-1107, MCA

16.18.304 TYPES OF FINANCIAL ASSISTANCE (1) The department may provide financial assistance from the fund by:

(a) Making a direct loan for eligible project costs, subject to the following requirements:

(i) Remains the same.

(ii) the term may not exceed 20 years or the useful life of the project being financed, whichever is less;

(iii)-(iv) Remain the same.

(b)-(d) Remain the same.

AUTH: 75-5-1105, MCA; IMP: 75-5-1107, MCA

16.18.305 CRITERIA FOR FINANCIAL ASSISTANCE TO MUNICIPALITIES (1) To be eligible for financial assistance from the fund, a municipality must:

(a) Comply with all applicable provisions of Montana law applicable to incurring a loan;

(b) Meet financial capability requirements set by the board of natural resources and conservation or the department of natural resources and conservation that ensure sufficient revenues will be available to operate and maintain the facility for its useful life and to secure and repay the loan;

~~(b)(c)~~ (c) Agree to operate and maintain the wastewater system, storm drainage or storm sewer system, or solid waste management system so that the facility will function properly over its structural and material design life, which may not be less than 20 years;

(c)-(f) Remain the same but are renumbered (d)-(g).

(h) Provide assurance adequate funding sources are available to completely finance the project;

~~(g)(i)~~ (i) Meet the plan and specification requirements for public wastewater systems, as described in ARM 16.20.401, or, if the project is a solid waste management system project, be consistent with the state's solid waste management plan and meet all applicable solid waste management requirements set forth in ARM Title 16, chapter 14;

~~(h)(j)~~ (j) Utilize proper construction inspection and project management procedures; and

~~(i)(k)~~ (k) Meet all applicable local, state and federal laws and authorities regulations. If the project is a solid waste management system project, the project must be identified in an EPA-approved non-point source management plan pursuant to section 319 of the federal act.

(2) Remains the same.

AUTH: 75-5-1105, MCA; IMP: 75-5-1105, 75-5-1113, MCA

16.18.307 APPLICATION PROCEDURES (1) ~~A complete application package must be submitted to the department no later than October 1 to be considered for the current federal fiscal year (October 1 - September 30).~~

~~(2)~~ (2) A municipality that seeks direct loan assistance, a loan guarantee, or insurance for a municipal obligation must submit to the department:

(a)-(f) Remain the same.

~~(3)(2)~~ (2) A municipality that seeks loan assistance to

refinance projects previously constructed and subject to outstanding indebtedness must submit:

- (a) a completed revolving fund application form;
- (b) a ~~project description that includes a schedule showing when construction schedule of the project was commenced and when the project was completed;~~

(c)-(e) Remain the same.

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

AUTH: 75-5-1105, MCA; IMP: 75-5-1111, MCA

16.18.308 MONTANA PROJECT PRIORITY LIST (1)-(2) Remain the same.

(3) The Montana project priority list must include:

(a) Remains the same.

(b) An For wastewater system projects, an assignment of a numerical score for each project through use of the Montana priority rating and ranking system, which shall rate and rank projects according to:

(i)-(vi) Remain the same.

(c)-(d) Remain the same.

(4) Remains the same.

AUTH: 75-5-1105, MCA; IMP: 75-5-1112, MCA

16.18.310 PUBLIC PARTICIPATION (1) Remains the same.

(2) After preparation of the draft Montana rating and ranking system, the draft Montana project priority list, and the draft intended use plan, a formally advertised public hearing must be held to allow public comment concerning the rating and ranking system, project priority list and intended use plan. All public comments received by the department must be addressed in a written summary.

AUTH: 75-5-1105, MCA; IMP: 75-5-1112, MCA

3. The Board is proposing these amendments to clarify and identify requirements for loan assistance under the wastewater treatment works revolving fund for solid waste management system projects that are identified as non-point source pollution control management projects under section 319 of the federal Clean Water Act. Requirements for these projects are not presently described in existing rules. Upon receiving EPA-approval of the required rule package, a necessary prerequisite for federal assistance, the Department of Environmental Quality will be able to issue low-interest loans for solid waste management system projects to eligible entities under the wastewater treatment works revolving fund program. Ultimately, these projects will further protect the quality of state waters. In addition, these rules are amended to ensure conformity with companion rules proposed by the Department of Natural Resources and Conservation that implement financial components of the loan program.

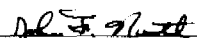
In addition, the application cycle is modified to allow applications to be filed at any time throughout the year, which is necessary to ensure maximum flexibility for applicants. Also, the rules are amended to further define eligible storm


water or storm sewer system projects. This change was needed to provide better guidance to applicants. Finally, an eligibility criterion is added that requires demonstration by a municipality that it can make its payments on the requested loan, thereby promoting the financial integrity of the loan program.

4. Interested persons may submit their views or arguments concerning the proposed rule, either orally or in writing, at the hearing. Written views, arguments, or data, may also be submitted to Barbara Neuwerth, Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901, no later than November 30, 1995.

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

BOARD OF ENVIRONMENTAL REVIEW


JOHN F. NORTH
Rule Reviewer


CINDY E. YOUNKIN, Chairperson

Certified to the Secretary of State October 16, 1995 .

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF PUBLIC
new rule I regarding temporary	)	HEARING FOR PROPOSED
water standards for Daisy Creek,	)	ADOPTION OF NEW RULE
Stillwater River, Fisher Creek,)	
and the Clark's Fork of the)	
Yellowstone River.)	

(Water Quality)

To: All Interested Persons

1. On August 24, 1995, the board filed notice of public hearing for the proposed adoption of the above captioned rule at page 1652 in the 1995 Montana Administrative Register, Issue No. 16.

2. The public hearing, scheduled for October 6, 1995, regarding Crown Butte Mines, Inc., (CBMI) proposal for the adoption of temporary water quality standards, was canceled at page 1872 in the 1995 Montana Administrative Register, Issue No. 18.


3. The Board has set a new hearing date for December 7, 1995, at 8:00 a.m. or as soon thereafter as it may be heard, in the Director's Conference room, Room 111 of the Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the adoption of the above-captioned rules.

4. Interested persons may submit their views or arguments concerning the proposed rule, either orally or in writing, at the hearing. Written views, arguments, or data, may also be submitted to Yolanda Fitzsimmons, PO Box 200901, Helena, MT 59620-0901, no later than November 30, 1995.

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

BOARD OF ENVIRONMENTAL REVIEW


JOHN F. NORTH
Rule Reviewer


CINDY E. YOUNKIN, Chairperson

Certified to the Secretary of State October 16, 1995.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PUBLIC HEARING
of rules 16.20.603, 617, 618,) FOR PROPOSED AMENDMENT
619, 620, 621, 622, 623, 624,) OF RULES
641, 707, 1003, and 1802)
concerning surface and ground-)
water water quality standards,)
mixing zones, and)
nondegradation of water)
quality.)

(Water Quality)

To: All Interested Persons

1. On December 7, 1995, at 8:00 a.m. or as soon thereafter as it may be heard, the board will hold a public hearing in the Director's Conference Room, Room 111 of the Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the adoption of the above-captioned rules.

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

16.20.603 DEFINITIONS In this subchapter the following terms have the meanings indicated below and are supplemental to the definitions given in 75-5-103, MCA:

(1)-(29) Remain the same.

(30) The board hereby adopts and incorporates by reference department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water. Copies of circular WQB-7 may be obtained from the Water Quality Division, Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

(31) Remains the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.617 A-1 CLASSIFICATION (1)-(3) Remain the same.

(4) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.618 B-1 CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference

the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.619 B-2 CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.620 B-3 CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.621 C-1 CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.622 C-2 CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.623 I CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and

harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.624 C-3 CLASSIFICATION (1)-(2) Remain the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.641 RADIOLOGICAL CRITERIA (1) Remains the same.

(2) The board hereby adopts and incorporates by reference department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and harmful parameters in water. Copies of the circular may be obtained from the Water Quality Division, Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.707 DEFINITIONS Unless the context clearly states otherwise, the following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter (Note: 75-5-103, MCA, includes definitions for "degradation", "existing uses", "high quality waters", and "parameter."):

(1)-(23) Remain the same.

(24)(a) The board hereby adopts and incorporates by reference:

(i) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and harmful parameters in water; and

(ii) Remains the same.

(b) Remains the same.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

16.20.1003 GROUND WATER QUALITY STANDARDS (1)-(3) Remains the same.

(4)(a) The board hereby adopts and incorporates by reference the following:

(i)-(iii) Remain the same.

(iv) Department circular WQB-7, entitled "Montana Numeric Water Quality Standards", (December, 1995 edition).

(b) Remains the same.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.1802 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, and ARM Title 16, chapter 20, subchapters 6 and 7, apply throughout this subchapter:

(1)-(13) Remain the same.

(14) The board hereby adopts and incorporates by reference department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, and harmful parameters in water. Copies of the circular are available from the Water Quality Division, Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

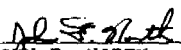
3. These rules are being amended to correct errors in the values of Benzo(a)pyrene and asbestos, and in the formula for calculating total ammonia as nitrogen, as listed in WQB-7 (1995 edition), in order to fully comply with the requirements of SB 331.

4. A copy of the updated Circular WQB-7 may be obtained by contacting the Water Quality Division, Montana Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901 [(406)444-2406].

5. Interested persons may submit their data, views, or arguments concerning the proposed amendments in writing to Yolanda Fitzsimmons, Department of Environmental Quality, PO Box 200901, Helena, MT 59620, no later than November 30, 1995.

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

BOARD OF ENVIRONMENTAL REVIEW


JOHN F. NORTH
Rule Reviewer


CINDY E. YOUNKIN, Chairperson

Certified to the Secretary of State October 16, 1995 .

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of ARM 24.28.101,) PROPOSED AMENDMENT, ADOPTION
24.28.102, 24.28.103, 24.28.104,) AND REPEAL OF RULES
24.28.105, 24.28.106, 24.28.107,))
24.28.108 and 24.28.111, the)
proposed adoption of new RULE I,))
and the proposed repeal of)
ARM 24.28.109, all related to)
workers' compensation mediation)

TO ALL INTERESTED PERSONS:

1. On November 17, 1995, at 10:00 a.m., a public hearing will be held in the first floor conference room at the Walt Sullivan Building (Dept. of Labor Building), 1327 Lockey Street, Helena, Montana, to consider the amendment, adoption and repeal of rules related to workers' compensation mediation.

The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department by not later than 5:00 p.m., November 13, 1995, to advise us of the nature of the accommodation that you need. Please contact the Employment Relations Division, Attn: Ms. Kay Henry, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-6534; TDD (406) 444-5549; fax (406) 444-4140. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Ms. Henry.

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

24.28.101 JURISDICTION (1) Parties having a dispute about any issue concerning claimant's benefits under Title 39, chapters 71 and 72, MCA, excluding those enumerated in (2), must bring the dispute before a department of labor and industry mediator prior to petitioning the workers' compensation court. ~~Any issue between a claimant and insurer upon which the right to or the amount of the claimant's benefits under chapters 71 and 72 will be determined is a dispute concerning benefits.~~

(2) Parties having a dispute concerning benefits involving one of the following issues are not required to bring the dispute to mediation, but instead must attempt to resolve the dispute ~~before the division of workers' compensation~~ according to the appropriate procedures set forth in the statutes:

(a) Determination of the value of work paid for in property other than money (39-71-303, MCA);

~~(b) Settlement allocations under the subrogation statute~~

~~(39-71-414, MCA);~~

(eb) Requests to waive the one year statute of limitations up to 24 months (39-71-601, MCA);

(ec) Disputes concerning the medical condition of a claimant when one side requests the division to order an independent evaluation (39-71-605, MCA);

~~(ed) Disputes concerning attorney fees on cases that have not gone to hearing before the workers' compensation court (39-71-613, MCA);~~

(fe) Disputes concerning impairment ratings for injuries occurring between July 1, 1987, and June 30, 1991 (39-71-711, MCA);

(gf) Disputes regarding dependency for purposes of determining beneficiaries (39-71-723, MCA);

(hg) Disputes concerning certification as vocationally handicapped under Title 39, chapter 71, part 9, MCA;

(ih) Disputes concerning vocational rehabilitation on for injuries occurring on or after prior to July 1, 1987 1991 ~~(39-71-1018, 39-71-1032, and 39-71-1033, MCA), and on injuries prior to that date about which 39-71-1005, MCA, in effect at the date of injury gives the division jurisdiction;~~

~~(ji) Disputes concerning whether or not a claimant is suffering from an occupational disease (39-72-602, MCA) or regarding apportionment under the Occupational Disease Act (Title 39, chapter 72, part 6) disputes concerning apportionment between occupational and nonoccupational causes for disease on claims for which the department has issued an order determining the percentage (39-72-706, MCA);~~

(j) Disputes concerning benefits under 39-72-405, MCA, for occupational diseases prior to July 1, 1993;

(k) Disputes over attorney fees on occupational disease claims (39-72-712, MCA); and

(l) Disputes over medical claims when benefits available directly to claimants are not an issue (ARM 24.29.1404).

(3) A mediator shall have no jurisdiction over any dispute about which a party has filed a petition with the workers' compensation court prior to July 1, 1987, except by consent of all parties to the dispute.

(4) Within five working days after the receipt of a request for mediation, the department shall determine whether it has jurisdiction over the subject of the dispute. If the department determines that it does not have jurisdiction, it shall issue an order dismissing the request, stating the reasons for the dismissal, and setting forth the proper procedure for resolving the dispute.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2408 MCA

24.28.102 PARTIES, ATTENDANCE, REPRESENTATION

(1) Parties to a dispute are the claimant and the insurer, or alleged insurer.

(2) A claimant may be self-represented by himself, or represented by an unpaid representative, or an attorney licensed to practice law in Montana. An insurer may be represented by a designated representative. However, a claimant must attend

mediation conferences, except if the mediator excuses the claimant for good cause.

(3) Parties may bring witnesses to a mediation conference with the consent of the mediator.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

24.28.103 REQUESTS FOR MEDIATION (1) A party may request mediation by submitting a completed mediation request form to: Employment Relations Division, ~~Department of Labor and Industry~~ Mediation Unit, P.O. Box 1728, Helena, MT 59624.

(2) Mediation request forms are available from the Employment Relations Division of the Department of Labor and Industry at the address above or at by telephoning (406) 444-~~3022 6534~~; ~~the Division of Workers' Compensation at 5 South Last Chance Gulch, Helena, MT 59601, (406) 444-6500~~; and from local Job Service offices. For assistance in completing the form, a party may ~~phone telephone~~ the ~~Insurance Compliance Bureau of the Division of Workers' Compensation~~ Employment Relations Division at (406) 444-6530 6534.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

24.28.104 TIME FRAMES FOR SETTLEMENT CONFERENCES--NOTICES

(1) The mediator shall have 45 days from the date the mediation request was received by the department to hold mediation conferences. The mediator shall send notice to the parties identifying the following: issues to be mediated; information required prior to the time of the mediation conference; and the time and place of the mediation conference. The 45 day period may be extended by mutual agreement of the parties. If a party ~~objects to a telephone~~ requests an in-person mediation conference, the mediator may extend the 45 day period to 60 days ~~if the mediator deems the extension necessary to set up the in-person conference~~. If the mediator does not hold a mediation conference within the time frames provided herein, the parties may proceed directly to workers' compensation court.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

24.28.105 MOTIONS TO DISMISS FOR FAILURE TO MEET SETTLEMENT REQUIREMENTS (1) A party may request a mediator to dismiss a mediation request because the settlement requirements of 39-71-2401, MCA, have not been met. The request must be in writing, setting forth the party's specific objections, and filed with the mediator within ten working days after the department's mailing of a copy of the mediation request form to the opposing parties. A copy of the request for dismissal shall be mailed by the party requesting dismissal to all other parties.

(2) Upon receipt of a request under this rule, the mediator shall attempt to communicate with the parties jointly to ascertain whether the settlement requirements have been met. After the communication, or a reasonable attempt at communication, if the mediator determines that the settlement requirements have not been met, the mediator may issue an order

dismissing the request. The order must state ~~with particularity~~ specifically what the requesting party must do to meet the settlement requirements. The order may be appealed to the workers' compensation court within 10 working days after the date of the order.

(3) Parties may waive the settlement requirements by mutual agreement.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

24.28.106 MEDIATION CONFERENCES (1) ~~The mediator shall conduct one or more mediation conferences.~~ Conferences may be conducted by telephone conference call. If an in-person conference is requested, it must be held in Helena, Montana.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

24.28.107 ROLE OF MEDIATOR--UNREPRESENTED CLAIMANT

(1) As set forth in 39-71-105 and 39-71-2406, MCA, it is the purpose of the mediation process to facilitate resolution of disputes as early as possible, and it is the general purpose of the Workers' Compensation Act to allow claimants who wish to proceed without an attorney to do so. When claimants are represented in mediation by legal counsel, it is assumed by the ~~department mediator~~ that counsel is aware of what must be done to meet settlement and mediation requirements, and how to meet those requirements. Accordingly, the mediator shall hold them to that standard in determining whether the settlement requirements have been met and whether they are cooperating with the mediation process. It is also assumed that insurer's agents, even though they may not be licensed attorneys, work in the area of workers' compensation regularly and are versed in the workers' compensation laws and procedures. However, most claimants who choose to represent themselves are not assumed to be knowledgeable about the workers' compensation system. In order to provide a process where it is reasonable for a claimant to be self-represented ~~represent himself~~, the mediator's and department's role shall be to make efforts to assist unrepresented claimants in meeting information and settlement requirements. The mediator, while doing this, must also maintain neutrality regarding the issues. Nothing herein is intended to discourage claimants from seeking legal counsel if they so choose. The intent is simply to avoid a situation where legal counsel is necessary to resolve routine disputes.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

24.28.108 MEDIATOR'S REPORT--RECOMMENDATION (1) The parties and the mediator are encouraged to attempt to resolve issues at a mediation conference. If issues are not resolved at or before a mediation conference, the mediator shall issue a report as set forth in (2).

(2) Within 10 working days after a mediation conference, the mediator shall prepare a written report to the parties setting forth the mediator's recommended solution and the basis for the recommendation. If the mediator does not prepare a written report within 10 working days after a mediation

conference, the parties may proceed directly to workers' compensation court. The mediator may also set forth alternative solutions. ~~When parties have offered specific solutions which are not recommended by the mediator, the mediator shall explain why the solutions are not recommended. Within 45 days of the date of the mediator's report, each party shall notify the mediator whether the recommended solution, or an alternate solution, is accepted.~~

~~(3) If both parties cannot reach a solution after 45 days, either party may petition the workers' compensation court for a resolution of the dispute. Nothing in this rule shall prevent a party from petitioning the workers' compensation court prior to the expiration of the 45 days, if both parties agree that they cannot resolve the dispute.~~

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2409 and 2411 MCA

24.28.111 TIME-COMPUTATION UNDER MEDIATION RULES (1) ~~In computing any period of time allowed by these rules for mediation of workers' compensation disputes, the day of the event after which the designated period of time begins to run is not to be included.~~

(2) When reference is made to the date of an order for computing time, the date from which the time runs shall be the date appearing on the order.

(3) When reference is made to filing with or receipt by the department or a mediator, time shall be computed from the date a document is actually received at the department's central office in Helena, Montana. However, if the department or a mediator directs a party to file documents at a different location, time shall be computed from the date a document is actually received at that location.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

REASON: There is reasonable necessity for the amendment of these rules in order to ensure that jurisdictional references correctly track with statutory changes in the Workers' Compensation and Occupational Disease Acts and to delete language that is either in the mediation statutes or made obsolete due to statutory changes. (See, e.g., Chapter 516, Laws of 1995.) The proposed amendments also clarify references to the duties of a mediator, update the agency name and address, make terms gender-neutral, eliminate unnecessary text and clarify in-person mediation procedures. The changes are made in response to a staff review of the rules and requests from the users of mediation for clarification.

3. The Department of Labor and Industry proposes to adopt a new rule as follows:

RULE 1. FILE INFORMATION (1) Upon receipt of notice of mediation conference, the insurer shall submit to the mediator all relevant file information. The information must be sent to the mediator at least 1 week prior to the conference date.

AUTH: Sec. 39-71-2407 MCA IMP: Sec. 39-71-2411 MCA

REASON: There is reasonable necessity for the adoption of the proposed rule in order to ensure that mediators are provided with the insurer's file information in a timely manner. The rule is necessary due to changes in what records are kept by the Department of Labor and Industry, and the growing trend among insurers towards electronic or "paperless" claims files.

4. The Department of Labor and Industry proposes to repeal ARM 24.28.109, Mediator's Report of Non-Cooperation, in its entirety. The rule proposed for repeal is found at pages 24-2046 through 24-2047 of the Administrative Rules of Montana. Authority to repeal the rule is 39-71-2407, MCA, and the rule proposed for repeal implements 39-71-2411, MCA. There is reasonable necessity for the proposed repeal because the Department has determined from experience that non-cooperation is an extremely rare occurrence, and believes that in light of House Joint Resolution 5 (1995) and the provisions of 39-71-2411(7), MCA, the rule is unnecessary.

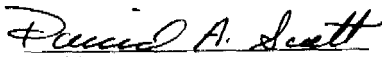
5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to:

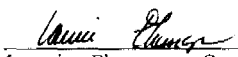
Nikki Noland
Mediation Unit
Employment Relations Division
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

and must be received by no later than 5:00 p.m., November 24, 1995.

6. The Department proposes to make the amendments, adoption and repeal effective January 1, 1996. The Department reserves the right to adopt only portions of the proposed amendments, or to adopt some or all of the amendments or the new rule at a later date.

7. The Hearing Bureau of the Legal/Centralized Services Division of the Department has been designated to preside over and conduct the hearing.


David A. Scott
Rule Reviewer


Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: October 16, 1995.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the proposed)	
amendment of rule 32.8.103	)	NOTICE OF PROPOSED
pertaining to the circumstances	)	AMENDMENT OF RULE
under which raw milk may be	)	32.8.103
sold for human consumption)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 1, 1996, the Board of Livestock acting through the Department of Livestock proposes to amend Rule 32.8.103 pertaining to the circumstances under which raw milk may be sold for human consumption.

2. The purpose of the proposed amendment is to prevent the licensure of any new retail raw milk dairies. The rule proposed to be amended provides as follows:

32.8.103 Circumstances Under Which Raw Milk May Be Sold for Human Consumption

(1) through (1)(b) remain the same.
(c) No new retail raw dairies will be licensed to sell Grade A retail raw milk subsequent to January 1, 1996.

AUTH: 81-22-102, MCA

IMP: 81-22-102, MCA

3. The Board is proposing this amendment to address health concerns for the public safety and for the industry's well being.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to E.E. "Cork" Mortensen, Executive Secretary to the Board of Livestock, P.O. Box 202001, Helena, Montana 59620-2001. Any comments must be received no later than November 30, 1995.

5. If the board receives a request for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment, from a governmental subdivision or agency, or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be a minimum of one based upon the number of licensed retail raw dairies operating in Montana.

MONTANA DEPARTMENT OF LIVESTOCK

BY: E.E. "Cork" Mortensen
E.E. "Cork" Mortensen, Executive Secretary
To the Board of Livestock

BY: Lon Mitchell
Lon Mitchell, Rule Reviewer
Chief Legal Counsel
Department of Livestock

Certified to the Secretary of State October 16, 1995.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the	)	NOTICE OF THE PROPOSED
amendment of rule 11.7.510	)	AMENDMENT OF RULE 11.7.510
pertaining to the goal for	)	PERTAINING TO THE GOAL FOR
reducing the percentage of	)	REDUCING THE PERCENTAGE OF
children in foster care for	)	CHILDREN IN FOSTER CARE FOR
two or more years	)	TWO OR MORE YEARS
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On December 22, 1995, the Department of Health and Human Services proposes to amend Rule 11.7.510 pertaining to the goal for reducing the percentage of children in foster care for two or more years.

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

11.7.510 REDUCTION OF THE NUMBER OF CHILDREN IN FOSTER CARE ~~The department shall reduce the number of children who have been in foster care, at any time during the fiscal year, for more than 24 months by not less than 2% of the total number of children in foster care receiving assistance under Title IV-E of the Social Security Act each year commencing with the fiscal year beginning October 1, 1983. 2% of the total number of children in care receiving assistance shall be determined using the figures for September, 1983 and each September thereafter for the subsequent fiscal year.~~

(1) This rule sets the department's specific goal on the maximum number of children receiving assistance under Title IV-E of the Social Security Act (hereinafter referred to as IV-E children) who have been in foster care for two or more years.

(2) At the end of each fiscal year the department shall determine what percent of the total number of IV-E children in foster care are IV-E children who have been in foster care for two or more years. The department shall calculate the percentage by:

(a) determining the total number of IV-E children in foster care; and

(b) dividing the total number into the number of IV-E children who have been in foster care for two or more years.

(3) The department shall strive to reduce the percentage by 2% each fiscal year.

AUTH: Sec. 41-3-1103, 52-1-103, 52-2-111 and 53-4-111 MCA

IMP: Sec. 41-3-1103, 52-2-111, 52-2-504, 53-4-111 and 53-4-304 MCA

3. This rulemaking is necessary for proper administration of federal funds provided for payment of services to eligible children under Title IV-E of the Social Security Act (Act). The Act and regulations under the Act (42 CFR 1356(h)) require that a state statute or substantive rule set a specific goal on the maximum number of IV-E children in Montana's foster care system who have remained in foster care for two or more years. The Act provides that the figure may be in absolute numbers or as a percentage of the total number of children in foster care.

The current text of the rule fails to properly reflect that the requirement is to set a "goal," not an absolute mandate on the maximum number of these children. In addition, the current version does not properly reflect the language appearing in the Act. See 42 U.S.C. 671(a)(14).

In 1991, the Code Commission renumbered 53-4-111 and 53-4-304, MCA to 52-2-111 and 52-2-504, MCA respectively. The department has added these statutes to the rule history to accurately reflect the renumbering of these authorizing and implementing statutes.

4. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, that person must make a written request for a public hearing and submit such request, along with any written comments, Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Public Health and Human Services, PO Box 4210, Helena, MT 59604-4210, no later than December 8, 1995.

5. If the Department of Public Health and Human Services receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendment, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who are directly affected, a hearing will be held at a later date. Ten percent of those directly affected has been determined to be more than 25 based on the number of individuals affected by rules covering permanency planning for children in foster care.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State October 16, 1995.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF THE PROPOSED
of ARM 42.23.302 and 42.23.421) AMENDMENT of ARM 42.23.302
relating to Corporate Tax) and 42.23.421 relating
Returns and Deductions) to Corporation Tax Returns
) and Deductions

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On December 8, 1995, the Department of Revenue proposes to amend ARM 42.23.302 and 42.23.421 relating to corporation tax returns and deductions.

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

42.23.302 EXTENSION OF FILING TIME (1) For years beginning on or after January 1, 1995, if a corporation cannot file its return within the prescribed time, ~~the law provides for~~ an automatic extension of ~~up to from 1 to 6 months~~ following the statutory due date ~~shall be granted~~. ~~The application for an automatic extension is to be made on such forms as the department may prescribe. No form needs to be filed to receive this extension. This automatic extension has no effect on the requirements for the payment of quarterly estimated tax or on the due dates for those payments. Payment of the any remaining tax after the deduction of any quarterly estimated payments, plus accrued interest, must accompany the filed return when filed.~~ If the tax payment does not accompany the return, the tax is considered delinquent, and the taxpayer is subject to the imposition of a penalty.

(2) remains the same.

AUTH: Sec. 15-31-501 MCA; IMP: Sec. 15-31-111 MCA.

42.23.421. DEDUCTION FOR INVESTMENT FOR ENERGY CONSERVATION

(1) remains the same.

(2) This deduction must be claimed on ~~form CT-7~~ form CLT-2E, which may be obtained from the Department of Revenue, Corporation Tax Bureau, Mitchell Building, Helena, Montana ~~59601~~ 59620. The complete form must be attached to the taxpayer's corporation license tax return for the year in which the deduction is claimed.

AUTH: Sec. 15-31-501 MCA; IMP: Sec. 15-32-103 MCA.

3. The amendments to ARM 42.23.302 are proposed because 15-31-111, MCA, was amended by the 1995 Legislature. The changes to the rule are proposed to make the terminology consistent with the changes in the law. The law amended the

time period for a corporation to file its tax return, and the rule is amended to reflect the same.

ARM 42.23.421 is proposed to be amended to refer to the proper form number and to correct the address provided for obtaining this form.

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

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

no later than November 24, 1995.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Cleo Anderson at the above address no later than November 24, 1995.

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


CLEO ANDERSON
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State October 16, 1995.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL) NOTICE OF THE PROPOSED
of ARM 42.34.101; 42.34.102;) REPEAL
42.34.103; 42.34.104; 42.34.)
105; 42.34.106; 42.34.107;)
42.34.108; 42.34.109; 42.34.) NO PUBLIC HEARING
110; and 42.34.111 relating) CONTEMPLATED
to Dangerous Drug Taxes)

TO: All Interested Persons:

1. On December 8, 1995, the Department of Revenue proposes to repeal ARM 42.34.101 through 42.34.111 relating to dangerous drug taxes.

2. The department proposes to repeal the following rules:

42.34.101 DEFINITIONS found on page 42-3405 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113 MCA; IMP: Sec. 15-25-111 MCA

42.34.102 FILING OF RETURNS - DANGEROUS DRUG INFORMATION REPORT found on page 42-3405 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113 MCA; IMP: Sec. 15-25-111 MCA

42.34.103 NOTICE OF ASSESSMENT - HEARING - LIEN found on page 42-3405 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-111, MCA; IMP: Sec. 15-25-113, MCA

42.34.104 CREDITS AND REFUNDS - PROCEDURES found on page 42-3406 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-1-503 and 15-25-111, MCA

42.34.105 ASSESSMENT NOT CONTINGENT UPON CONVICTION found on page 42-3406 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-25-111, MCA

42.34.106 RESIDENCY NOT CONSIDERED FACTOR found on page 42-3406 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-25-111, MCA

42.34.107 CONFIDENTIALITY OF TAX RECORDS found on page 42-3407 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-25-113, MCA

42.34.108 INVESTIGATIONS found on page 42-3407 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-25-113, MCA

42.34.109 ASSISTANCE OF COURTS - COUNTY ATTORNEY found on page 42-3407 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-25-113, MCA

42.34.110 CLOSING AGREEMENTS found on page 42-3407 of the Administrative Rules of Montana.

AUTH: Sec. 15-25-113, MCA; IMP: Sec. 15-25-113, MCA

42.34.111 COLLECTION AND DISPOSITION OF TAX found on page 42-3407 of the Administrative Rules of Montana.

AUTH: Secs. 2-4-201, 15-1-201, 15-30-305, 15-31-501, 15-35-122, 15-53-104 and 15-70-104, MCA; IMP: Secs. 2-4-201, 15-1-206, 15-30-321, 15-31-502, 15-35-105, 15-36-107, 15-37-108, 15-38-107, 15-53-111, 15-54-111, 15-55-108, 15-56-111, 15-58-106, 15-59-106, 15-59-205, 15-70-210 and 15-70-330, MCA

3. The department is proposing to repeal these rules because the law was repealed during the 1995 legislative session and the rules are no longer necessary.


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

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

no later than November 24, 1995.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Cleo Anderson at the above address no later than November 24, 1995.

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


CLEO ANDERSON
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State October 16, 1995

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF PUBLIC HEARING ON THE
of ARM 42.22.1311 and) PROPOSED AMENDMENT of ARM
42.22.1312 relating to) 42.22.1311 and 42.22.1312
Industrial Property) relating to Industrial Property

TO: All Interested Persons:

1. On November 29, 1995, at 9:30 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, at Helena, Montana, to consider the amendment of ARM 42.22.1311 and 42.22.1312 relating to industrial property.

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

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND FACTORS (1) The department of revenue will utilize the machinery and equipment trend factors which are set forth on the following tables. The trend factors will be used to value industrial machinery and equipment for ad valorem tax purposes pursuant to ARM 42.22.1306. The department uses annual cost indexes from Marshall Valuation Service. The current index is divided by the annual index for each year to arrive at a trending factor. Each major industry has its own trend table. Where no index existed in the Marshall Valuation Service for a particular industry, that industry was grouped with other industries using similar equipment.

1995 1996 INDUSTRIAL MACHINERY & EQUIPMENT TREND FACTORS

The trend table remains the same.

Note: 1. Lab equipment is to be included in its related industry's table at 10-year life expectancy.

Year	(1)	(2)	(3)	(4)	(5)
1994	1.000	1.000	1.000	1.000	1.000
1993	1.021	1.026	1.022	1.019	1.026
1992	1.037	1.046	1.039	1.035	1.045
1991	1.044	1.059	1.049	1.046	1.059
1990	1.061	1.083	1.069	1.070	1.085
1989	1.084	1.113	1.096	1.100	1.117
1988	1.138	1.174	1.160	1.165	1.181
1987	1.190	1.227	1.216	1.217	1.235
1986	1.204	1.248	1.231	1.233	1.257
1985	1.209	1.269	1.240	1.244	1.280
1984	1.225	1.294	1.255	1.262	1.306
1983	1.258	1.324	1.288	1.293	1.336
1982	1.282	1.343	1.307	1.311	1.353
1981	1.338	1.408	1.364	1.373	1.419

1980	1.475	1.557	1.503	1.518	1.573
1979	1.633	1.721	1.661	1.681	1.743
1978	1.792	1.885	1.814	1.829	1.908
1977	1.923	2.026	1.952	1.966	2.050
1976	2.025	2.136	2.052	2.069	2.163
1975	2.151	2.273	2.173	2.187	2.297

Year	(6)	(7)	(8)	(9)	(10)
1994	1.000	1.000	1.000	1.000	1.000
1993	1.019	1.016	1.020	1.021	1.022
1992	1.035	1.029	1.038	1.049	1.039
1991	1.043	1.037	1.048	1.069	1.052
1990	1.064	1.060	1.070	1.094	1.077
1989	1.093	1.087	1.102	1.130	1.108
1988	1.148	1.149	1.159	1.184	1.175
1987	1.188	1.198	1.201	1.223	1.230
1986	1.200	1.211	1.216	1.240	1.250
1985	1.208	1.217	1.226	1.250	1.269
1984	1.225	1.234	1.246	1.265	1.292
1983	1.255	1.267	1.283	1.291	1.322
1982	1.275	1.285	1.307	1.319	1.339
1981	1.345	1.353	1.381	1.394	1.403
1980	1.494	1.504	1.531	1.555	1.553
1979	1.644	1.668	1.685	1.717	1.725
1978	1.795	1.814	1.836	1.881	1.882
1977	1.931	1.954	1.972	2.027	2.018
1976	2.041	2.058	2.095	2.139	2.124
1975	2.166	2.176	2.237	2.279	2.253

Year	(11)	(12)	(13)	(14)	(15)
1994	1.000	1.000	1.000	1.000	1.000
1993	1.014	1.018	1.028	1.022	1.030
1992	1.021	1.029	1.048	1.039	1.054
1991	1.017	1.030	1.063	1.048	1.073
1990	1.024	1.042	1.087	1.070	1.098
1989	1.041	1.063	1.118	1.098	1.129
1988	1.105	1.123	1.181	1.158	1.192
1987	1.176	1.188	1.236	1.209	1.246
1986	1.185	1.201	1.257	1.225	1.268
1985	1.191	1.206	1.277	1.239	1.289
1984	1.203	1.221	1.301	1.258	1.312
1983	1.234	1.255	1.334	1.287	1.344
1982	1.248	1.275	1.354	1.301	1.367
1981	1.290	1.319	1.419	1.362	1.428
1980	1.410	1.446	1.567	1.506	1.574
1979	1.583	1.616	1.731	1.668	1.733
1978	1.741	1.776	1.898	1.824	1.902
1977	1.846	1.894	2.045	1.957	2.056
1976	1.936	1.989	2.159	2.059	2.172
1975	2.053	2.104	2.294	2.183	2.305

Year	(16)	(17)	(18)	(19)	(20)
1994	1.000	1.000	1.000	1.000	1.000
1993	1.032	1.022	1.024	1.025	1.021
1992	1.063	1.042	1.047	1.045	1.036
1991	1.086	1.052	1.063	1.060	1.045
1990	1.110	1.074	1.085	1.087	1.067
1989	1.143	1.104	1.114	1.120	1.096
1988	1.205	1.163	1.166	1.182	1.150
1987	1.253	1.211	1.208	1.229	1.200
1986	1.273	1.229	1.223	1.250	1.215
1985	1.289	1.240	1.232	1.270	1.223
1984	1.307	1.258	1.248	1.295	1.246
1983	1.342	1.294	1.279	1.329	1.279
1982	1.369	1.317	1.305	1.349	1.309
1981	1.427	1.378	1.377	1.418	1.368
1980	1.571	1.518	1.530	1.572	1.516
1979	1.719	1.666	1.682	1.733	1.685
1978	1.884	1.814	1.845	1.890	1.848
1977	2.042	1.944	1.990	2.028	1.989
1976	2.158	2.042	2.101	2.136	2.095
1975	2.332	2.160	2.245	2.271	2.227

Year	(21)	(22)	(23)	(24)	(25)
1994	1.000	1.000	1.000	1.000	1.000
1993	1.024	1.020	1.016	1.020	1.025
1992	1.046	1.037	1.026	1.036	1.049
1991	1.064	1.046	1.034	1.039	1.063
1990	1.088	1.067	1.061	1.054	1.084
1989	1.122	1.095	1.088	1.071	1.112
1988	1.182	1.156	1.144	1.130	1.173
1987	1.220	1.207	1.191	1.183	1.221
1986	1.231	1.222	1.195	1.202	1.237
1985	1.237	1.229	1.196	1.215	1.245
1984	1.251	1.247	1.209	1.231	1.260
1983	1.277	1.282	1.231	1.272	1.295
1982	1.306	1.303	1.243	1.296	1.318
1981	1.379	1.366	1.325	1.345	1.380
1980	1.530	1.510	1.485	1.476	1.522
1979	1.679	1.668	1.650	1.633	1.672
1978	1.838	1.819	1.803	1.793	1.822
1977	1.987	1.956	1.946	1.928	1.966
1976	2.105	2.060	2.059	2.032	2.073
1975	2.253	2.178	2.176	2.158	2.206

Year	(26)	(27)	(28)	(29)	(30)
1994	1.000	1.000	1.000	1.000	1.000
1993	1.022	1.020	1.017	1.022	1.029
1992	1.041	1.040	1.028	1.042	1.053
1991	1.053	1.050	1.033	1.055	1.068
1990	1.077	1.074	1.050	1.078	1.087

1989	1.106	1.104	1.078	1.106	1.112
1988	1.167	1.161	1.142	1.161	1.162
1987	1.215	1.206	1.196	1.210	1.199
1986	1.232	1.226	1.209	1.230	1.216
1985	1.242	1.236	1.214	1.244	1.224
1984	1.261	1.258	1.233	1.262	1.238
1983	1.298	1.297	1.274	1.299	1.267
1982	1.322	1.323	1.291	1.321	1.282
1981	1.390	1.397	1.348	1.382	1.339
1980	1.538	1.556	1.491	1.526	1.482
1979	1.695	1.713	1.654	1.670	1.613
1978	1.845	1.875	1.796	1.817	1.759
1977	1.979	2.025	1.920	1.952	1.894
1976	2.078	2.131	2.018	2.052	1.998
1975	2.197	2.261	2.142	2.186	2.160

Year	(31)	(32)
1994	1.000	1.000
1993	1.029	1.018
1992	1.065	1.033
1991	1.086	1.039
1990	1.104	1.057
1989	1.133	1.083
1988	1.196	1.144
1987	1.244	1.195
1986	1.262	1.209
1985	1.269	1.215
1984	1.286	1.230
1983	1.322	1.263
1982	1.352	1.281
1981	1.410	1.339
1980	1.546	1.476
1979	1.697	1.634
1978	1.855	1.784
1977	2.012	1.914
1976	2.129	2.010
1975	2.286	2.141

YEAR	TABLE 1	TABLE 2	TABLE 3	TABLE 4	TABLE 5
1995	1.000	1.000	1.000	1.000	1.000
1994	1.035	1.037	1.035	1.033	1.037
1993	1.062	1.069	1.063	1.057	1.069
1992	1.079	1.089	1.080	1.074	1.089
1991	1.086	1.104	1.091	1.086	1.104
1990	1.104	1.129	1.112	1.110	1.131
1989	1.128	1.160	1.140	1.141	1.164
1988	1.184	1.224	1.206	1.209	1.231
1987	1.238	1.278	1.264	1.263	1.287
1986	1.252	1.300	1.281	1.279	1.310
1985	1.258	1.323	1.289	1.290	1.334
1984	1.274	1.348	1.306	1.309	1.361
1983	1.309	1.380	1.340	1.341	1.392

1982	<u>1.334</u>	<u>1.400</u>	<u>1.359</u>	<u>1.361</u>	<u>1.410</u>
1981	<u>1.392</u>	<u>1.467</u>	<u>1.419</u>	<u>1.424</u>	<u>1.479</u>
1980	<u>1.534</u>	<u>1.622</u>	<u>1.563</u>	<u>1.575</u>	<u>1.639</u>
1979	<u>1.699</u>	<u>1.793</u>	<u>1.727</u>	<u>1.744</u>	<u>1.816</u>
1978	<u>1.864</u>	<u>1.964</u>	<u>1.886</u>	<u>1.897</u>	<u>1.988</u>
1977	<u>2.001</u>	<u>2.111</u>	<u>2.030</u>	<u>2.040</u>	<u>2.137</u>
1976	<u>2.107</u>	<u>2.225</u>	<u>2.134</u>	<u>2.146</u>	<u>2.254</u>
1975	<u>2.238</u>	<u>2.369</u>	<u>2.260</u>	<u>2.269</u>	<u>2.394</u>

YEAR	TABLE 6	TABLE 7	TABLE 8	TABLE 9	TABLE 10
1995	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
1994	<u>1.031</u>	<u>1.032</u>	<u>1.030</u>	<u>1.025</u>	<u>1.037</u>
1993	<u>1.054</u>	<u>1.053</u>	<u>1.054</u>	<u>1.050</u>	<u>1.066</u>
1992	<u>1.071</u>	<u>1.067</u>	<u>1.073</u>	<u>1.079</u>	<u>1.083</u>
1991	<u>1.079</u>	<u>1.075</u>	<u>1.084</u>	<u>1.099</u>	<u>1.096</u>
1990	<u>1.101</u>	<u>1.098</u>	<u>1.107</u>	<u>1.125</u>	<u>1.123</u>
1989	<u>1.130</u>	<u>1.126</u>	<u>1.140</u>	<u>1.162</u>	<u>1.155</u>
1988	<u>1.187</u>	<u>1.190</u>	<u>1.199</u>	<u>1.217</u>	<u>1.225</u>
1987	<u>1.229</u>	<u>1.242</u>	<u>1.242</u>	<u>1.257</u>	<u>1.282</u>
1986	<u>1.241</u>	<u>1.255</u>	<u>1.258</u>	<u>1.275</u>	<u>1.303</u>
1985	<u>1.250</u>	<u>1.261</u>	<u>1.268</u>	<u>1.285</u>	<u>1.323</u>
1984	<u>1.268</u>	<u>1.279</u>	<u>1.289</u>	<u>1.301</u>	<u>1.347</u>
1983	<u>1.298</u>	<u>1.313</u>	<u>1.327</u>	<u>1.328</u>	<u>1.378</u>
1982	<u>1.320</u>	<u>1.332</u>	<u>1.352</u>	<u>1.356</u>	<u>1.396</u>
1981	<u>1.391</u>	<u>1.402</u>	<u>1.428</u>	<u>1.434</u>	<u>1.463</u>
1980	<u>1.546</u>	<u>1.559</u>	<u>1.584</u>	<u>1.599</u>	<u>1.619</u>
1979	<u>1.701</u>	<u>1.729</u>	<u>1.742</u>	<u>1.766</u>	<u>1.799</u>
1978	<u>1.857</u>	<u>1.880</u>	<u>1.899</u>	<u>1.935</u>	<u>1.962</u>
1977	<u>1.998</u>	<u>2.025</u>	<u>2.039</u>	<u>2.084</u>	<u>2.104</u>
1976	<u>2.112</u>	<u>2.133</u>	<u>2.166</u>	<u>2.199</u>	<u>2.215</u>
1975	<u>2.241</u>	<u>2.255</u>	<u>2.314</u>	<u>2.344</u>	<u>2.349</u>

YEAR	TABLE 11	TABLE 12	TABLE 13	TABLE 14	TABLE 15
1995	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
1994	<u>1.048</u>	<u>1.043</u>	<u>1.037</u>	<u>1.036</u>	<u>1.035</u>
1993	<u>1.069</u>	<u>1.068</u>	<u>1.070</u>	<u>1.064</u>	<u>1.071</u>
1992	<u>1.077</u>	<u>1.080</u>	<u>1.091</u>	<u>1.081</u>	<u>1.096</u>
1991	<u>1.073</u>	<u>1.081</u>	<u>1.107</u>	<u>1.091</u>	<u>1.116</u>
1990	<u>1.079</u>	<u>1.093</u>	<u>1.133</u>	<u>1.114</u>	<u>1.141</u>
1989	<u>1.098</u>	<u>1.114</u>	<u>1.165</u>	<u>1.142</u>	<u>1.174</u>
1988	<u>1.165</u>	<u>1.178</u>	<u>1.231</u>	<u>1.205</u>	<u>1.240</u>
1987	<u>1.240</u>	<u>1.246</u>	<u>1.287</u>	<u>1.258</u>	<u>1.295</u>
1986	<u>1.249</u>	<u>1.259</u>	<u>1.309</u>	<u>1.275</u>	<u>1.318</u>
1985	<u>1.256</u>	<u>1.265</u>	<u>1.330</u>	<u>1.289</u>	<u>1.340</u>
1984	<u>1.268</u>	<u>1.281</u>	<u>1.356</u>	<u>1.309</u>	<u>1.364</u>
1983	<u>1.300</u>	<u>1.317</u>	<u>1.389</u>	<u>1.339</u>	<u>1.397</u>
1982	<u>1.316</u>	<u>1.337</u>	<u>1.410</u>	<u>1.354</u>	<u>1.421</u>
1981	<u>1.359</u>	<u>1.383</u>	<u>1.478</u>	<u>1.417</u>	<u>1.485</u>
1980	<u>1.487</u>	<u>1.517</u>	<u>1.632</u>	<u>1.567</u>	<u>1.636</u>
1979	<u>1.668</u>	<u>1.694</u>	<u>1.803</u>	<u>1.736</u>	<u>1.802</u>

<u>1978</u>	<u>1.836</u>	<u>1.863</u>	<u>1.977</u>	<u>1.898</u>	<u>1.978</u>
<u>1977</u>	<u>1.945</u>	<u>1.986</u>	<u>2.130</u>	<u>2.036</u>	<u>2.137</u>
<u>1976</u>	<u>2.040</u>	<u>2.086</u>	<u>2.249</u>	<u>2.143</u>	<u>2.258</u>
<u>1975</u>	<u>2.164</u>	<u>2.206</u>	<u>2.389</u>	<u>2.271</u>	<u>2.396</u>

<u>YEAR</u>	<u>TABLE 16</u>	<u>TABLE 17</u>	<u>TABLE 18</u>	<u>TABLE 19</u>	<u>TABLE 20</u>
<u>1995</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>1994</u>	<u>1.029</u>	<u>1.032</u>	<u>1.029</u>	<u>1.034</u>	<u>1.034</u>
<u>1993</u>	<u>1.066</u>	<u>1.060</u>	<u>1.058</u>	<u>1.064</u>	<u>1.060</u>
<u>1992</u>	<u>1.098</u>	<u>1.080</u>	<u>1.081</u>	<u>1.084</u>	<u>1.075</u>
<u>1991</u>	<u>1.122</u>	<u>1.091</u>	<u>1.098</u>	<u>1.100</u>	<u>1.085</u>
<u>1990</u>	<u>1.147</u>	<u>1.114</u>	<u>1.121</u>	<u>1.128</u>	<u>1.108</u>
<u>1989</u>	<u>1.181</u>	<u>1.144</u>	<u>1.151</u>	<u>1.163</u>	<u>1.138</u>
<u>1988</u>	<u>1.245</u>	<u>1.205</u>	<u>1.204</u>	<u>1.227</u>	<u>1.194</u>
<u>1987</u>	<u>1.294</u>	<u>1.255</u>	<u>1.247</u>	<u>1.276</u>	<u>1.246</u>
<u>1986</u>	<u>1.315</u>	<u>1.274</u>	<u>1.263</u>	<u>1.297</u>	<u>1.262</u>
<u>1985</u>	<u>1.331</u>	<u>1.285</u>	<u>1.273</u>	<u>1.318</u>	<u>1.270</u>
<u>1984</u>	<u>1.351</u>	<u>1.304</u>	<u>1.289</u>	<u>1.345</u>	<u>1.293</u>
<u>1983</u>	<u>1.387</u>	<u>1.342</u>	<u>1.321</u>	<u>1.379</u>	<u>1.328</u>
<u>1982</u>	<u>1.415</u>	<u>1.365</u>	<u>1.348</u>	<u>1.400</u>	<u>1.359</u>
<u>1981</u>	<u>1.475</u>	<u>1.429</u>	<u>1.422</u>	<u>1.472</u>	<u>1.421</u>
<u>1980</u>	<u>1.623</u>	<u>1.573</u>	<u>1.581</u>	<u>1.632</u>	<u>1.575</u>
<u>1979</u>	<u>1.776</u>	<u>1.727</u>	<u>1.738</u>	<u>1.799</u>	<u>1.750</u>
<u>1978</u>	<u>1.946</u>	<u>1.881</u>	<u>1.906</u>	<u>1.962</u>	<u>1.919</u>
<u>1977</u>	<u>2.110</u>	<u>2.016</u>	<u>2.055</u>	<u>2.105</u>	<u>2.065</u>
<u>1976</u>	<u>2.230</u>	<u>2.117</u>	<u>2.170</u>	<u>2.217</u>	<u>2.176</u>
<u>1975</u>	<u>2.409</u>	<u>2.239</u>	<u>2.319</u>	<u>2.357</u>	<u>2.313</u>

<u>YEAR</u>	<u>TABLE 21</u>	<u>TABLE 22</u>	<u>TABLE 23</u>	<u>TABLE 24</u>	<u>TABLE 25</u>
<u>1995</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>1994</u>	<u>1.028</u>	<u>1.034</u>	<u>1.032</u>	<u>1.033</u>	<u>1.030</u>
<u>1993</u>	<u>1.056</u>	<u>1.059</u>	<u>1.053</u>	<u>1.058</u>	<u>1.062</u>
<u>1992</u>	<u>1.079</u>	<u>1.077</u>	<u>1.063</u>	<u>1.074</u>	<u>1.086</u>
<u>1991</u>	<u>1.097</u>	<u>1.086</u>	<u>1.071</u>	<u>1.078</u>	<u>1.101</u>
<u>1990</u>	<u>1.122</u>	<u>1.108</u>	<u>1.099</u>	<u>1.094</u>	<u>1.122</u>
<u>1989</u>	<u>1.157</u>	<u>1.137</u>	<u>1.127</u>	<u>1.111</u>	<u>1.151</u>
<u>1988</u>	<u>1.220</u>	<u>1.201</u>	<u>1.185</u>	<u>1.172</u>	<u>1.214</u>
<u>1987</u>	<u>1.259</u>	<u>1.254</u>	<u>1.234</u>	<u>1.228</u>	<u>1.264</u>
<u>1986</u>	<u>1.269</u>	<u>1.270</u>	<u>1.238</u>	<u>1.248</u>	<u>1.281</u>
<u>1985</u>	<u>1.276</u>	<u>1.277</u>	<u>1.239</u>	<u>1.260</u>	<u>1.290</u>
<u>1984</u>	<u>1.291</u>	<u>1.295</u>	<u>1.252</u>	<u>1.277</u>	<u>1.304</u>
<u>1983</u>	<u>1.317</u>	<u>1.332</u>	<u>1.275</u>	<u>1.320</u>	<u>1.341</u>
<u>1982</u>	<u>1.348</u>	<u>1.354</u>	<u>1.287</u>	<u>1.344</u>	<u>1.365</u>
<u>1981</u>	<u>1.422</u>	<u>1.419</u>	<u>1.373</u>	<u>1.396</u>	<u>1.429</u>
<u>1980</u>	<u>1.579</u>	<u>1.568</u>	<u>1.538</u>	<u>1.532</u>	<u>1.576</u>
<u>1979</u>	<u>1.733</u>	<u>1.732</u>	<u>1.710</u>	<u>1.694</u>	<u>1.732</u>
<u>1978</u>	<u>1.896</u>	<u>1.890</u>	<u>1.868</u>	<u>1.860</u>	<u>1.886</u>
<u>1977</u>	<u>2.050</u>	<u>2.031</u>	<u>2.016</u>	<u>2.000</u>	<u>2.036</u>
<u>1976</u>	<u>2.171</u>	<u>2.140</u>	<u>2.133</u>	<u>2.109</u>	<u>2.147</u>
<u>1975</u>	<u>2.324</u>	<u>2.263</u>	<u>2.254</u>	<u>2.239</u>	<u>2.284</u>

<u>YEAR</u>	<u>TABLE 26</u>	<u>TABLE 27</u>	<u>TABLE 28</u>	<u>TABLE 29</u>	<u>TABLE 30</u>
<u>1995</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>1994</u>	<u>1.033</u>	<u>1.031</u>	<u>1.035</u>	<u>1.027</u>	<u>1.026</u>
<u>1993</u>	<u>1.061</u>	<u>1.055</u>	<u>1.057</u>	<u>1.053</u>	<u>1.060</u>
<u>1992</u>	<u>1.081</u>	<u>1.076</u>	<u>1.069</u>	<u>1.074</u>	<u>1.085</u>
<u>1991</u>	<u>1.094</u>	<u>1.086</u>	<u>1.074</u>	<u>1.087</u>	<u>1.100</u>
<u>1990</u>	<u>1.118</u>	<u>1.111</u>	<u>1.092</u>	<u>1.111</u>	<u>1.120</u>
<u>1989</u>	<u>1.148</u>	<u>1.142</u>	<u>1.121</u>	<u>1.139</u>	<u>1.146</u>
<u>1988</u>	<u>1.211</u>	<u>1.201</u>	<u>1.187</u>	<u>1.197</u>	<u>1.198</u>
<u>1987</u>	<u>1.261</u>	<u>1.248</u>	<u>1.243</u>	<u>1.247</u>	<u>1.236</u>
<u>1986</u>	<u>1.279</u>	<u>1.268</u>	<u>1.257</u>	<u>1.268</u>	<u>1.253</u>
<u>1985</u>	<u>1.289</u>	<u>1.278</u>	<u>1.263</u>	<u>1.282</u>	<u>1.262</u>
<u>1984</u>	<u>1.309</u>	<u>1.301</u>	<u>1.282</u>	<u>1.301</u>	<u>1.276</u>
<u>1983</u>	<u>1.347</u>	<u>1.342</u>	<u>1.324</u>	<u>1.338</u>	<u>1.306</u>
<u>1982</u>	<u>1.372</u>	<u>1.369</u>	<u>1.342</u>	<u>1.361</u>	<u>1.321</u>
<u>1981</u>	<u>1.443</u>	<u>1.446</u>	<u>1.402</u>	<u>1.425</u>	<u>1.380</u>
<u>1980</u>	<u>1.596</u>	<u>1.610</u>	<u>1.550</u>	<u>1.572</u>	<u>1.527</u>
<u>1979</u>	<u>1.760</u>	<u>1.772</u>	<u>1.720</u>	<u>1.721</u>	<u>1.663</u>
<u>1978</u>	<u>1.916</u>	<u>1.940</u>	<u>1.867</u>	<u>1.872</u>	<u>1.812</u>
<u>1977</u>	<u>2.054</u>	<u>2.095</u>	<u>1.996</u>	<u>2.012</u>	<u>1.952</u>
<u>1976</u>	<u>2.157</u>	<u>2.204</u>	<u>2.098</u>	<u>2.115</u>	<u>2.060</u>
<u>1975</u>	<u>2.281</u>	<u>2.340</u>	<u>2.227</u>	<u>2.252</u>	<u>2.227</u>

<u>YEAR</u>	<u>TABLE 31</u>	<u>TABLE 32</u>
<u>1995</u>	<u>1.000</u>	<u>1.000</u>
<u>1994</u>	<u>1.027</u>	<u>1.036</u>
<u>1993</u>	<u>1.062</u>	<u>1.060</u>
<u>1992</u>	<u>1.098</u>	<u>1.075</u>
<u>1991</u>	<u>1.120</u>	<u>1.081</u>
<u>1990</u>	<u>1.139</u>	<u>1.100</u>
<u>1989</u>	<u>1.169</u>	<u>1.127</u>
<u>1988</u>	<u>1.234</u>	<u>1.190</u>
<u>1987</u>	<u>1.283</u>	<u>1.244</u>
<u>1986</u>	<u>1.301</u>	<u>1.258</u>
<u>1985</u>	<u>1.309</u>	<u>1.264</u>
<u>1984</u>	<u>1.327</u>	<u>1.281</u>
<u>1983</u>	<u>1.363</u>	<u>1.315</u>
<u>1982</u>	<u>1.395</u>	<u>1.333</u>
<u>1981</u>	<u>1.454</u>	<u>1.394</u>
<u>1980</u>	<u>1.595</u>	<u>1.536</u>
<u>1979</u>	<u>1.750</u>	<u>1.701</u>
<u>1978</u>	<u>1.913</u>	<u>1.856</u>
<u>1977</u>	<u>2.075</u>	<u>1.993</u>
<u>1976</u>	<u>2.196</u>	<u>2.100</u>
<u>1975</u>	<u>2.358</u>	<u>2.229</u>

AUTH: Sec. 15-1-201 MCA; IMP: Secs. 15-6-138 and 15-8-111 MCA.

42.22.1312 INDUSTRIAL MACHINERY AND EQUIPMENT DEPRECIATION SCHEDULE (1) Remains the same.
 (2) The department will utilize the depreciation schedules set forth above as reflected in the following example:

EXAMPLE

The Trending/Depreciation Procedure

In order to use the economic age-life method to value machinery and equipment, several steps must be followed.

1. Determine the economic life of the subject industry.
2. Acquire a set of reasonable trends for that economic life.
3. Acquire the original installed cost (direct and indirect) for the subject equipment.
4. Apply the appropriate trend factor to the original installed cost to determine replacement cost new (RCN).
5. Depreciate the RCN on the basis of age to arrive at sound value.

Example:

Industry - Sawmill
 Economic life - ~~12~~ 10 years
 19956 Table - Table 18

	<u>I</u>	<u>II</u>
Case		
Equipment - Motor		
Original Installed Cost	\$ 200	\$ 100
Year Installed	1987	1974

Case I

Cost	\$ 200
x Trend	1.208 <u>1.247</u>
RCN	242 <u>249</u>
x % Good	.43 <u>.24</u>
Sound Value	\$ 104 <u>60</u>

Case II

Cost	\$ 100
x Trend	1.279 <u>1.263*</u>
RCN	128 <u>126</u>
x % Good	.20
Sound Value	\$ 26 <u>25</u>

*The trending factor is applied only to the last year of the economic life. Although the equipment is 20 years old, it is trended by the ~~12th~~ 10th year trend.

AUTH: 15-1-201 MCA; IMP: Secs. 15-6-138 and 15-8-111 MCA.

3. The proposed amendments are necessary to update historic industrial machinery and equipment costs to present day reproduction/replacement cost (replacement cost new (RCN)) for ad valorem tax purposes pursuant to ARM 42.22.1306. The department uses annual cost indexes from Marshall Valuation Service. The current index is divided by the annual index for each year to arrive at a trending factor. Each major industry

has its own trend table. Where no index existed for a particular industry in the Marshall Valuation Service, that industry was grouped with other industries using similar equipment.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to:

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

no later than December 8, 1995.

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



CLEO ANDERSON
Rule Reviewer



MICK ROBINSON
Director of Revenue

Certified to Secretary of State October 16, 1995

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

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

TO: All Interested Persons.

1. On November 16, 1995 a public hearing will be held at 10:00 a.m. in the Secretary of State's Office Conference Room at room 225 of the Capitol Building at Helena, Montana, to consider the proposed amendment of ARM 1.2.419 regarding the scheduled dates for the Montana Administrative Register.

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

1.2.419 FILING, COMPILING, PRINTER PICKUP AND PUBLICATION
SCHEDULE FOR THE MONTANA ADMINISTRATIVE REGISTER (1) The
scheduled filing dates, time deadlines, compiling dates,
printer pickup dates and publication dates for material to be
published in the Montana Administrative Register are listed
below:

199596 Schedule

<u>Filing</u>	<u>Compiling</u>	<u>Printer Pickup</u>	<u>Publication</u>
January 32	January 43	January 54	January 1211
January 1312	January 1716	January 1017	January 2625
January 3022	January 3130	February 1	February 98
		January 31	
February 1312	February 1413	February 1514	February 2322
March 6	March 7	March 8	March 167
February 26	February 27	February 28	
March 2011	March 2112	March 2213	March 3021
April 3	April 4	April 5	April 1311
March 25	March 26	March 27	
April 1715	April 1816	April 1917	April 2725
May 1	May 2	May 31	May 119
April 29	April 30		
May 1513	May 1614	May 1715	May 2523
June 5May 28	June 6May 29	June 7May 30	June 156
June 1910	June 2011	June 2112	June 2920
July 3 June 24	July 5 June 25	July 6 June 26	July 133
July 178	July 189	July 1910	July 2718
July 3129	August 1	August 2	August 108
	July 30	July 31	
August 1412	August 1513	August 1614	August 2422
September 1	September 5	September 6	September 145
August 26	August 27	August 28	

September 182	September 1910	September 2011	September 2019
October 2	October 3	October 4	October 123
<u>September 23</u>	<u>September 24</u>	<u>September 25</u>	
October 1611	October 1715	October 1816	October 2624
October 3028	October 3129	November 1	November 97
		October 30	
November 138	November 1412	November 1513	November 2221
November 2725	November 2826	November 2927	December 75
December 119	December 1210	December 1311	December 2119

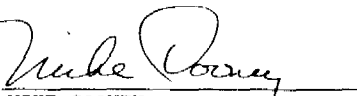
(2) All material to be published must be submitted by 5:00 1:00 p.m. on the scheduled filing date. All material submitted after the scheduled filing date will not be published until the next scheduled publication date.

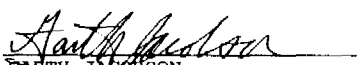
AUTH: Sec. 2-4-312, MCA IMP, Sec. 2-4-312, MCA

3. The rule is proposed to be amended to set dates pertinent to the publication of the Montana Administrative Register during 1996. Section (2) is proposed for amendment because the Secretary of State is receiving more and more requests to submit material after the 5:00 deadline. In order to accommodate these requests and still meet contractual deadlines, the Secretary of State's office feels if the deadline is moved up a little both needs will be met without much compromise.

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 Kathy Lubke, Administrative Rules Bureau, Secretary of State's office, State Capitol, 1236 Sixth Avenue, Helena, Montana 59620, and must be received no later than November 24, 1995.

5. Kathy Lubke, address given in paragraph 4 above, has been designated to preside over and conduct the hearing.


MIKE COONEY
Secretary of State


GARTH JACOBSON
Rule Reviewer

Dated this 16th day of October 1995.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal of	)	NOTICE OF AMENDMENT AND
rule 2.5.118 and the amendment of	)	REPEAL OF RULES
rules 2.5.201, 2.5.202, 2.5.301,)	
2.5.401, 2.5.402, 2.5.603, 2.5.604)	
and 2.5.801 pertaining to state)	
purchasing.)	

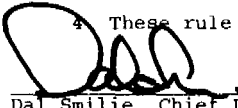
To: All Interested Persons:

1. On September 14, 1995, the Department of Administration published notice to repeal rule 2.5.118 and amend rules 2.5.201, 2.5.202, 2.5.301, 2.5.401, 2.5.402, 2.5.603, 2.5.604, and 2.5.801 relating to state purchasing on page 1723 of the Montana Administrative Register, issue number 17.

2. The Department has amended and repealed the rules exactly as proposed.

3. The Department accepted written comments through October, 12, 1995. No written or oral comments were received.

4. These rule changes will be effective November 1, 1995.


Dal Smilie, Chief Legal Counsel
Rule Reviewer


Lois Menzies, Director

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION
of new rules concerning)	
standards for marketing and)	
appropriate sale criteria and)	
nonforfeiture requirements)	
and forms)	

TO: All Interested Persons.

1. On September 14, 1995, the State Auditor's Office published notice of the proposed adoption of new rules I through IV concerning standards for marketing and appropriate sale criteria and nonforfeiture requirements and forms in the matter of long-term care at page 1729 of the Montana Administrative Register, issue number 17.

2. The agency has adopted new rule IV (6.6.5604) exactly as proposed.

3. The agency has adopted new rules I (6.6.5601) through III (6.6.5603) with the following changes:

Rule I (6.6.5601) STANDARDS FOR MARKETING (1) through (2)(c) remain the same as proposed.

(3)(a) With respect to the obligations set forth in this subsection, the primary responsibility of an association, as defined in Section 33-22-1107, MCA, when endorsing ~~or selling~~ long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed ~~or sold~~ by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed ~~or sold~~;

(3)(b) remains the same as proposed.

(3)(c) The association shall disclose in any long-term care insurance ~~solicitation~~ marketing materials developed by the association:

(i) the specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement ~~or sale~~ of the policy or certificate to its members; and

(ii) remains the same as proposed.

(3)(d) remains the same as proposed.

(3)(e) The board of directors of associations ~~selling or endorsing~~ long-term care insurance policies or certificates shall review and approve such insurance policies as well as the compensation arrangements made with the insurer.

(3)(f) through (i) remain the same as proposed.

AUTH: Sections 33-1-313 and 33-22-1121, MCA
IMP: Sections 33-22-1101 through 33-22-1121, MCA

Rule 11 (6.6.5602) APPROPRIATE SALE CRITERIA ~~(1) This rule shall not apply to life insurance policies that accelerate benefits for long-term care.~~

(2) through (2)(c) remain the same as proposed but are renumbered (1) through (1)(c).

(23)(a) To determine whether the applicant meets the standards developed by the issuer, the ~~agent and~~ issuer shall develop procedures that take the following into consideration:

(i) through (iii) remain the same as proposed.

(b) remains the same as proposed.

(c) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, ~~except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.~~

(3)(d) through (8) remain the same as proposed except they are renumbered (2)(d) through (7).

(8) This rule shall not apply to life insurance policies that accelerate benefits for long-term care.

AUTH: Sections 33-1-313 and 33-22-1121, MCA
IMP: Sections 33-22-1101 through 33-22-1121, MCA

Rule III (6.6.5603) NONFORFEITURE BENEFIT REQUIREMENT
(1) An insurance company offering a long-term care insurance policy or certificate shall offer to each prospective purchaser the choice between a policy that includes nonforfeiture benefits to the defaulting or surrendering policyholder or certificate holder and one that does not include nonforfeiture benefits. No policy or certificate may be delivered or issued for delivery in this state unless the policy or certificate provides for nonforfeiture benefits to the defaulting or lapsing policyholder or certificate holder.

(1)(a) through (6) remain the same as proposed.

AUTH: Sections 33-1-313 and 33-22-1121, MCA
IMP: Sections 33-22-1101 through 33-22-1121, MCA

4. Comments received are addressed as follows:

Rule I (6.6.5601)

Comment 1: (3)(a), (c)(i) and (e) Obligations of associations - delete language addressing associations selling (sold, sale) long-term care insurance. There is no statutory authority for associations to sell or to be licensed to sell insurance in Montana.

Response: The comment regarding the inclusion of the words selling, sold or sale in reference to associations is well received. All reference to sale, sold or selling with regard to associations will be deleted from rule I (6.6.5601).

Rule II (6.6.5602)

Comment 1: (1) addressing exception to life insurance should be moved to the end of rule II. This will make the format consistent with other rules by placing exceptions at the end of sections. The sections of rule II should then be renumbered.

Response: (1) has been moved to the end of rule II (6.6.5602) to allow the rule format to be consistent.

Comment 2: Delete agent and in (3)(a) addressing development of standards. The standards for the sales are developed by the issuer in line with this rule's appendix B (see rule II (5)); therefore, there is no need to include agent in the development of materials.

Response: The language in (3)(a) [renumbered (2)(a)] is redundant and has been deleted.

Comment 3: Delete the last part of (c) except the personal worksheet . . . to employees and their spouses. Any completed personal worksheets should be retained by the issuer, not possibly retained by an agent.

Response: The company should be the record keeper for this type of personal information. The sentence in (c) will be deleted after the word coverage in line 3 of (c).

Comment 4: The enabling legislation requires companies to develop appropriate sales criteria and communicate them to the consumer. However, we believe portions of proposed rule II go beyond what is reasonably necessary to inform the prospective consumer.

Response: The suggestion is noted, but is not adopted. The responses to comments 5, 6, and 7 answer the specific concerns related to the allegation that the rules go beyond what is reasonably necessary to inform the prospective consumer.

Comment 5: Rule II(3)(b) requires completion of a "Personal Worksheet" at the time of application.

Response: Rule II(3)(b) does not require completion of a "Personal Worksheet." This rule provides for making a reasonable effort to obtain information and sets forth suggested "efforts."

Comment 6: Rule II(3)(b), which precludes a company from considering an applicant for coverage without a "Personal Worksheet," exceeds the rulemaking authority granted by the statute.

Response: Rule II(3)(b) does not preclude companies from considering an applicant. It does, however, provide that the worksheet be returned. The worksheet provides that insurance companies ask questions (in accordance with state law). It does not mandate that questions be answered.

Comment 7: The underlying statute limits the authority of the commissioner's office only to determining the types of information to be presented to the consumer, not the methods by which the company must communicate the information.

Response: Rule II(3) does not exceed law per Section 33-22-1117(1), MCA, which requires that appropriate sale criteria must be established and communicated to the consumer prior to the insurance company's acceptance of a person's application for long-term care insurance.

Rule III (6.6.5603)

Comment 1: The legislation and the underlying statute requires that a company which markets long-term care policies shall offer policies both with and without nonforfeiture provisions.

Response: The proposed rule language exceeds the statute language requirements and will be amended to mirror the statute wording.

Comment 2: What will be the effective date for these administrative rules?

Response: The effective date will be January 1, 1996, as provided below.

Appendix B

Comment 1: In Form B under the Medicaid section, paragraph 1, should the word probably be removed?

Response: In order to keep the model form consistent with the nationally accepted universal format, the word probably will be retained.

Comment 2: The insurance counseling program is housed in the Office on Aging. Should the language be amended to indicate this?

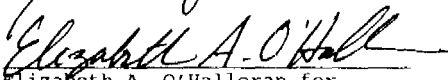
Response: The language in the second paragraph of Form C is bracketed to indicate the working will be customized by each

company for each state. Therefore, this problem will be addressed when the forms are filed. The language will remain unchanged.

5. The effective date of these rules shall be January 1, 1996.

MARK O'KEEFE
STATE AUDITOR AND
COMMISSIONER OF INSURANCE



Mark O'Keefe

Elizabeth A. O'Halloran for
Gary L. Spaeth, Rules Reviewer

Certified to the Secretary of State this 16th day of October,
1995.

BEFORE THE PROFESSIONAL AND
OCCUPATIONAL LICENSING BUREAU
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT OF RULES
of rules pertaining to construc-))	PERTAINING TO CONSTRUCTION
tion blasters and hoisting and)	BLASTERS AND HOISTING AND
crane operators; repeal of a)	CRANE OPERATORS; REPEAL OF A
rule pertaining to standard)	RULE PERTAINING TO STANDARD
forms; and the adoption of a new))	FORMS; AND THE ADOPTION OF A
rule pertaining to boiler)	RULE PERTAINING TO BOILER
engineers)	ENGINEERS

TO: All Interested Persons:

1. On August 24, 1995, the Professional and Occupational Licensing Bureau of the Department of Commerce published a notice of proposed amendment, repeal and adoption of rules pertaining to construction blasters, hoisting and crane operators, standard forms and boiler engineers, at page 1603, 1995 Montana Administrative Register, issue number 16.

2. The Bureau has repealed 8.15.207 exactly as proposed. The Bureau has amended ARM 8.15.103, 8.15.203, 8.15.204 and 8.15.205 and adopted new rule I (8.15.301) as proposed, but with the following changes: (authority and implementing sections remain the same as in original proposal)

"8.15.103 CONSTRUCTION BLASTER LICENSE REQUIREMENTS

(1) through (3)(c) will remain the same as proposed.

(d) annual renewal fee	20	16
(e) through (6) will remain the same as proposed."		

"8.15.203 HOISTING OPERATORS LICENSE REQUIREMENTS

(1) through (7)(d)(ii) will remain the same as proposed.

(iii) renewals	20	16
----------------	----	----

(The license must be renewed within 13 months of obtaining the previous license. If not renewed within this period, the fee will be the same as for the original license. Failure to renew a license within 12 months of the date of expiration will require application procedure as for a new license.)

(iv) through (8)(e) will remain the same as proposed."

"8.15.204 MINE HOISTING OPERATORS LICENSE REQUIREMENTS

(1) through (10)(d)(ii) will remain the same as proposed.

(iii) renewals	20	16
----------------	----	----

(This license must be renewed within 13 months of obtaining the previous license. If not renewed within this period, the fee will be the same as for the original license. Failure to renew a license within 12 months of the date of expiration will require application procedures as for a new license.)

(iv) will remain the same as proposed."

"8.15.205 CRANE HOISTING OPERATORS LICENSE REQUIREMENTS

(1) through (8)(d)(iii) will remain the same as proposed.

(iv) renewals	20	16
---------------	----	----

(The license must be renewed within 13 months of obtaining the previous license. If not renewed within this period, the fee will be the same as for the original license. Failure to renew a license within 12 months of the date of expiration will require application procedures as for a new license.)

(v) through (9)(d) will remain the same as proposed."

"I. FEE SCHEDULE FOR BOILER ENGINEERS

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

(7) Annual renewal of license 20 16

(8) through (11) will remain the same as proposed."

3. The Bureau has thoroughly considered all comments and testimony received. Those comments and the Bureau's responses thereto follow:

COMMENT: Six individuals presented oral testimony in opposition to the proposed fee increases for renewals. These individuals represented themselves, and, in two cases, represented multiple-member groups of licensees. Reasons for opposition, and suggestions for alternatives included:

Concern with the lack of enforcement in the past, and in the lack of statutory authority for the Department of Commerce to enforce the laws relating to these programs;

Concern that the exemptions from licensure make it difficult to enforce the licensure requirement. One individual stated that many individuals will simply choose not to renew their licenses if the fees are increased as proposed, and that this factor will effect the projected revenue.

Concern that the delay in time from submission of a complaint to action on the complaint is too long to catch violators, making it useless to attempt to enforce the license requirement.

Concern that, without the statutory authority to enforce the law, the programs are doing little more than raising revenue. One individual suggested that workers compensation insurance companies should subsidize the programs, because enforcement will lead to reduced costs for the workers comp insurance programs as a result of a reduction in worker injuries.

Concern that the program could be managed with far less than what is being proposed.

Concern that the percentage of the fee increase is far outpacing wage increases and cost of living increases. One individual stated that the fee increases could not be supported without additional services by the Department of Commerce, including additional services in the areas of training and enforcement.

COMMENT: The Department received nine written comments, by a total of eleven individuals, expressing opposition to the proposed fee increase for renewals. Reasons for opposition, and suggestions for alternatives included:

Concern for fees being increased for individuals on the low end of the wage scale;

Comparison of the proposed fee to the fee charged to renew a driver's license in the state of Montana;

Suggestion to lower fees by renewing every four years;
Concern as to where the additional funds would go, and a question as to how many additional people are being hired for this proposed fee increase;

Concern by three licensed crane operators submitting a joint comment, that individuals were not notified that comments would not be received after September 18, 1995;

Concern that a transfer of the licensing programs from one agency to another would result in a fee increase; and

Concern that the proposed fee increase makes such fees higher than for other professions.

COMMENT: The Department received two written comments, one by a union of operating engineers representing multiple licensees, and one by an individual representing himself, expressing that the individuals submitting such comments do not object to a fee increase, provided that efforts are made to strengthen enforcement of the license requirement and qualifications for these professions. If a substantial portion of the increase does not go toward enforcement, these individuals indicate that they are opposed to the fee increase.

RESPONSE: The fees proposed in the original rule notice were computed to raise sufficient revenue to meet the projected expenditures for the program. The statute requires that fees be set commensurate with program area costs.

With respect to comments regarding comparative costs of running other programs in state government, the Department believes such a comparison is inappropriate. For example, the number of licensed drivers in the State of Montana far exceeds the number of individuals licensed under these programs. The costs for a license under this program is directly and solely related to the costs of administering the program. Such costs do not vary according to how much the licensed individual earns.

With respect to the issue of exemptions from licensure, the Department must follow the law as promulgated by the Legislature, and has no authority to change exemptions. With respect to the concern regarding lack of enforcement, the Department intends to enforce the laws to the best of its ability, and had nothing to do with enforcement prior to July 1, 1995. With respect to the suggestion that the insurance companies should subsidize these licensing programs, the Legislature dictated otherwise when it transferred these programs away from the Department of Labor and Industry. The Department of Commerce lacks authority to make the insurance companies subsidize these licensing programs.

With respect to the suggestion to require renewal every four years, the statute mandates yearly renewal. With respect to the concern as to where the additional funds would go, the Department plans to use such funds to appropriately manage the licensing program without subsidy from other programs.

With respect to the concern expressed regarding lack of notification that comments would not be received after September 18, 1995, the individuals submitting such comments are incorrect. The notice clearly states that written comments

would be received until September 21, 1995. In addition, in light of the fact that this comment was received prior to the deadline, it appears that the issue is moot. The Department published notice of the proposed rulemaking in the Montana Administrative Register in compliance with state law, and provided individual notice, not required by the statute, to all licensed individuals in the data base for these programs.

Costs inherent to the operation of any program in state government include legal services, management and supervisory, data processing services, legislative audits, warrant writing, payroll services, supplies and materials, telephone charges, photocopiers, rent, janitorial services, and indirect costs for overall department operations.

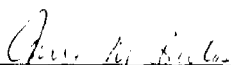
In light of the opposition to the proposed increase in renewals, the Department analyzed the budget for these programs, and scaled back expenses in an attempt to reduce the proposed increase to an acceptable level.

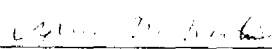
The renewal fees for the licenses granted by these programs was last increased in 1968. The costs associated with running these programs has increased substantially since that time, and has been previously subsidized by other programs at the Department of Labor and Industry. The Department of Commerce is unable to continue such subsidy, as all of the licensing programs in the Professional and Occupational Licensing Bureau are self-funded. For example, the Department believes it would be inappropriate to charge nurses, outfitters, dentists, and all the other licensing programs for costs that are associated with this program.

The Department has decided to adjust expenses for this program from approximately \$128,311 per fiscal year that was proposed in the original notice to approximately \$100,168 per fiscal year. The reduction in the yearly budget by approximately \$28,000 will reduce the proposed renewal fee of \$20.00 to \$16.00. The Department may find it necessary to adjust this figure in the future if individuals choose not to renew as a result of the \$12.00 increase.

PROFESSIONAL AND OCCUPATIONAL
LICENSING BUREAU
DEPARTMENT OF COMMERCE
STEVE MELOY, BUREAU CHIEF

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

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

In the matter of the amendment)	NOTICE OF THE
of ARM 12.6.701 requiring)	AMENDMENT OF ARM
wearable personal flotation)	12.6.701
devices for each person aboard)	
any motorboat or vessel)	
launched upon the waterways of)	
Montana.)	

TO: All Interested Persons.

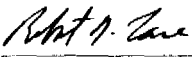
1. On August 10, 1995, the Department of Fish, Wildlife and Parks published notice of the proposed amendment of the above-captioned rule at page 1495 of the 1995 Montana Administrative Register, issue number 15.

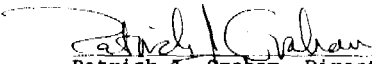
2. A staff attorney for the Administrative Code Committee pointed out the cites given in the proposal notice were incorrect and the department agrees. The department has adopted the rule as proposed with the following changes to the statutory citations constituting authority and implementation:

AUTH: ~~87-5-105 23-2-521~~, MCA IMP: ~~87-5-105 23-2-521~~, MCA

3. No oral or written comments were received.

MONTANA DEPARTMENT OF FISH,
WILDLIFE AND PARKS


Robert N. Lane
Rule Reviewer


Patrick J. Graham, Director

Certified to the Secretary of State October 16, 1995.

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

In the matter of the adoption) NOTICE OF ADOPTION
of a new rule relating to the)
adjustment of the Teton-Spring)
Creek bird preserve boundary.)

To: All Interested Persons.

1. On September 14, 1995, the Department of Fish, Wildlife and Parks (department) and Fish, Wildlife and Parks Commission (commission) published notice of a public hearing on the proposed adoption of the above-referenced rule at page 1772 of the 1995 Montana Administrative Register, issue number 17.

2. The department and commission have adopted new rule I (12.9.211), as proposed.

3. The department and commission received no written comments during the formal comment period. During the public hearing ten people expressed support for the proposed change. One additional comment was expressed by a landowner. The comment and department and commission's joint response follows:

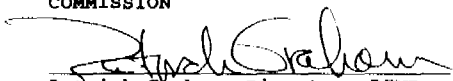
COMMENT: A landowner expressed a desire to do away with the whole preserve.

RESPONSE: An abandonment of the whole preserve is beyond the scope of this proposed rulemaking. The landowner was advised that he, and any interested parties, have the right to petition the commission to abandon the preserve if they feel this would be desirable. The commission would then initiate the rulemaking process to consider whether or not to abandon the preserve.

RULE REVIEWER

DEPARTMENT OF FISH, WILDLIFE AND
PARKS and FISH, WILDLIFE AND PARKS
COMMISSION


Robert N. Lane


Patrick Graham, Director, DFWP,
and Secretary of Fish, Wildlife
and Parks Commission

Certified to the Secretary of State on October 16, 1995.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the transfer of) NOTICE OF TRANSFER
rules 16.14.101 through 16.14.813,)
pertaining to solid waste)
management, with the exception of)
any repealed rules.) (Solid Waste)

To: All Interested Persons

1. Pursuant to Chapter 418, Laws of Montana 1995, effective July 1, 1995, the solid waste management program is transferred from the Department of Health and Environmental Sciences to the Department of Environmental Quality. In order to implement that legislation, ARM 16.14.101 through 16.14.813, inclusive, with the exception of any repealed rules, are transferred to the Department of Environmental Quality, ARM 17.50.101 through 17.50.810.

2. The Department of Environmental Quality has determined that the transferred rules will be numbered as follows:

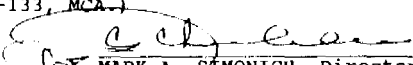
OLD	NEW	
16.14.101	<u>17.50.101</u>	Definitions
16.14.102	<u>17.50.102</u>	Pre-Application Conference
16.14.103	<u>17.50.103</u>	General Application Requirements
16.14.104	<u>17.50.104</u>	Front-End Planning Funds--Grant Application and Criteria for Review
16.14.105	<u>17.50.105</u>	Front-End Implementation Funds--Grant Application
16.14.106	<u>17.50.110</u>	Loan--Eligibility Requirements
16.14.107	<u>17.50.111</u>	Loan Application
16.14.108	<u>17.50.112</u>	Order of Funding Loans
16.14.109	<u>17.50.113</u>	Order of Funding Grants
16.14.110	<u>17.50.118</u>	Department Approval of Project Changes
16.14.111	<u>17.50.119</u>	Noncompliance
16.14.201	<u>17.50.201</u>	License to Operate--Application
16.14.202	<u>17.50.202</u>	Shielding of Facilities
16.14.203	<u>17.50.205</u>	Renewal of License
16.14.204	<u>17.50.206</u>	Denial of Application or Cancellation of License
16.14.205	<u>17.50.207</u>	Inspections
16.14.207	<u>17.50.210</u>	Motor Vehicle Graveyards
16.14.208	<u>17.50.215</u>	Disposal of Junk Vehicles through State Disposal Program
16.14.209	<u>17.50.216</u>	Itemized Accounting Budget Procedures--County Junk Vehicle Programs
16.14.210	<u>17.50.217</u>	Authorized Counties May Sell Junk Vehicles
16.14.211	<u>17.50.218</u>	Approval of County Junk Vehicle Sales
16.14.212	<u>17.50.219</u>	Conduct of County Junk Vehicle Sales
16.14.213	<u>17.50.220</u>	County to Report Junk Vehicle Sales to the Department
16.14.214	<u>17.50.221</u>	Sale Proceeds to be Deposited Into the Junk Vehicle Program Account

16.14.215	<u>17.50.222</u>	A Vehicle Owner May Request a Vehicle Not Be Sold
16.14.216	<u>17.50.223</u>	Requirements for Purchases from County Graveyard
16.14.401	<u>17.50.401</u>	Purpose
16.14.402	<u>17.50.402</u>	Authority
16.14.403	<u>17.50.403</u>	Definitions
16.14.404	<u>17.50.404</u>	Applicability
16.14.405	<u>17.50.410</u>	Annual Operating License Required
16.14.406	<u>17.50.411</u>	Volume-Based Disposal Fee
16.14.407	<u>17.50.412</u>	Annual Reporting; Composting; Special Wastes
16.14.408	<u>17.50.415</u>	Application Review Fees--Initial License or Substantial Change to an Existing Facility
16.14.409	<u>17.50.416</u>	Consolidation of Licenses; Fees for Consolidated Licenses
16.14.501	<u>17.50.501</u>	Purpose and Applicability
16.14.502	<u>17.50.502</u>	Definitions
16.14.503	<u>17.50.503</u>	Waste Groups
16.14.504	<u>17.50.504</u>	Disposal Facility Classifications
16.14.505	<u>17.50.505</u>	Standards for Solid Waste Management Facilities
16.14.506	<u>17.50.506</u>	Design Criteria for Landfills
16.14.508	<u>17.50.508</u>	Application for Solid Waste Management System License
16.14.509	<u>17.50.509</u>	Operation and Maintenance Plan Requirements
16.14.511	<u>17.50.513</u>	Processing of Solid Waste Management System License Application
16.14.514	<u>17.50.514</u>	Appeal of Denial or Revocation
16.14.516	<u>17.50.515</u>	Duration of License
16.14.520	<u>17.50.510</u>	General Operational and Maintenance Requirements--Solid Waste Management Systems
16.14.521	<u>17.50.511</u>	Specific Operational and Maintenance Requirements--Solid Waste Management Systems
16.14.523	<u>17.50.523</u>	Transportation
16.14.525	<u>17.50.525</u>	Inspections
16.14.526	<u>17.50.526</u>	Enforcement
16.14.530	<u>17.50.530</u>	Closure Requirements for Landfills
16.14.531	<u>17.50.531</u>	Post Closure Care Requirements for Class II Landfills
16.14.540	<u>17.50.540</u>	Financial Assurance Requirements for Class II Landfills
16.14.602	<u>17.50.602</u>	Initial Application
16.14.603	<u>17.50.603</u>	Notice
16.14.604	<u>17.50.605</u>	Participation in Hearing
16.14.605	<u>17.50.606</u>	Conduct of Hearings
16.14.606	<u>17.50.609</u>	Duration of Variance
16.14.607	<u>17.50.610</u>	Variance Review Hearing--Revocation--Modification

16.14.608	<u>17.50.611</u>	Renewal of Variance
16.14.701	<u>17.50.701</u>	Purpose and Applicability
16.14.702	<u>17.50.702</u>	Definitions
16.14.703	<u>17.50.705</u>	Hydrogeological and Soils Study
16.14.704	<u>17.50.706</u>	Location and Number of Monitoring Wells
16.14.705	<u>17.50.707</u>	Monitoring Well Construction
16.14.706	<u>17.50.708</u>	Sampling and Analysis Plan
16.14.707	<u>17.50.709</u>	Reporting and Planning Requirements
16.14.708	<u>17.50.710</u>	Definition of Extent of Contamination
16.14.709	<u>17.50.715</u>	Phased Landfill Construction
16.14.710	<u>17.50.716</u>	Lateral Landfill Expansion
16.14.711	<u>17.50.720</u>	Monitoring During Closure
16.14.712	<u>17.50.721</u>	Post-Closure Monitoring
16.14.713	<u>17.50.722</u>	Monitoring Well Abandonment
16.14.714	<u>17.50.723</u>	No Migration Demonstration
16.14.715	<u>17.50.724</u>	Monitoring Well Network Maintenance
16.14.716	<u>17.50.725</u>	Department Approval Required
16.14.717	<u>17.50.726</u>	Inspections
16.14.806	<u>17.50.801</u>	Purpose
16.14.807	<u>17.50.802</u>	Definitions
16.14.808	<u>17.50.805</u>	Licensure; Duration of License; Fees
16.14.809	<u>17.50.806</u>	Processing of License Applications
16.14.810	<u>17.50.807</u>	Inspections and Enforcement
16.14.811	<u>17.50.808</u>	Operation and Maintenance Requirements
16.14.812	<u>17.50.809</u>	Specific Site Criteria
16.14.813	<u>17.50.810</u>	Special Conditions

3. The transfer of rules 16.14.101 through 16.14.813 is necessary because the Department of Health and Environmental Sciences was eliminated by Chapter 418, Laws of Montana 1995 and the solid waste management program functions exercised by that agency were assumed by the Department of Environmental Quality.

4. The transfer is effective retroactive to July 1, 1995. (Refer to 2-15-133, MCA.)


for MARK A. SIMONICH, Director

Certified to the Secretary of State October 16, 1995.

Reviewed by:


JOHN F. NORTH, Rule Reviewer

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF
of rules 16.20.603, 617, 618,)	AMENDMENT OF
619, 620, 621, 622, 623, 624,)	ARM 16.20.712
641, 707, 712, 1003, 1802)	
concerning surface and)	
groundwater water quality)	
standards, mixing zones, and)	(Water Quality)
nondegradation of water)	
quality.)	

To: All Interested Persons

1. On May 11, 1995, the Board of Health and Environmental Sciences filed notice of proposed amendment of the above-captioned rules, with no hearing contemplated, at page 743 of the 1995 Montana Administrative Register, Issue No. 9. On June 29, 1995, the board filed a notice of public hearing on the amendment of the above-captioned rules at page 1098 of the 1995 Montana Administrative Register, Issue No. 12, because the Montana Environmental Information Center and the Greater Yellowstone Coalition requested a public hearing.

2. The Board of Environmental Review (which by law has succeeded to the authority and responsibilities of the Board of Health and Environmental Sciences, as of July 1, 1995) adopted the rules as proposed at page 1798 of the 1995 Montana Administrative Register, Issue No. 17, except for the proposed amendments to ARM 16.20.712. The board withheld action on those amendments until its next scheduled hearing.

3. The board has now adopted the amendments to ARM 16.20.712 with the following changes:

16.20.712 CRITERIA FOR DETERMINING NONSIGNIFICANT CHANGES IN WATER QUALITY (1) The following criteria will be used to determine whether certain activities or classes of activities will result in nonsignificant changes in existing water quality due to their low potential to affect human health or the environment. These criteria consider the quantity and strength of the pollutant, the length of time the changes will occur, and the character of the pollutant. Except as provided in (2) below, changes in existing surface or ground water quality resulting from the activities that meet all the criteria listed below are nonsignificant, and are not required to undergo review under 75-5-303, MCA:

(a)-(c) Remain the same.

(d) changes in the concentration of nitrogen nitrate in ground water which will not ~~impair existing or anticipated beneficial uses, where cause degradation of surface water if~~

(i) the sum of the resulting predicted concentrations of nitrate as ~~nitrogen~~, outside at the boundary of any applicable mixing zone, will not exceed the following values; given in Table ~~1~~

(ii) ~~the change will not result in increases greater than 0.01 milligrams per liter in the nitrogen concentration in any surface water.~~

(i) 7.5 mg/L for nitrate sources other than domestic sewage;

(ii) 5.0 mg/L for domestic sewage effluent discharged from a conventional septic system;

(iii) 7.5 mg/L for domestic sewage effluent discharged from a septic system using level two treatment, as defined in ARM 16.20.707; or

(iv) 7.5 mg/L for domestic sewage effluent discharged from a conventional septic system in areas where the groundwater nitrate level exceeds 5.0 mg/L primarily from sources other than human waste.

For purposes of this subsection (d), the word "nitrate" means nitrate as nitrogen; and

Table I.—Criteria for determining nonsignificant changes for nitrogen in ground water.

EXISTING NITROGEN CONCENTRATION IN GROUND-WATER AS OF APRIL 15, 1995	PRIMARY SOURCE OF EXISTING NITROGEN	PREDICTED NITROGEN CONCENTRATION AT THE EDGE OF THE MIXING ZONE AFTER THE PROPOSED ACTIVITY	REQUIREMENTS FOR NONSIGNIFICANCE FOR HUMAN-WASTE DISPOSAL	REQUIREMENTS FOR NONSIGNIFICANCE FOR DISPOSAL OF OTHER WASTES
<5.0 MG/L	ANY	<5 MG/L	NONE	NONE
		5-167.5 MG/L	LEVEL 2 TREATMENT	NONE
		>2.5 MG/L	SIGNIFICANT	SIGNIFICANT
	OTHER THAN HUMAN WASTE	67.5 MG/L	NONE	NONE
		>2.5	SIGNIFICANT	SIGNIFICANT
>2.5	ANY	ANY INCREASE	SIGNIFICANT	SIGNIFICANT
		>10 or greater	NOT ALLOWED VIOLATES STANDARDS	NOT ALLOWED VIOLATES STANDARDS
ANY LEVEL	ANY	NO CHANGE	NOT SIGNIFICANT	NOT SIGNIFICANT

(e)-(g) Remains the same.

(2)-(3) Remains the same.

4. The board has thoroughly considered all comments received on ARM 16.20.712. Those comments, in summary form, and the board's responses are as follows:

Comment: The proposed rule should not be adopted because public health and the environment would be harmed.

Response: Issues raised in the testimony regarding the environmental or health effects of raising the significance threshold were resolved by the Legislature in adopting SB 331 and are beyond the Board's consideration on this rulemaking proceeding.

Comment: The proposed amendment is contrary to SB331 because

that bill set the standard for "nitrate", not nitrogen.

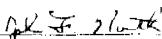
Response: Although the term "nitrate" in technical scientific terms means " NO_3 ", it is used in common parlance by engineers, environmental consultants, and regulators as a short-hand substitute for "nitrate as nitrogen". These two meanings render the term ambiguous and make definition of the term in the rule appropriate. In resolving the ambiguity, it is appropriate to look to the intent of the Legislature in adopting SB 331. It is clear that the Legislature, in adopting Section 5 of SB 331, intended to establish levels of nitrate as nitrogen. This is clear from the following: (a) The record of the hearings, demonstrates that all parties believed the purpose of the bill was to modify the existing standards and thresholds to make them less stringent. This purpose is accomplished only if the term "nitrate" in Section 5 of the bill means nitrate as nitrogen. The 1995 Montana Code Annotated uses the term "nitrate [as nitrogen]". (b) ARM 16.20.712 at the time of introduction and passage of SB 331 set the significance threshold at and outside the boundary of the mixing zone for nitrogen and nitrate as nitrogen. There is no evidence the Legislature, in adopting SB 331, intended to depart from this regulatory scheme.

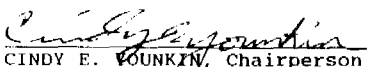
For these reasons, the Board has amended the rule. The amendments adopted have the same substantive meaning as the proposed amendments. However, to simplify and clarify the rule, the Board has repealed the existing table, used the language of SB 331 (Chapter 497, Laws of 1995) almost verbatim, and has defined nitrate to mean nitrate as nitrogen.

Comment: Adoption of the proposed rule will result in litigation against the Board and against developers who rely on the threshold.

Response: SB 331 mandates the Board to adopt thresholds. The Board does not have discretion to refuse to act based on the potential for lawsuits. Under 2-4-506(2), MCA, a court may declare a rule invalid if it is adopted "with an arbitrary or capricious disregard for the purpose of the authorizing statute as evidenced by documented legislative intent." Adoption of the rule amendment as modified implements rather than disregards the intent of the Legislature.

BOARD OF ENVIRONMENTAL REVIEW


JOHN F. NORTH,
Rule Reviewer


CINDY E. MOUNKINY, Chairperson

Certified to the Secretary of State October 16, 1995.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the transfer of) NOTICE OF TRANSFER
rules 16.45.101A through 16.45.1240)
pertaining to underground storage)
tanks, with the exception of any)
repealed rules.) (Underground Storage Tanks)

To: All Interested Persons

1. Pursuant to Chapter 418, Laws of Montana 1995, effective July 1, 1995, the underground storage tank program is transferred from the Department of Health and Environmental Sciences to the Department of Environmental Quality. In order to implement that legislation, ARM 16.45.101A through 16.45.1240, inclusive, with the exception of any repealed rules, are transferred to the Department of Environmental Quality, ARM 17.56.101 through 17.56.1260.

2. The Department of Environmental Quality has determined that the transferred rules will be numbered as follows:

OLD	NEW	
16.45.101A	<u>17.56.101</u>	Definitions
16.45.102A	<u>17.56.102</u>	Applicability
16.45.103	<u>17.56.103</u>	Interim Prohibition for Installation
16.45.104	<u>17.56.104</u>	Tank Standards for Exempted UST Systems
16.45.105	<u>17.56.105</u>	Variances
16.45.201	<u>17.56.201</u>	Performance Standards for New UST Systems
16.45.202	<u>17.56.202</u>	Upgrading of Existing UST Systems
16.45.301	<u>17.56.301</u>	Spill and Overfill Control
16.45.302	<u>17.56.302</u>	Operation and Maintenance of Corrosion Protection
16.45.303	<u>17.56.303</u>	Compatibility
16.45.304	<u>17.56.304</u>	Repairs Allowed
16.45.305	<u>17.56.305</u>	Reporting and Recordkeeping
16.45.401	<u>17.56.401</u>	General Requirements for All UST Systems
16.45.402	<u>17.56.402</u>	Requirements for Petroleum UST Systems
16.45.403	<u>17.56.403</u>	Requirements for Hazardous Substance UST Systems
16.45.404	<u>17.56.407</u>	Methods of Release Detection for Tanks
16.45.405	<u>17.56.408</u>	Methods of Release Detection for Piping
16.45.406	<u>17.56.409</u>	Release Detection Recordkeeping
16.45.501	<u>17.56.501</u>	General
16.45.502	<u>17.56.502</u>	Reporting of Suspected Releases
16.45.503	<u>17.56.503</u>	Investigation Due to Off-site Impacts
16.45.504	<u>17.56.504</u>	Release Investigation and Confirmation Steps

16.45.505	<u>17.56.505</u>	Reporting and Cleanup of Spills and Overfills
16.45.601	<u>17.56.601</u>	General
16.45.602	<u>17.56.602</u>	Initial Response and Abatement Measures
16.45.603	<u>17.56.603</u>	Initial Site History
16.45.604	<u>17.56.604</u>	Remedial Investigation
16.45.605	<u>17.56.605</u>	Cleanup Plan
16.45.606	<u>17.56.606</u>	Public Participation
16.45.701	<u>17.56.701</u>	Temporary Closure
16.45.702	<u>17.56.702</u>	Permanent Closure and Changes-in-Service
16.45.703	<u>17.56.703</u>	Assessing the Site at Closure or Change-in-Service
16.45.704	<u>17.56.704</u>	Applicability to Previously Closed UST Systems
16.45.705	<u>17.56.705</u>	Closure Records
16.45.801	<u>17.56.801</u>	Applicability
16.45.802	<u>17.56.802</u>	Compliance Dates
16.45.803	<u>17.56.803</u>	Definition of Terms
16.45.804	<u>17.56.805</u>	Amount and Scope of Required Financial Responsibility
16.45.805	<u>17.56.806</u>	Allowable Mechanisms and Combinations of Mechanisms
16.45.806	<u>17.56.807</u>	Financial Test of Self-Insurance
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16.45.809	<u>17.56.810</u>	Surety Bond
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16.45.1004	<u>17.56.1004</u>	Implementing Agency Program Services

16.45.1005	<u>17.56.1005</u>	and Reimbursement
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16.45.1223	<u>17.56.1236</u>	Installation and Closure Permit
16.45.1224	<u>17.56.1237</u>	Requirement--Application
16.45.1225	<u>17.56.1238</u>	Inspection in Lieu of Licensed
16.45.1226	<u>17.56.1239</u>	Installer
16.45.1227	<u>17.56.1240</u>	Permit Issuance, Term, Conditions
16.45.1228	<u>17.56.1241</u>	Emergency Permit Application and
16.45.1229	<u>17.56.1242</u>	Issuance
16.45.1230	<u>17.56.1245</u>	Permit Conditioning, Modification,
16.45.1231	<u>17.56.1246</u>	Suspension, Revocation
16.45.1232	<u>17.56.1247</u>	Permit Application Review Fees
16.45.1233	<u>17.56.1250</u>	Inspection Fees
		Requirements for Inspection Generally
		Eligibility for Inspector Licensing
		Inspector License Application
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		Inspector Licensing Fees
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		Designation of Implementing Agencies
		Method of Installation and Closure
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16.45.1234	<u>17.56.1251</u>	Take Corrective Action
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		Investigations
16.45.1235	<u>17.56.1252</u>	Disciplinary and Other Licensing
		Action Generally
16.45.1236	<u>17.56.1253</u>	Conditioning of License
16.45.1237	<u>17.56.1254</u>	Modification of License
16.45.1238	<u>17.56.1255</u>	Suspension of License
16.45.1239	<u>17.56.1256</u>	License Revocation
16.45.1240	<u>17.56.1260</u>	Request for Hearing

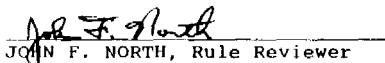
3. The transfer of rules 16.45.101A through 16.45.1240 is necessary because the Department of Health and Environmental Sciences was eliminated by Chapter 418, Laws of Montana 1995 and the underground storage tank functions exercised by that agency were assumed by the Department of Environmental Quality.

4. The transfer is effective retroactive to July 1, 1995. (Refer to 2-15-133, MCA.)


MARK A. SIMONICH, Director

Certified to the Secretary of State October 16, 1995 .

Reviewed by:


JOHN F. NORTH, Rule Reviewer

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 26.4.410, 26.4.1001, and)
26.4.1001A, pertaining to renewal)
of strip mine operating permits)
and to regulation of coal and)
uranium prospecting.)

To: All Interested Persons

1. On June 29, 1995, the Board of Land Commissioners, legal predecessor to the Board of Environmental Review, filed notice of proposed amendment of the above-captioned rules at page 1106 of the Montana Administrative Register, Issue No. 12.

2. The Board of Environmental Review adopted the amendment as proposed with no changes.

3. The Board of Environmental Review thoroughly reviewed the comments on the proposed amendments. A summary of the comments and the board's responses follow:

COMMENT: The Office of Surface Mining stated that ARM 26.4.1001 and 26.4.1001A must be amended to require a prospecting permit for a prospecting operation that would remove more than 250 tons of coal but not create a substantial surface disturbance.

RESPONSE: Section 2-4-306(4)(a), MCA, as amended by Chapter 159, Laws of 1995, provides that rules adopted to implement a statute must be consistent to the statute. ARM 26.4.1001 and 26.4.1001A implement 82-4-226(8), MCA. That statute provides that the permit requirement is not applicable to prospecting operations that remove coal but that do not substantially disturb the surface of the land. The Board therefore has no authority to make the modification.

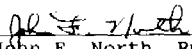
COMMENT: Westmoreland Resources, Inc., stated that monitoring activities outside an area permitted for mining but included in an approved mining plan should not be subject to the notice of intent requirement in ARM 26.4.1001A.

RESPONSE: These activities are not included within the definition of "prospecting" contained in 82-4-303(26), MCA, because they are not conducted prior to commencement of operations in the area. ARM 26.4.1001A is therefore not applicable to these activities and no modification of the proposed amendments is necessary.

Certified to the Secretary of State October 16, 1995.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW


John F. North, Rule Reviewer


CINDY E. YUNKIN, Chairperson

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

In the matter of the)	
adoption of new rules, amendment	)	NOTICE OF ADOPTION,
of 24.9.102, 204, 206, 209, 212,	)	AMENDMENT AND REPEAL
213, 216, 218, 220, 224-226, 230,	)	OF RULES
231, 262A and 264, and the repeal)	
of 24.9.201, 202, 215, 217, and)	
802 relating to procedures before)	
the Montana Human Rights Commission)		

TO: All Interested Persons.

1. On August 10, 1995, the Montana Human Rights Commission published notice at pages 1525 through 1541 of the Montana Administrative Register, Issue No. 15, to consider the amendment of certain existing rules, the adoption of new rules and the repeal of certain existing rules, all related to the organization and investigative procedures of the commission.

2. No public hearing was held concerning the proposed amendments, adoption and repeals. Written comments were received prior to the closing date of September 11, 1995.

3. After consideration of the comments received on the proposed amendments, the Commission has amended ARM 24.9.102, 204, 206, 209, 212, 213, 216, 218, 220, 224-226, 230, 231, and 264 exactly as proposed.

4. After consideration of the comments received on the proposed amendment of ARM 24.9.262A, the commission has amended ARM 24.9.262A as proposed, with the following changes (new additions underlined):

24.9.262A ISSUANCE OF RIGHT TO SUE LETTER WHEN REQUESTED BY A PARTY (1) Same as proposed.

(2) At the request of a party to a case before the commission, other than a case alleging violation of 49-2-305, MCA (housing discrimination), the administrator may issue a right to sue letter if the administrator determines that the commission will not hold a contested case hearing within 12 months after the filing of the complaint and that the interests of fundamental fairness or the public interest support the issuance of the right to sue letter. The denial of a request for issuance of a right to sue letter under this is not subject to commission review under (3).

(3) A party who requests issuance of a right to sue letter and is dissatisfied with a decision of the administrator refusing to issue a right to sue letter under (1) may seek commission review of the decision by filing or mailing

written objections within 14 days after the decision is served. The date of mailing will be established by U. S. postal service postmark. Briefs are not required. A party who files such an objection and wishes to file a supporting brief must file and serve an original and six copies of the brief within five days of filing or mailing the objection. Any opposing party who wishes to file an answer brief must file and serve an original and six copies of the brief within ten days of service of the initial brief. A party making an objection who wishes to file a reply brief must file and serve an original and six copies of the brief within ten days of service of an answer brief. If a party making an objection does not file a supporting brief, any opposing party may request permission from the commission to file a brief in opposition to the objection. The objection will be considered at the next commission meeting after conclusion of the briefing schedule. Consideration of the objection will be based upon the written record unless oral argument is requested and authorized by the commission.

(4) Same as proposed.

(5) Same as proposed.

5. After consideration of the comments received on the proposed rules, the Department has adopted the following rules exactly as proposed:

RULE I (24.9.103) COMMISSION MEETINGS; QUORUM; DECISION MAKING AUTHORITY

RULE II (24.9.104) LIBERAL CONSTRUCTION; EFFECT OF PARTIAL INVALIDITY

RULE III (24.9.105) DEFINITIONS

6. The Department has repealed ARM 24.9.201, 202, 215, 217, and 802 exactly as proposed.

7. 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:

Comment 1: Valencia Lane, staff attorney for the Administrative Code Committee of the state legislature commented that it seemed inconsistent with other rules for the commission to provide for certifying a case for hearing in some cases when a finding of no reasonable cause has been made.

Response 1: The staff finding of "reasonable cause" or "no reasonable cause" is a regulatory interpretation of the statute. The actual statutory language requires dismissal only if the commission finds that the respondent has not engaged in discriminatory conduct, § 49-2-507, M.C.A. It provides that the commission staff "may dismiss a complaint" if the "staff determines that the allegations of the complaint are not

supported by substantial evidence," § 49-2-509(3), M.C.A. The statute does not require that the staff issue a dismissal on a finding of no reasonable cause before the commission itself has heard the case. The commission has determined to retain this discretion for the staff to exercise when a particular case requires it, such as when the issues are complex and an evidentiary hearing would assist in determining liability, or where related claims result in differing staff findings but all claims should be tried in the same forum.

Comment 2: Several comments were received from attorneys practicing before the commission, supporting the proposal to allow staff to issue a right to sue where the commission staff determines that the case will not be heard within one year from the date of filing, without waiting for the year to pass.

Response 2: The Commission has adopted this proposal.

Comment 3: Attorney Mike Pickard of the state Department of Transportation supported the earlier right-to-sue amendments, and commented that additional improvement to the workload of commission staff might be achieved if the commission adopted rules to screen cases for significant issues, and issue immediate right to sue letters in cases which are less significant.

Response 3: This suggestion may have merit, and will be considered by the Commission in future workload planning discussions. It may require statutory change.

Comment 4: Two commenters suggested mechanisms to bypass the investigation phase in certain cases completely, to achieve faster resolution. Attorney W. Anderson Forsythe commented that the commission could achieve faster case processing if parties could bypass the investigation and proceed directly to a hearing. Attorney Steve Fletcher suggested that a right to sue letter could be issued immediately, if the parties agree that they are unable to resolve the dispute, and that even mediation should not be required in these cases.

Response 4: The Commission's current practice permits parties to bypass the investigative process and proceed to hearing upon stipulation of the parties. Absent a stipulation, these suggestions would require statutory change. In addition, a statutory change such as this may result in loss of federal funding, as investigation of all cases involving federal claims is required under the commission's contracts with EEOC and HUD.

Comment 5: Attorney Joan Jonkel commented that the option to request an early right to sue letter could be used by respondents to force claimants out of the administrative forum against their will. She requested amendments to protect the right of claimants to remain before the commission for the

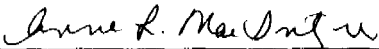
entire statutory period of one year before a respondent could force a claimant to file in district court.

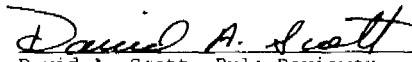
Response 5: The commission shares the concern that parties choosing an administrative forum, particularly those who are unrepresented by counsel, not be forced to proceed in court when administrative proceedings are more appropriate. The rule, as proposed, makes the decision to issue an early right to sue discretionary, upon a determination that "the interests of fundamental fairness or the public interest support the issuance of the right to sue letter." (proposed A.R.M. 24.9.262A(2)). As a protection for parties such as Ms. Jonkel describes, the commission has adopted a further amendment providing that a decision denying an early right to sue letter on these grounds will not be subject to additional proceedings of commission review. Decisions granting an early right to sue letter will be reviewable by the commission.

8. The amendments, adoptions and repeals are effective October 27, 1995.

Jane Lopp, Chair
Montana Human Rights Commission

By:


Anne L. MacIntyre, Administrator
Montana Human Rights Commission


David A. Scott, Rule Reviewer
Department of Labor

Certified to the Secretary of State October 16, 1995.

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of:) PETITION FOR DECLARATORY
The applicability of) RULING
37-51-102(14) and (15),)
MCA, as they relate to the)
broker/owner or manager as)
a dual agent)

TO: All Interested Persons:

1. On November 3, 1995, at 10:00 a.m., in the conference room of the Development Disabilities Planning and Advisory Council, Arcade Building, 111 North Jackson, Helena, Montana, the Board of Realty Regulation will consider a petition for declaratory ruling on the applicability of 37-51-102(14) and (15), MCA, as they relate to the broker/owner or manager as a dual agent.

2. Petitioner's name and address: Pat M. Goodover, II, P.O. Box 1725, Great Falls, MT 59403.

3. The factual circumstances are that the 1995 legislature passed in Senate Bill 224, new agency law for real estate brokers. This law specifically denotes the existence of several types of agency relationships specifically a seller's agent, a buyer's agent, a dual agent (an individual working for both parties to the sale), and a statutory broker (an individual working for neither party to the sale, but merely facilitating the sale).

4. The regulation/statute as to which petitioner requests a declaratory ruling is to clarify the position of a broker/owner or broker/manager when he designates in-house buyer- and seller-agents, in accordance with 37-51-102(14) and (15), MCA, which provides that a broker/owner may designate in-house agents to act as exclusive agents of a buyer and seller without those two agents becoming dual agents.

5. The question presented for declaratory ruling by the Board is "Is a broker/owner or broker/manager a DUAL AGENT if he designates in-house agents as exclusive agents of the buyer and seller?" and "If so, would he then need to have both buyer & seller sign a dual agency authorization form?"

6. Petitioner contends that he is a dual agent, since it is the brokerage and not the agents involved who take the listings, and therefore he must obtain ADVANCE approval of a seller and buyer to allow that option. If a seller, after full disclosure of the facts and issues, refuses to allow an in-house agent to act as a buyer's agent, a broker/owner could not utilize this option for that property.

7. Petitioner requests a declaratory rule that "A broker/owner or broker/manager must obtain permission from both a buyer and seller to authorize in-house designated buyer- and seller-agents, after full disclosure of the facts and issues. Further, a broker/owner or broker/manager must utilize a disclosure form formulated by the board for that purpose. In

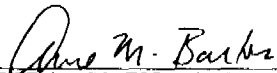
that disclosure form, it must be pointed out to a seller that any information he gives that listing firm is potentially available to an in-house buyer's agent, and that the agents acting as buyer's agents are not acting in his best interests."

8. Petitioner believes this will become an issue affecting a number of real estate brokers.

9. Interested persons may submit their data, views or arguments, either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Realty Regulation, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., November 2, 1995.

BOARD OF REALTY REGULATION
STEVE CUMMINGS, CHAIRMAN

BY:



ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE



ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 16, 1995.

BEFORE THE BOARD OF NURSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the petition)
for declaratory ruling on the) DECLARATORY RULING
performance of clinical labora-)
tory testing by licensed)
practical nurses)

1. On January 26, 1995, the Board of Nursing published a Notice of Petition for Declaratory Ruling in the above-entitled matter at page 121, 1995 Montana Administrative Register, issue number 2.

2. On February 23, 1995, the Board presided over a hearing in this matter to consider written and oral testimony from interested individuals. On that date the Board made a motion to delay action on the petition until the next regularly scheduled board meeting.

3. On May 18, 1995, the Board made a motion to issue this declaratory ruling.

Issue

4. Petitioners requested a ruling on whether it is within the scope of practice of licensed practical nurses to perform clinical laboratory tests, based on the Board's interpretation of Section 37-8-102(5)(a), MCA, defining the practice of practical nursing.

Summary of Comments

5. Eight written comments were received in support of practical nurses performing tests. The comments asserted that practical nurse basic instruction includes collection of specimen, and relative assessment and the obligation of reporting the assessment to the proper health care provider. All asserted that federal regulation and monitoring of the laboratory under the Clinical Laboratory Improvement Act ensures quality control. Other comments, referring to the scope of practice and permissible functions of a practical nurse, asserted that performance of tests utilizes standardized procedures in the observation and care of patients and is performed under the supervision of a physician. Some comments cited a potential increase in health care costs if practical nurses are restricted in the performance of laboratory tests. One comment labeled the issue a "turf struggle," adding that it is less expensive and in the interest of patient care to perform laboratory testing in a physician's office and that practical nurses, under supervision of a physician are qualified to perform such tests. The majority of comments supported the petition with regard to practical nurses' performance of tests under described circumstances; i.e., modified, waived, or a listing of tests as set forth in the petition.

6. Twenty-nine written comments were received in opposition to the petition. The comments noted a lack of laboratory training in the practical nurse curriculum in contrast to the more extensive education and clinical internship required for the laboratory practitioner. The comments further contend that performance of laboratory tests by unqualified persons poses a risk to the public health, safety, and welfare. The comments noted that as testing becomes more automated and equipment more sophisticated, the need for highly trained individuals becomes critical. The majority of the comments described laboratory testing as work requiring competence in testing methods, quality control, quality assurance, test interpretation, and test validity; making a distinction between mere performance of tests and understanding the theory underlying laboratory tests. One person commenting questioned whether physicians other than pathologists and laboratorians were qualified to adequately supervise personnel who do not meet the qualifications of licensed laboratory practitioners. Another person characterized CLIA regulations as deficient in that instrument performance is addressed solely through proficiency testing whereas proficiency testing may occasionally fail to detect instrumental problems. Many comments noted that quality patient care would be best maintained if medical laboratory testing performed by licensed practical nurses was limited to the waived category under CLIA.

Analysis

7. Section 37-34-301, MCA, states that "[a] person may not engage in the practice of clinical laboratory science . . . unless the person is licensed pursuant to this chapter."

8. Section 37-34-302(2)(a), MCA, provides an exemption to the licensure requirement as a clinical laboratory science practitioner to include:

any other profession licensed under Title 37 to the extent that the applicable scope of that practice, as defined by statute, rules of the board or agency governing the other profession, or both the statute and rules, authorizes the performance of a clinical laboratory test

9. Section 37-32-102(5)(a), MCA, defines the scope of practice of practical nursing to include the

performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by a physician, [et al.] . . . authorized by state law to prescribe

medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

10. Section 37-34-302(2)(e), MCA, provides an exemption to the licensure requirement as a clinical laboratory science practitioner to include:

any person performing only waived tests as provided for in the federal clinical laboratory regulations set forth in 42 CFR part 493.

Conclusion

11. After consideration of the comments in support and in opposition to the Petition; and upon review of the applicable statutes; the Board of Nursing makes the following declaratory ruling.

12. Clinical laboratory testing is not within the scope of practice of licensed practical nurses with the exception of waived tests provided for in the clinical laboratory regulation set forth in 42 CFR Part 493.15 or as amended.

BOARD OF NURSING

BY: Jean Ballantyne MN RN
JEAN BALLANTYNE, MN, RN
PRESIDENT

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

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

The Administrative Code Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. In addition, the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend a rule.

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

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE
MONTANA ADMINISTRATIVE REGISTER

Definitions: Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1995. This table includes those rules adopted during the period July 1, 1995 through September 30, 1995 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, 1995, 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 and 1995 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number. These will fall alphabetically after department rulemaking actions. Accumulative Table entries will be listed with the department name under which they were proposed, e.g., Department of Health and Environmental Sciences as opposed to Department of Environmental Quality.

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BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, 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 2-15-108, MCA, is 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 effective in September 1995, appear. Vacancies scheduled to appear from November 1, 1995, through January 31, 1996, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a 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 October 5, 1995.

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 SEPTEMBER, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Alternative Health Care Board			
Dr. Michael Bergkamp	(Commerce) Governor	reappointed	9/18/1995 9/1/1996
Helena Qualifications (if required): naturopath			
Ms. Dolly Browder Missoula Qualifications (if required): direct-entry midwife	Governor	reappointed	9/1/1995 9/1/1997
Dr. Nancy Dunne Missoula Qualifications (if required): naturopath	Governor	Moore	9/18/1995 9/1/1997
Dr. Tom Rasmussen Helena Qualifications (if required): public member	Governor	reappointed	9/18/1995 9/1/1998
Dr. Kathleen Stevens Billings Qualifications (if required): medical doctor	Governor	Molloy	9/18/1995 9/1/1999
Board of Medical Examiners			
Dr. Faust Alvarez Helena Qualifications (if required): doctor	(Commerce) Governor	Bell	9/1/1995 9/1/1999
Ms. Debby Barrett Dillon Qualifications (if required): member of the public	Governor	LaCroix	9/1/1995 9/1/1997
Dr. Lawrence McEvoy Clancy Qualifications (if required): doctor/surgeon	Governor	reappointed	9/1/1995 9/1/1999

BOARD AND COUNCIL APPOINTMENTS FROM SEPTEMBER, 1995

Appointee	Appointed by	Succeeded	Appointment/End Date
Board of Private Security Patrol Officers and Investigators (Commerce)			
Mr. Gary Gray	Governor	reappointed	9/8/1995
Great Falls			8/1/1998
Qualifications (if required): representing contract security companies			
Ms. Mary Luntsford			
Kalispell	Governor	reappointed	9/8/1995
Qualifications (if required): representing proprietary security organizations			
Board of Psychologists (Commerce)			
Ms. JoAnn Witt	Governor	reappointed	9/1/1995
Carter			9/1/2000
Qualifications (if required): public member			
Board of Science and Technology Development (Commerce)			
Ms. Susan Riplett	Governor		9/29/1995
Billings			1/1/1999
Qualifications (if required): being knowledgeable about private business financing			
Governor's Blue Ribbon Telecommunications Task Force (Governor)			
Mr. Mike Meldahl	Governor	new appointment	9/18/1995
Butte			1/1/1997
Qualifications (if required): ex-officio			
Montana Library Services Advisory Council (Education)			
Mr. Jim Heckel	Chairperson	new appointment	9/22/1995
Great Falls			6/30/1996
Qualifications (if required): not listed			
Montana Public Health Improvement Task Force (Public Health and Human Services)			
Dr. Terry Dennis	Governor	new appointment	9/18/1995
Billings			9/30/1996
Qualifications (if required): ex-officio			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Motorcycle Safety Advisory Council (Office of Public Instruction)			
Mr. William Henne	Governor	Ullom	9/19/1995
Hamilton			7/1/1999
Qualifications (if required):	peace officer		
 Mr. Dal Smilie	Governor	reappointed	9/19/1995
Helena			7/1/1999
Qualifications (if required):	representing motorcycle riding groups		
Noxious Weed Advisory Council (Agriculture)			
Mr. Dane Castleberry	Director	not listed	9/1/1995
Ekalaka			6/30/1997
Qualifications (if required):	representing livestock production		
 Mr. Keith Derks	Director	not listed	9/1/1995
Moccasin			6/30/1997
Qualifications (if required):	representing agriculture crop production		
 Mr. W. Ralph Peck	Director	not listed	9/1/1995
Helena			6/30/1997
Qualifications (if required):	Director, Department of Agriculture		
Noxious Weed Seed Free Advisory Council (Agriculture)			
Mr. Robert Carlson	Director	new appointment	9/18/1995
Butte			9/17/1997
Qualifications (if required):	weed districts		
 Mr. Dennis Cash	Director	new appointment	9/18/1995
Bozeman			9/17/1998
Qualifications (if required):	ex officio		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1995

Appointee	Appointed by	Succeeds	Appointment/End Date
Noxious Weed Seed Free Advisory Council (Agriculture) cont.			
Mr. Ray Ditterline	Director	new appointment	9/18/1995
Bozeman			9/17/1998
Qualifications (if required): ex officio			
 Mr. Bob McNeill	Director	new appointment	9/18/1995
Dillon			9/17/1998
Qualifications (if required): outfitters/guides			
 Ms. Marjorie Schuler	Director	new appointment	9/18/1995
Carter			9/17/1997
Qualifications (if required): livestock/agriculture			
 Mr. Terry Turner	Director	new appointment	9/18/1995
Havre			9/17/1996
Qualifications (if required): weed districts			
 Mr. Kerry Kovanda	Director	new appointment	9/18/1995
Columbus			9/17/1997
Qualifications (if required): forage producer			
 Mr. Dennis Perry	Director	new appointment	9/18/1995
Choteau			9/17/1998
Qualifications (if required): feed pellets/cubes products			
 Noxious Weed Seed Free Forage Advisory Council (Agriculture)			
Mr. LaMonte Schnur	Director	new appointment	9/18/1995
Townsend			9/17/1996
Qualifications (if required): forage producer			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage Advisory Council			
Mr. Don Walker	Director	(Agriculture) cont.	9/18/1995
Glendive		new appointment	9/17/1998
Qualifications (if required):	forage producer		
Mr. Harry Woll	Director	new appointment	9/18/1995
Kalispell			9/17/1998
Qualifications (if required):	Forage Producer		
Workforce Preparation Coordinating Council (Labor and Industry)			
Dr. Jeff Baker	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing state government		
Mr. Dennis O. Blackketter	Governor	new appointment	9/7/1995
Bozeman			9/7/1997
Qualifications (if required):	representing state government		
Mr. Peter Blouke	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing state government		
Ms. Janet Bush	Governor	new appointment	9/7/1995
Missoula			9/7/1997
Qualifications (if required):	representing community based organizations		
Ms. Barbara Campbell	Governor	new appointment	9/7/1995
Deer Lodge			9/7/1997
Qualifications (if required):	representing business		
Mr. Jerry Criner	Governor	new appointment	9/7/1995
Libby			9/7/1997
Qualifications (if required):	representing local government		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1995

Appointee	Appointed by	Succeeds	Appointment/End Date
Workforce Preparation Coordinating Council (Labor and Industry) cont.			
Ms. Jane DeLong	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing business		
Ms. Laurie Ekanger	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing state government		
Ms. JoEllen Estenson	Governor	new appointment	9/7/1995
Columbia Falls			9/7/1997
Qualifications (if required):	representing local education		
Rep. Bob Gilbert	Governor	new appointment	9/7/1995
Sidney			9/7/1997
Qualifications (if required):	public member		
Mr. Jim Hollenback	Governor	new appointment	9/7/1995
West Superior			9/7/1997
Qualifications (if required):	representing community based organizations		
Mr. Don Judge	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing organized labor		
Ms. Nancy Keenan	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing state government		
Ms. Helen Kellicut	Governor	new appointment	9/7/1995
Deer Lodge			9/7/1997
Qualifications (if required):	representing business		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1995

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Workforce Preparation Coordinating Council (Labor and Industry) cont.			
Mr. Dennis Lerum	Governor	new appointment	9/7/1995
Missoula			9/7/1997
Qualifications (if required):	representing local education		
Mr. Bob Marks	Governor	new appointment	9/7/1995
Clancy			9/7/1997
Qualifications (if required):	representing business		
Ms. Felicity McFerrin	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing organized labor		
Rep. Jeanette S. McKee	Governor	new appointment	9/7/1995
Hamilton			9/7/1997
Qualifications (if required):	public member		
Mr. Gordon Morris	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing local government		
Ms. Carol Murray	Governor	new appointment	9/7/1995
Browning			9/7/1997
Qualifications (if required):	representing local education		
Mr. Jon Oldenburg	Governor	new appointment	9/7/1995
Lewistown			9/7/1997
Qualifications (if required):	representing business		
Mr. David Owen	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing business		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1995

Appointee	Appointed by	Succeeds	Appointment/End Date
Workforce Preparation Coordinating Council (Labor and Industry) cont.			
Mr. Andy Poole	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing state government		
Ms. Kathy Sova Ramirez	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	representing community based organizations		
Ms. Diane Ruff	Governor	new appointment	9/7/1995
Billings			9/7/1997
Qualifications (if required):	representing business		
Sen. Mignon Waterman	Governor	new appointment	9/7/1995
Helena			9/7/1997
Qualifications (if required):	public member		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alfalfa Seed Committee (Agriculture)		
Mr. Durl Heiken, Billings	Governor	12/21/1995
Qualifications (if required): public member		
Mr. Keith Reynolds, Winnett		
Qualifications (if required): public member	Governor	12/21/1995
Appellate Defender Commission (Administration)		
Mr. Daniel Donovan, Great Falls	Governor	1/1/1996
Qualifications (if required): public defender		
Ms. Randi Hood, Helena		
Qualifications (if required): public defender	Governor	1/1/1996
Mr. Michael J. Reardon, Victor		
Qualifications (if required): public defender	Governor	1/1/1996
Board of Chiropractors (Commerce)		
Dr. Christopher Buzan, Missoula	Governor	1/1/1996
Qualifications (if required): chiropractor		
Board of Horse Racing (Commerce)		
Dr. Sheldon John "Skip" Score, Helena	Governor	1/20/1996
Qualifications (if required): resides in the fourth district		
Board of Occupational Therapy Practice (Commerce)		
Ms. Diana Margaret Leonard, Great Falls	Governor	12/31/1995
Qualifications (if required): occupational therapist		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Passenger Tramway Safety (Commerce) Mr. Bill Flechsenhar, Cascade Qualifications (if required): skiing member of the public	Governor	1/1/1996
Mrs. Helen Nelson, Kalispell Qualifications (if required): represents skiing public	Governor	1/1/1996
Mr. Kevin Taylor, Marysville Qualifications (if required): ski area operator	Governor	1/1/1996
Board of Respiratory Care Practitioners (Commerce) Dr. Richard Dyer Blevins, Great Falls Qualifications (if required): doctor member	Governor	1/1/1996
Board of Speech Pathologists and Audiologists (Commerce) Ms. Cynthia Yost Barnes, Dillon Qualifications (if required): public member	Governor	12/31/1995
Capitol Restoration Commission (Administration) Ms. Jeanne Michael, Billings Qualifications (if required): member appointed by Lieutenant Governor	Lieutenant Governor	12/3/1995
Mr. Walter (Howdie) S. Murfitt, Helena Qualifications (if required): public member	Governor	12/3/1995
Mr. E.V. "Sonny" Omholt, Helena Qualifications (if required): public member	Governor	12/3/1995
Mr. Loren Smith, Great Falls Qualifications (if required): member appointed by Lieutenant Governor	Lieutenant Governor	12/3/1995

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Social and Rehabilitation Services)		
Ms. Kris Bakula, Helena	Governor	1/1/1996
Qualifications (if required): Director of the Montana Advocacy Program		
Dr. Frank Clark, Missoula	Governor	1/1/1996
Qualifications (if required): representative of social work		
Sen. Ethel Harding, Polson	Governor	1/1/1996
Qualifications (if required): Senator		
Mr. J. Cort Harrington, Jr., Helena	Governor	1/1/1996
Qualifications (if required): attorney representative		
Dr. Allen Hartman, Billings	Governor	1/1/1996
Qualifications (if required): physician representative		
Rep. Betty Lou Kasten, Brockway	Governor	1/1/1996
Qualifications (if required): Representative		
Ms. Lavonne "Vonnice" Koenig, Kalispell	Governor	1/1/1996
Qualifications (if required): consumer representative		
Mr. Harold Lorenz, Sidney	Governor	1/1/1996
Qualifications (if required): consumer		
Mr. Wallace Melcher, Helena	Governor	1/1/1996
Qualifications (if required): consumer		
Ms. Darcy Miller, Helena	Governor	1/1/1996
Qualifications (if required): special education representative		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Social and Rehabilitation Services) cont.		
Ms. Judy Rolfe, Helena	Governor	1/1/1996
Qualifications (if required): consumer		
Mr. Robert Tallon, Bozeman	Governor	1/1/1996
Qualifications (if required): service provider representative		
Dr. Timm Vogelsberg, Missoula	Governor	1/1/1996
Qualifications (if required): represents university program		
Human Rights Advisory Council (Commerce)		
Ms. Jean Bearcrane, Browning	Governor	1/12/1996
Qualifications (if required): represents ethnic and business groups		
Reverend Phillip Caldwell, Great Falls	Governor	1/12/1996
Qualifications (if required): represents ethnic and religious groups		
Mr. Gary Conti, Bozeman	Governor	1/12/1996
Qualifications (if required): represents education groups		
Ms. Angelina Vallejo Cormier, Billings	Governor	1/12/1996
Qualifications (if required): represents ethnic and business groups		
Ms. Bonnie Craig, Missoula	Governor	1/12/1996
Qualifications (if required): represents ethnic groups and education groups		
Ms. Kathleen Fleury, Helena	Governor	1/12/1996
Qualifications (if required): represents elected officials		
Mr. Bob Fourstar, Poplar	Governor	1/12/1996
Qualifications (if required): represents ethnic groups		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

Board/current position holder	Appointed by	Term end
Human Rights Advisory Council Reverend Bob Freeman, Billings Qualifications (if required): represents ethnic and religious groups	Governor	1/12/1996
Dr. Frederick Gilliard, Great Falls Qualifications (if required): represents education groups	Governor	1/12/1996
Mr. Bill Jones, Great Falls Qualifications (if required): represents human rights groups	Governor	1/12/1996
Ms. Kay Maloney, Great Falls Qualifications (if required): represents human rights groups	Governor	1/12/1996
Ms. Christina Medina, Helena Qualifications (if required): represents ethnic and human rights groups	Governor	1/12/1996
Mr. Harold Monteau, Great Falls Qualifications (if required): represents ethnic and human rights groups	Governor	1/12/1996
Ms. Gretchen Naomi Rohr, Billings Qualifications (if required): represents ethnic and youth groups	Governor	1/12/1996
Ms. Donna Ruff, Fairview Qualifications (if required): represents labor and ethnic groups	Governor	1/12/1996
Rep. Angela Russell, Lodge Grass Qualifications (if required): represents ethnic groups and elected officials	Governor	1/12/1996
Mr. Brian Schnitzer, Billings Qualifications (if required): represents religious and business groups	Governor	1/12/1996
Ms. Michelle Wilkerson, Great Falls Qualifications (if required): represents religious and business groups	Governor	1/12/1996

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Judicial Nomination Commission (Justice) Mr. Carl M. Davis, Dillon Qualifications (if required): none specified	Supreme Court	12/31/1995
Mr. Jim Mockler, Helena Qualifications (if required): lay member	Governor	1/1/1996
Mental Health Planning and Advisory Council (Corrections and Human Services) Mr. Ed Amberg, Warm Springs Qualifications (if required): none specified	Director	12/31/1995
Ms. Shirley Brown, Helena Qualifications (if required): none specified	Director	12/31/1995
Sen. B.F. Chris Christiaens, Great Falls Qualifications (if required): none specified	Director	12/31/1995
Ms. Mary Dalton, Helena Qualifications (if required): none specified	Director	12/31/1995
Ms. Liza Dyrdahl, Bozeman Qualifications (if required): none specified	Director	12/31/1995
Mr. Brian Febach, Missoula Qualifications (if required): none specified	Director	12/31/1995
Ms. Barb Harris, Helena Qualifications (if required): none specified	Director	12/31/1995
Ms. Toni Jensen, Helena Qualifications (if required): none specified	Director	12/31/1995

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Mental Health Planning and Advisory Council (Corrections and Human Services) cont.		
Ms. Kayleen Jones, Billings	Director	12/31/1995
Qualifications (if required): none specified		
Mr. John Lynn, Missoula	Director	12/31/1995
Qualifications (if required): none specified		
Dr. Nathan Munn, Helena	Director	12/31/1995
Qualifications (if required): none specified		
Ms. Margaret Murphy, Billings	Director	12/31/1995
Qualifications (if required): none specified		
Mr. Roger Pedersen, Helena	Director	12/31/1995
Qualifications (if required): none specified		
Ms. Barbara Sample, Billings	Director	12/31/1995
Qualifications (if required): none specified		
Ms. Helen Samsel, Miles City	Director	12/31/1995
Qualifications (if required): none specified		
Ms. Dorothy Sowa, Great Falls	Director	12/31/1995
Qualifications (if required): none specified		
Ms. Kathy Standard, Helena	Director	12/31/1995
Qualifications (if required): none specified		
Mr. Michael Waldo, Bozeman	Director	12/31/1995
Qualifications (if required): none specified		
Mr. Don Wetzel, Billings	Director	12/31/1995
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Mental Health Planning and Advisory Council (Corrections and Human Services)		
Ms. Peggy Williams, Helena	Director	cont. 12/31/1995
Qualifications (if required): none specified		
Montana Consensus Council (Governor)		
Mr. Larry Anderson, Chester	Governor	1/22/1996
Qualifications (if required): none specified		
Mr. Tad Dale, Basin	Governor	1/22/1996
Qualifications (if required): none specified		
Ms. Janet Ellis, Helena	Governor	1/22/1996
Qualifications (if required): none specified		
Ms. Molly M. Hobgood, Whitefish	Governor	1/22/1996
Qualifications (if required): none specified		
Mr. Ted Kober, Billings	Governor	1/22/1996
Qualifications (if required): none specified		
Ms. Lisa Lewis Pearce, Roundup	Governor	1/22/1996
Qualifications (if required): none specified		
Governor Marc Racicot, Helena	Governor	1/22/1996
Qualifications (if required): none specified		
It. Governor Dennis Rehberg, Helena	Governor	1/22/1996
Qualifications (if required): none specified		
Mr. James R. Scott, Billings	Governor	1/22/1996
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Consensus Council (Governor) -cont.		
Mr. Caleb Shields, Poplar	Governor	1/22/1996
Qualifications (if required): none specified		
Mr. Donald Snow, Missoula	Governor	1/22/1996
Qualifications (if required): none specified		
Dr. Lawrence Susskind, Cambridge	Governor	1/22/1996
Qualifications (if required): none specified		
Ms. Monica Switzer, Richey	Governor	1/22/1996
Qualifications (if required): none specified		
Mr. Mike Zimmerman, Butte	Governor	1/22/1996
Qualifications (if required): none specified		
Montana Health Facility Authority Board (Commerce)		
Mr. Sidney K. Brubaker, Terry	Governor	1/1/1996
Qualifications (if required): public member		
Ms. Delyce K. Flynn, Townsend	Governor	1/1/1996
Qualifications (if required): public member		
Mr. Greg Hanson, Missoula	Governor	1/1/1996
Qualifications (if required): attorney		
Peace Officers Standards and Training Advisory Council (Justice)		
Mr. Thomas Bivins, Helena	Governor	12/31/1995
Qualifications (if required): represents Department of Fish, Wildlife & Parks		
Mr. Gary Boyer, Great Falls	Governor	12/31/1995
Qualifications (if required): educator		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Peace Officers Standards and Training Advisory Council (Justice) cont. Sheriff Lee Edmisten, Virginia City Qualifications (if required): represents Montana Sheriffs	Governor	12/31/1995
Sen. Delwyn Gage, Cut Bank Qualifications (if required): representing Board of Crime Control	Governor	12/31/1995
Ms. Donna Heggem, Winifred Qualifications (if required): represents Montana Board of Crime Control	Governor	12/31/1995
Mr. Donald R. Houghton, Bozeman Qualifications (if required): represents Montana Deputy Sheriffs	Governor	12/31/1995
Chief Robert Jones, Great Falls Qualifications (if required): represents Montana Association of Chiefs of Police	Governor	12/31/1995
Ms. Surry Latham, Missoula Qualifications (if required): dispatcher	Governor	12/31/1995
Mr. Jack Lynch, Butte Qualifications (if required): fills mayor position	Governor	12/31/1995
Commissioner Mike Mathew, Billings Qualifications (if required): represents Montana Association of Counties	Governor	12/31/1995
Mr. Dennis McCave, Billings Qualifications (if required): represents Montana Detention Officers	Governor	12/31/1995
Mr. Troy W. McGee, Sr., Helena Qualifications (if required): represents Montana Police Protective Association	Governor	12/31/1995
Mr. Christopher Miller, Deer Lodge Qualifications (if required): represents Montana County Attorneys Association	Governor	12/31/1995

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Peace Officers Standards and Training Advisory Council Mr. Greg Noose, Bozeman Qualifications (if required): represents Montana Law Enforcement Academy	(Justice) cont. Governor	12/31/1995
Ms. Marilyn Zimmerman, Poplar Qualifications (if required): public member	Governor	12/31/1995
Resource Conservation Advisory Council (Natural Resources and Conservation) Mr. Sever Enkerud, Glasgow Qualifications (if required): none specified	Director	11/30/1995
Mr. Ellis Hagen, Westby Qualifications (if required): none specified	Director	11/30/1995
Ms. Marieanne Hanser, Billings Qualifications (if required): none specified	Director	11/30/1995
Mr. Don Iverson, Fairview Qualifications (if required): none specified	Director	11/30/1995
Mr. Ken Minnie, Roundup Qualifications (if required): none specified	Director	11/30/1995
Mr. Bob Schroeder, Florence Qualifications (if required): none specified	Director	11/30/1995
Mr. Tom Stelling, Fort Shaw Qualifications (if required): none specified	Director	11/30/1995

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Water Pollution Control Advisory Council (Health and Environmental Sciences)		
Mr. Donald L. Burnham, Helena	Governor	11/7/1995
Qualifications (if required): livestock feeder		
Mr. Gary Fritz, Helena	Governor	11/7/1995
Qualifications (if required): administrator of the water resources of DNRC		
Mr. Leo Giacometto, Helena	Governor	11/7/1995
Qualifications (if required): represents Department of Agriculture		
Mr. Robert Dennis Greenlief, Butte	Governor	11/7/1995
Qualifications (if required): representative of labor		
Mr. Don Jenkins, Whitehall	Governor	11/7/1995
Qualifications (if required): representative of industry concerned with inorganic waste		
Ms. Barbara J. Morgan, Eureka	Governor	11/7/1995
Qualifications (if required): municipal government representative		
Mr. Douglas Parker, Missoula	Governor	11/7/1995
Qualifications (if required): representative of inorganic industry		
Mr. Doug Richardson, Billings	Governor	11/7/1995
Qualifications (if required): representative of industry concerned with organic waste		
Mr. Keith Ward, Missoula	Governor	11/7/1995
Qualifications (if required): representative of an organization concerned with fishing for sport		
Mr. Robert E. Willems, Harlowton	Governor	11/7/1995
Qualifications (if required): supervisor of a soil and water conservation district		

VACANCIES ON BOARDS AND COUNCILS -- November 1, 1995 through January 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Whirling Disease Task Force Mr. Roger Nelson, Livingston Qualifications (if required): public member	Governor	1/1/1996