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MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 10

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of ARM 4.9.101; ARM) OF WHEAT & BARLEY COMMITTEE
4.9.301, 4.9.303 and 4.9.304;) RULES
ARM 4.9.401 and 4.9.402)
NO PUBLIC HEARING CONTEMPLATED

TO: All interested persons:

1. On June 23, 1996, the Montana Department of Agriculture proposes to amend the above stated Wheat & Barley rules.
2. The proposed amended rules will read as follows (new material underlined, deleted material interlined)

4.9.101 ORGANIZATIONAL RULES (1) The organization of the Montana wheat research and marketing and barley committee has been sufficiently set out in Chapter 1 of this title.

AUTH: Sec. 80-11-205 MCA
IMP: Sec. 80-11-201 MCA

REASON: The 1987 Legislative Session changed the name Montana Wheat Research and Marketing Committee to the Montana Wheat and Barley Committee (MW&BC).

4.9.301 APPLICATION FOR GRANTS (1) Grant applications for project funding shall be filed with the committee on or before the first second regular meeting of the committee held during March of each calendar year. Filing requirements will be satisfied by receipt of the one original and nine (9) copies of each application at the office of the committee on a date set by the committee.

AUTH: Sec. 80-11-205 MCA
IMP: Sec. 80-11-202 MCA

4.9.303 COMMITTEE DETERMINATION (1) At the first second meeting of the committee held annually during March the projects to be funded for the following fiscal period are selected and the amount of grant funding will be determined. Decisions will be based on project priorities set by the committee for the fiscal period after review and evaluation.

AUTH: Sec. 80-11-205 MCA
IMP: Sec. 80-11-202 MCA

4.9.304 NOTIFICATION OF AWARDS (1) Grant applicants shall be notified within ~~thirty~~ (30) days after the committee's March budget meeting as to whether or not their application(s) have been granted. Applicants shall also be notified of the amount to be funded for each approved project.

AUTH: Sec. 80-11-205 MCA
IMP: Sec. 80-11-202 MCA

REASON: These three rules are proposed for amendment to conform with actual practice and to give the committee more flexibility in scheduling its meetings. The committee, as stated in its procedural rules, will provide adequate notice of any and all meetings.

4.9.401 WHEAT AND BARLEY ASSESSMENT AND REFUNDS

- (1) There shall be levied an ~~annual~~ assessment of:
 - (a) ~~10~~ 8 mills per bushel upon all wheat grown sold in the State of Montana;
 - (b) ~~15~~ 10 mills per hundredweight on all barley grown sold in the State of Montana.
- (2) All assessments are subject to refund provided the following ~~criterium~~ criteria are met:
 - (a) Remain the same.
 - (i) Forms will be furnished upon application to the Montana Wheat Research and Marketing and Barley Committee, P. O. Box 3024, Great Falls, Montana 59403-~~3024~~.
 - (b) Written application for refund of the wheat or barley assessments must be submitted by the first seller of the wheat or barley or by an individual with the first seller's power of attorney.
 - (c) Refund application forms shall be submitted subsequently to ~~thirty~~ (30) days from after the date of first sale and no later than ~~ninety~~ (90) days from the date of the first sale of wheat or barley for which a refund is filed.

AUTH: Sec. 80-11-205 MCA
IMP: Sec. 80-11-206 MCA

REASON: The producer-directors of the MW&BC have chosen to lower the assessment on both wheat and barley to bring revenues in line with appropriated expenditures. The rule is also amended to reflect that the assessment is on wheat and barley sold rather than grown to conform with an amendment to the statute in the 1993 Legislative Session.

4.9.402 REQUIREMENTS FOR REPORTS (1) All monthly grain merchandiser report forms shall be sent out from the Department of Agriculture Montana wheat and barley committee with an enclosed envelope addressed to the department committee and these reports shall be completed and returned to the department committee after being properly signed and sworn to each and every month. These reports shall be filed with the department committee within ~~twenty~~ (20) days after the close of the business for the month in which the report is being filed. Additional sections of this form may be used to comply with ~~Section~~ 80-4-209, MCA:

- (2) Remain the same.
- (a) First notice shall be a form letter from the Montana wheat research and marketing unit and barley committee requesting submission of the past due reports within ~~ten~~ (10) days of the

date of the letter.

(b) through (d) remain the same.

AUTH: Sec. 80-11-205 MCA

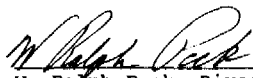
IMP: Sec. 80-11-207 MCA

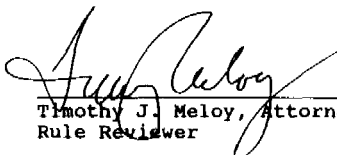
REASON: The word "department" must be changed to "committee", because the committee is responsible for physically taking in the assessment, and all reports must go through this office.

3. Interested persons may submit their written data, views, or arguments concerning this proposed amendment to Will Kissinger, Administrator, Agricultural Development Division, Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201, FAX (406)444-5409, or "e" mail: AGR@MT.GOV, no later than June 21, 1996.

4. If a party who is directly affected by the proposed amendment wishes to express his/her data, views, and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Will Kissinger, Administrator, Agricultural Development Division, Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201, FAX (406)444-5409, or "e" mail: AGR@MT.GOV no later than June 21, 1996.

5. If the department receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not fewer than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 1,450 persons based on 14,500 Montana farmers who raise wheat or barley.


W. Ralph Peck, Director
DEPARTMENT OF AGRICULTURE


Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State May 13, 1996

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

In the matter of the proposed	) NOTICE OF PROPOSED
adoption of new rule I pertaining	) ADOPTION
to securities regulation on the)
internet.	) NO PUBLIC HEARING
	) CONTEMPLATED

TO: All Interested Persons:

1. On June 24, 1996, the State Auditor and Commissioner of Securities proposes to adopt new rule I pertaining to securities regulation on the internet.

2. The proposed rule provides as follows:

RULE 1 INTERNET (1) Pursuant to 30-10-105(15), MCA, offers of securities made by, or on behalf of, issuers on or through the internet or similar proprietary or common carrier electronic system, shall be exempt from 30-10-201 through 30-10-207, MCA, if the following conditions are met:

(a) The offer indicates, directly or indirectly, that the securities are not being offered to residents of Montana;

(b) The offer is not specifically directed to any person in Montana by, or on behalf of, the issuer of the securities; and

(c) No sales of the issuer's securities are made in Montana as a result of the offering until the securities being offered have been registered in accordance with 30-10-201 through 30-10-207, MCA, and a final prospectus or Form U-7 is delivered to Montana investors prior to such sales.

(2) Nothing in this rule precludes an issuer, or a person acting on behalf of an issuer, that offers securities on the internet or similar proprietary or common carrier electronic system, or effects sales to persons in Montana following such an offering, from relying on any other available exemption.

AUTH: 30-10-105(15) and 30-10-107, MCA

IMP: 33-10-105(15)

3. Use of the internet, the World Wide Web or similar proprietary or common carrier electronic system (collectively referred to as the "internet") may be a legitimate means of raising capital. A communication of information regarding an offering may be directed not only to particular recipients but also to anyone with access to the internet. Any attempt or offer to dispose of, or the solicitation of an offer to buy, a security or an interest in a security for value, that is made on or through the internet would constitute an "offer" as defined in 30-10-103(16)(b), MCA. An offer communicated via the internet would trigger the registration requirements of 30-

10-201 through 30-10-207, MCA.

This exemption would permit issuers and other persons to communicate offers via the internet without triggering registration requirements. However, prior to making a sale to a person in Montana, the promoter would have to either register the security or establish an exemption from registration.

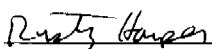
The exemption provided for in this rule is a model exemption drafted by the North American Securities Administrators Association, Inc., (NASAA) an association of state securities regulators. By adopting this exemption, Montana is maintaining consistency with other states in regulating securities offerings made on the internet.

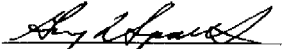
4. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to Melissa C. Broch, Montana Securities Commission, P.O. Box 4009, 126 North Sanders, Helena, Montana 59604-4009, no later than June 20, 1996.

5. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Melissa C. Broch, Montana Securities Commission, P.O. Box 4009, 126 North Sanders, Helena, Montana 59604-4009, no later than June 20, 1996.

6. If the Montana Securities Commission receives requests for a public hearing on the proposed adoption either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the administrative code committee of the legislature, from a governmental agency or subdivision or from 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. 10% of those persons directly affected has been determined to be 10 persons based on 100 persons in the state that are affected by the proposed adoption.

MARK O'KEEFE
STATE AUDITOR AND
COMMISSIONER OF INSURANCE

BY: 
Rusty Harper
Deputy State Auditor

BY: 
Gary L. Spaeth
Rules Reviewer

Certified to the Secretary of State on this 9th day of May, 1996.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED
amendment of rule 6.6.8301,	)	AMENDMENT OF RULE
concerning updating references to	)	6.6.8301
the NCCI Basic Manual for Workers)	.
Compensation and Employers	)	NO PUBLIC HEARING
Liability Insurance, 1996 ed.	)	CONTEMPLATED

TO: All Interested Persons.

1. On June 24, 1996, the Montana Classification Review Committee proposes to amend rule 6.6.8301 updating references to the NCCI Basic Manual for Workers Compensation and Employers Liability, 1996 edition.

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

6.6.8301 ESTABLISHMENT OF CLASSIFICATION FOR
COMPENSATION PLAN NO. 2 (1) The committee hereby adopts and incorporates by reference the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 ed., as supplemented through ~~May 24, 1996~~ July 15, 1996, which establishes classifications with respect to employers electing to be bound by compensation plan No. 2 as provided in Title 39, chapter 71, part 22, Montana Code Annotated. A copy of the Basic Manual for Workers Compensation and Employers Liability Insurance is available for public inspection at the Office of the Commissioner of Insurance, Room 270, Sam W. Mitchell Building, 126 North Sanders, P.O. Box 4009, Helena, MT 59620-4009. Copies of the Basic Manual for Workers Compensation and Employers Liability Insurance may be obtained by writing to the Montana Classification Review Committee in care of the National Council on Compensation Insurance, Inc., 7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235. Persons obtaining a copy of the Basic Manual for Workers Compensation and Employers Liability Insurance must pay the committee's cost of providing such copies.

(2) Remains the same.

AUTH: 33-16-1012, MCA
IMP: 33-16-1012, 2-4-103, MCA

3. The proposed amendment is necessary in order to update references to the NCCI Basic Manual for Workers Compensation and Employers Liability. Changes to the NCCI Basic Manual for Workers Compensation and Employers Liability affect classifications for those employers listed below:

06-MT-96 - Code 9079 - Restaurant MOC and Code 9058 - Hotel:
Restaurant Employees (Effective July 1, 1996)

Purpose: Clarifies that casino employees are contemplated under these codes, based on the classification assigned to the primary business having such employees. There is no material marketplace change being proposed. This filing is a clarification of current market practices in Montana.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Christy Weikart, Chairperson, Montana Classification Review Committee, c/o National Council on Compensation Insurance, Inc., 7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235, no later than June 20, 1996.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Christy Weikart, Chairperson, Montana Classification Review Committee, c/o National Council on Compensation Insurance, Inc., 7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235, no later than June 20, 1996.

6. If the classification review committee of the state of Montana receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed 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. 10% of the persons directly affected has been determined to be 100 based on 1000 persons in the state the classification of which are affected by the proposed amendment.

CLASSIFICATION AND
REVIEW COMMITTEE

By: Christy Weikart
Christy Weikart
Chairperson

By: Gary L. Spaeth
Gary L. Spaeth
Rules Reviewer

Certified to the Secretary of State on May 9, 1996.

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

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining) OF 8.22.703 EXERCISE PERSONS
to exercise persons and pony) AND 8.22.709 PONY PERSONS
persons

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 22, 1996, the Board of Horse Racing proposes to amend the above-stated rules.

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 amendment will delete the reference to weight of the safety vest, as this language was originally intended to pertain only to safety vests worn by jockeys in a race.

"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. Beginning March 1, 1997, 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 amendment will add a March 1, 1997 effective date for implementation of this requirement, to allow pony persons extra time to obtain an appropriate safety vest,

as acquiring proper vests in all sizes has proven to be difficult to accomplish for the 1996 race season. The amendment will also delete the reference to weight of the vest and safety rating, as this language was originally intended to pertain only to safety vests worn by jockeys in a race.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Horse Racing, 1424 - 9th Avenue, P.O. Box 200512, Helena, Montana 59620-0512, or by facsimile to (406) 444-4305, to be received no later than 5:00 p.m., June 20, 1996.

4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Horse Racing, 1424 - 9th Avenue, P.O. Box 200512, Helena, Montana 59620-0512, or by facsimile to (406) 444-4305, to be received no later than 5:00 p.m., June 20, 1996.

5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having 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, DVM, 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, May 13, 1996.

BEFORE THE CONSUMER AFFAIRS OFFICE
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
amendment and repeal of rules	)	THE PROPOSED AMENDMENT OF
pertaining to the repair and	)	RULES 8.78.202, 8.78.301,
servicing of automobiles,	)	8.78.402 AND 8.78.403 AND
consumer reporting agencies,	)	REPEAL OF 8.78.404,
and the operation of proprietary	)	8.78.405 AND 8.78.406
schools)	
)	

TO: All Interested Persons:

1. On June 19, 1996, at 9:00 a.m., a public hearing will be held in the upstairs conference room of the Department of Commerce building, 1424 - 9th Avenue, Helena, Montana, to consider the proposed amendment, repeal and adoption of rules pertaining to the repair and servicing of automobiles, consumer reporting agencies, and the operation of proprietary schools.

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

"8.78.202 REPAIRS, ESTIMATES AND INVOICES (1) It shall be an unfair or deceptive act or practice for a motor vehicle repair business to:

(1) remains the same, but is renumbered (a).

(1)(a) through (c) remain the same but are renumbered (i), (ii), (iii).

(2) remains the same but is renumbered (b).

~~(3) (c)~~ Upon request of the customer at the time the work order is taken, the motor vehicle repair business ~~shall fail~~ to return replaced parts to the customer at the time of the completion of the work, excepting such parts as may be impracticable because of size, weight or other similar factors ~~and excepting such parts as the motor vehicle repair business is required to return to the manufacturer, distributor or other supplier under a warranty arrangement or exchange parts program.~~ If such replaced parts must be returned to the manufacturer, distributor or other supplier under a warranty arrangement or exchange parts program, then the motor vehicle repair business shall show such parts to the customer if the customer was advised of the option to observe the parts and requested such showing at the time the work order was taken. However, the motor vehicle repair business shall not be required to show a replaced part when no charge is being made for the replacement part."

Auth: Sec. 30-14-104, MCA; IMP, Sec. 30-14-104, MCA

REASON: The proposed amendment is designed to facilitate the understanding of the rule and provide guidance for the rule's implementation.

"8.78.301 DISCLOSURE FEES (1) A consumer reporting agency shall make all disclosures pursuant to ~~section 31-3-122, MCA, without charge to the consumer, if, within thirty (30) days after receipt by such consumer or a notification pursuant to section 31-3-131, MCA, or notification from a debt collection agency stating that the consumer's credit rating may be or has been adversely affected,~~ the consumer makes a request under ~~section 31-3-122, MCA, within 30 days of receiving~~ either:

(a) notification under 31-3-131, MCA, that credit is being denied or provided at an increased cost; or

(b) notification that the consumer's credit rating may be or has been adversely affected. Otherwise, the consumer reporting agency shall charge the consumer no more than ~~eight dollars and fifty cents (\$8.50)~~ for making disclosure to such consumer pursuant to ~~section 31-3-122, the charge for which shall be indicated to the consumer prior to making disclosure.~~ No charge may be made for notifying users of deletion of information found to be verified as required by ~~section 31-3-124, MCA."~~

Auth: Sec. 31-3-125, 31-3-153, MCA; IMP, Sec. 31-3-125, 31-3-153, MCA

REASON: The proposed amendment adds substantial clarity to the rule.

"8.78.402 LICENSE - APPLICATION PROCEDURES BOND REQUIREMENTS (1) will remain the same.

~~(a) a statutory fee of fifty dollars (\$50.00) which is non-refundable and shall be paid by cash, check or money order made payable to the department of commerce;~~

~~(b) through (d) will remain the same, but will be renumbered (a) through (c).~~

~~(e) a copy of enrollment contract form;~~

~~(f) a copy of tuition schedule;~~

~~(g) a copy of tuition refund schedule;~~

~~(h) a copy of each course outline;~~

~~(i) an inventory of equipment and tools available for inspection;~~

~~(j) a copy of a certificate of completion or graduation certificate;~~

~~(k) a copy of attendance record form;~~

~~(l) a copy of all current school catalogs, bulletins and other published materials including form letters, advertising and circulars; and~~

~~(m) a completed personal data form, as prescribed by the department, for each director, administrator, supervisor, teacher and agent.~~

~~(2) An application for the renewal of a license shall be submitted at least ninety days prior to the expiration date of the current license, which will be the anniversary date of the license, of each year on forms prescribed by the department and accompanied by:~~

~~(a) a renewal fee of twenty five dollars (\$25.00) which is non-refundable and shall be paid by cash, check or money order made payable to the department of commerce;~~

~~(b) adequate, current financial statements (e.g. an income statement and a balance sheet) certified by a licensed accountant, signed and dated by an authorized school official; and~~

~~(c) a proper surety bond in the penal sum of ten thousand dollars (\$10,000.00)."~~

Auth: Sec. 20-30-201, MCA; IMP, Sec. 20-30-201, MCA

~~"8.78.403 LICENSE - GENERAL REGULATIONS (1) Each proprietary school in Montana commencing operations on or after January 1, 1975, must possess a valid license issued by the department before engaging in the solicitation of a student for enrollment.~~

~~(2) Each proprietary school shall prominently display a valid license.~~

~~(3) A license to operate a proprietary school shall not be sold or transferred.~~

~~(4) A license shall not be issued by the department to any proprietary school that denies enrollment to any applicant based on race, color or creed.~~

~~(5) The courses and curriculum shall be organized on a systematic basis and, when applicable, shall include suitable classroom, field, shop, laboratory or work experience training.~~

~~(6) The course matter content shall include instruction in safety, when applicable, in the field for which training is offered.~~

~~(7) The teaching load shall be reasonable to student-teacher ratio, number of subject preparations, number of periods and hours of assigned instruction, and other duties applicable to the type of instruction offered. Where lecture type of instruction is used, there should be adequate comfort and space for each student. Where individual instruction is used in laboratory or shop facilities, the ratio should not exceed thirty to one.~~

~~(8) The school shall maintain facilities, equipment, tools, machines, classrooms, laboratories, and work stations adequate in quantity, quality and variety which are consistent with a proper educational environment that meets the training needs according to the stated vocational objectives;~~

~~(a) classrooms and laboratory facilities shall be properly heated, lighted, and ventilated with adequate teaching equipment, materials, supplies and other teaching aids for reasonable instructions and learning; and~~

~~(b) the equipment shall be suitable and modern in nature to provide quality instruction.~~

~~(9) The enrollment agreement or contract shall set forth briefly and clearly all conditions for enrollment in and completion of the course(s) of instruction and such other rules, regulations and conditions as the school may desire to set forth in the agreement or contract.~~

~~(10) Each proprietary school shall present a tuition refund schedule in published form to each applicant prior to enrollment.~~

~~(11) Each proprietary school shall furnish a published schedule of tuition and fees necessary for completion of the course(s) to each applicant prior to enrollment.~~

~~(12) Each proprietary school shall maintain adequate records and make them available for inspection. The records of a Montana proprietary school shall include the following:~~

~~(a) all approved courses of study;~~

~~(b) copies of all promotional material, bulletins and advertising;~~

~~(c) student's permanent records showing attendance, progress, tuition payments, application refund policy, high school (or equivalent of high school) transcripts, counseling notations and placement records of the student;~~

~~(d) a copy of rules and regulations of the school;~~

~~(e) student entrance applications showing date enrolled;~~

~~(f) official transcript, if any, of all administrators, directors, supervisors, and instructions of the school; and~~

~~(g) a school catalog library.~~

~~(13) will remain the same, but will be renumbered (1).~~

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

~~(14) Administrators and directors shall have sufficient educational background, experience and administrative competence to plan and properly supervise the training program.~~

~~(15) Each proprietary school shall maintain a teaching and supervisory staff that keeps abreast of new developments in their respective fields. Each teacher and supervisor must show evidence of professional growth in each five year period of time in any one of the following ways:~~

~~(a) additional work experience in the occupational field in which they teach or supervise;~~

~~(b) completion of course(s) directly related to the occupational field in which they teach or supervise;~~

~~(c) attendance at seminars and various meetings conducted for professional improvement purposes."~~

Auth: Sec. 20-30-201, MCA; IMP, Sec. 20-30-201, MCA

REASON: See the reason for the repealed rules under paragraph 3 for both 8.78.402 and 8.78.403.

3. The Board is proposing to repeal ARM 8.78.404, 8.78.405 and 8.78.406, which are located at pages 8-2280 and 8-2281, Administrative Rules of Montana. The authority section is 20-30-201 and the implementing section is 20-30-201, MCA. The reason the rules are being proposed for repeal is that many of the requirements contained within the rules are already found in the statutory authority regulating post-secondary educational institutions; therefore, it is unnecessary to repeat the statutory language in the rules.

4. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an

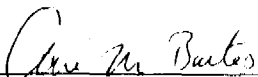
accommodation, contact the Department no later than 5:00 p.m., June 10, 1996, to advise us of the nature of the accommodation that you need. Please contact Perry Eskridge, legal counsel, Consumer Affairs Office, 1424 - 9th Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 444-3553; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-2903. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Perry Eskridge, legal counsel for the Department.

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 the Consumer Affairs Office, 1424 - 9th Avenue, P.O. Box 200501, Helena, Montana 59620-0501, or by facsimile, number (406) 444-2903, to be received no later than 5:00 p.m., June 20, 1996.

6. Perry Eskridge, attorney, has been designated to preside over and conduct this hearing.

CONSUMER AFFAIRS OFFICE
DEPARTMENT OF COMMERCE

BY:



ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE



ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 13, 1996.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING
adoption of Rule I	)	ON PROPOSED ADOPTION OF A
pertaining to families	)	RULE
achieving independence in)	
Montana (FAIM))	
)	

TO: All Interested Persons

1. On June 13, 1996, at 10:30 a.m., a public hearing will be held in Room 107 of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the proposed adoption of Rule I pertaining to families achieving independence in Montana (FAIM).

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the department no later than 5:00 p.m. on June 3, 1996, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

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

[RULE I] FAIM: AFDC ASSISTANCE STANDARDS; TABLES; METHODS OF COMPUTING AMOUNT OF CASH ASSISTANCE (1) Standards of assistance are used to determine whether need exists with respect to income for any person who applies for or receives aid to families with dependent children (AFDC) assistance in the FAIM project and to determine the amount of assistance the applicant or recipient will receive if eligible. Three sets of assistance standards are used which are as follows:

(a) The gross monthly income (GMI) standard sets the level of gross monthly income for each size assistance unit which cannot be exceeded if the assistance unit is to be eligible for AFDC.

(b) The net monthly income (NMI) standard sets the level of net monthly income for each size assistance unit which cannot be exceeded if the assistance unit is to be eligible for AFDC. It represents the minimum dollar amount the assistance unit requires for basic needs such as food, clothing, shelter, personal care items, and household supplies.

(c) The benefit standard, also known as the maximum payment amount, sets the level of net countable income which

cannot be exceeded if the assistance unit is to be eligible for AFDC. It is also used to determine the amount of the applicant or recipient's monthly cash assistance in the pathways and community services programs and is based on the size of the assistance unit. This amount is prorated for the month of application if eligibility is for less than a full month. If this amount is less than \$10.00, no payment check will be issued.

(2) The assistance standards vary depending on the number of persons in the assistance unit, whether the assistance unit has a shelter obligation, and whether the assistance unit shares its place of residence with persons who are not members of the filing unit and whose income and resources are not considered in determining the assistance unit's eligibility and amount of assistance.

(a) An assistance unit is considered to have a shelter obligation if a member of the filing unit is obligated to meet any portion of the assistance unit's place of residence, such as rent, a house payment, mortgage payment, real property taxes or homeowner's insurance, mobile home lot rent or utilities such as heating fuel, water or lights. An assistance unit receiving a government rent or housing subsidy is considered to have a shelter obligation even if the assistance unit's share of the rent or housing payment is zero.

(3) The GMI standards, NMI standards and benefit standards used to determine an assistance unit's eligibility and amount of cash assistance are determined as follows:

(a) The standards designated "with shelter obligation" are used if the assistance unit has a shelter obligation as defined in (2)(a) but does not share its place of residence with persons who are not members of the filing unit and whose income and resources are not considered in determining eligibility and the amount of the assistance unit's cash assistance.

(b) The standards designated "in shared shelter" are used if the assistance unit has a shelter obligation as defined in (2)(a) and shares its place of residence with a person or persons who are not members of the filing unit and whose income and resources are not considered in determining eligibility and the amount of the assistance unit's cash assistance, except in the following cases:

(i) a person with whom the assistance unit shares a place of residence receives supplemental security income;

(ii) the assistance unit receives a government rent or housing subsidy;

(iii) any of the other persons with whom the assistance unit shares a place of residence also receives AFDC;

(iv) the person with whom the assistance unit shares a place of residence is the property owner and there is a bona fide landlord-tenant relationship between the assistance unit and the person or persons with whom it shares a place of residence. A bona fide landlord-tenant relationship means there is a written agreement between a landlord who owns property and

a tenant in which the landlord gives the tenant temporary possession and use of real property for a specified sum of money;

(v) a member of the assistance unit provides necessary in-home medical care to a relative who is 60 years of age or older;

(vi) a member of the household who is not included in the assistance unit provides child care which enables a member of the assistance unit to attend school or job training or maintain employment; or

(vii) any of the persons with whom the assistance unit shares its place of residence receives food stamps as a separate household.

(c) The standards designated "with shelter obligation" are used if the assistance unit has a shelter obligation as defined in (2)(a).

(4) The assistance unit's gross monthly income as defined in ARM 46.10.505 is compared to the applicable GMI standard, and after specified disregards, to the NMI standard. If the assistance unit's gross monthly income exceeds the GMI standard or their net monthly income as defined in ARM 46.10.505, the NMI standard or the benefit standard, the assistance unit is ineligible for assistance. Monthly income is compared to the full standard even if the eligibility is being determined for only part of the month.

(a) Eligibility for assistance and the amount of cash assistance for which an assistance unit is eligible is determined prospectively, that is, based on the department's best estimate of income and other circumstances which will exist in the benefit month.

(b) When comparing income to the income standards, income anticipated to be received in the benefit month is used.

(5) The GMI standards, NMI standards and benefits standards used to determine eligibility and amount of cash assistance are the tables of GMI standards, NMI standards and maximum payment amounts contained in ARM 46.10.403.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-4-211 and 53-4-601, MCA

3. Federal regulations governing the Aid to Families with Dependent Children (AFDC) program at 45 CFR 233.20(a)(2)(i) require the Department to have assistance standards to determine the need of applicants and recipients of AFDC and the amount of the cash assistance they will receive. Eligibility and amount of assistance for applicants and recipients of AFDC in the Families Achieving Independence in Montana (FAIM) project are determined using the same assistance standards used in the traditional AFDC program as set forth in ARM 46.10.403.


When the rules governing the FAIM project were adopted, however, the department inadvertently failed to incorporate the tables of assistance standards contained in ARM 46.10.403 in the rules as

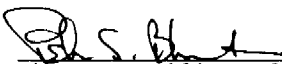
intended. The adoption of a rule providing assistance standards for the FAIM AFDC program is necessary to comply with the federal requirement set forth in 45 CFR 233.20(a)(2)(i) and to provide an objective measure by which to determine which families shall qualify for AFDC in the FAIM project.

The Department filed a notice of adoption of an emergency rule providing AFDC assistance standards for the FAIM project on March 25, 1996. It is now necessary to adopt a permanent rule in accordance with the notice and other requirements of 2-4-302, MCA, to provide assistance standards for the FAIM project after the emergency rule expires.

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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604, no later than June 20, 1996.

5. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State May 13, 1996.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF THE ADOPTION
of new rules I through XVI)	OF NEW RULES PREVENTING
(ARM 4.5.301 through 4.5.316))	THE INTRODUCTION OF
pertaining to Noxious Weed)	NOXIOUS WEED SEEDS FROM
Seed Free Forage)	FORAGE IN THE STATE

TO: All interested persons:

1. On April 4, 1996, the Department of Agriculture published a notice of proposed adoption of the above stated rules at page 830 of the 1996 Montana Administrative Register, issue number 7.

2. On April 30, 1996, a public hearing was held in Helena concerning the proposed rules at which oral and written comments were received. Additional written comments were received prior to the closing date of hearing.

3. After consideration of the comments received on the proposed new rules, the department has adopted rules I through III (4.5.301 through 4.5.303), rule V (4.5.305), rule X (4.5.310), rule XI (4.5.311) and rule XIV (4.5.314) as proposed. New rule IV (4.5.304), rule VI (4.5.306), rule VII (4.5.307), rule VIII (4.5.308), rule IX (4.5.309), rule XII (4.5.312), rule XIII (4.5.313), rule XV (4.5.315) and rule XVI (4.5.316) have been adopted as proposed with the following changes (stricken material is interlined; new matter is underlined).

Rule IV (4.5.304) APPLICATION FOR MONTANA CERTIFICATION OF NOXIOUS WEED SEED FREE FORAGE (1) A person shall make application for NWSFF certification of a forage crop annually. The application shall be made with the department agent in the county in which the person resides or in the county in which the person owns or leases land on which forage will be produced. This request for application ~~maybe~~ may be made by telephone, fax, in person or in writing.

(2) The agent is responsible for completing the top of the inspection form (or the agent may allow the producer to complete) with the following applicant information: (2)(a) through (f) and (3) remains the same as proposed in the original notice.

Rule VI (4.5.306) PROCEDURES FOR MONTANA CERTIFICATION OF FORAGE PRODUCTS (PELLETS - CUBES - OTHER) (1) and (2) remains the same.

(2)(a) Equipment is cleaned of any noxious weed seeds prior to processing forage for certification. ~~A minimum of 500 pounds of certified forage must be purged through the system including the pelletter. The 500 pounds of forage used to eliminate any noxious weed seeds will not be certified. Cleaning the system from the pelletter through to the bagging~~

~~operation or bulk bins is required to prevent contamination of pellets for certification. Cleaning the entire feed manufacturing system through the bagging operation or bulk bins is required to prevent contamination of pellets for certification. A minimum of 500 pounds of the feed to be certified must pass through the system including the pelletizer to purge the system. The feed used to purge the system will not be certified.~~

(2)(b) and (c) remains the same.

(2)(d) The forage pellets must be reground with a number six (6/64 inch) screen or smaller.

(2)(e) The forage material from (2)(b)(d) must be repelleted using steam and temperature in the process. The temperature of the pellets extruded from the die shall be greater than 140° F.

(3) through (6) remain the same.

Rule VII (4.5.307) FORAGE INSPECTION PROCEDURES

(1) through (7) remain the same.

(8) Baling equipment must be cleaned of any noxious weed seeds prior to harvesting certified forage. If this is not possible the first three small square bales or the first large round or square bales produced shall be considered non-certified and will not be included as a part of a field unit's certified forage.

(9) Fields that appear weedy or show poor crop practices, even though noxious weeds are not present, should not be certified under the certification standards. The local agent will document the problems and has the discretion to make this judgement. A producer can challenge this decision and petition the department to assign another agent to reinspect the field. ~~A second inspection fee will be assessed for this service.~~

Rule VIII (4.5.308) FORAGE IDENTIFICATION AND TRANSPORTATION

(1)(a) and (b) remain the same.

(i) If each bale in a load is individually marked, a transportation certificate is not required.

(1)(c) remains the same.

(i) Loads of bulk forage may be identified with identification markers (tags) placed on the four corners of the load.

(2) remains the same.

(3) ~~Forage transportation certificates must be in the possession of the vehicle operator or driver. A noxious weed seed free forage product transportation certificate or a photo copy must be in the possession of the vehicle driver or the transporter of such forage products in a restricted area or while traveling through such an area if each bale is not individually marked and must contain the following: (3)(a) through (j) remain the same.~~

(k) Bales or bulk forage sold by a producer to a second party (such as a retail outlet) for resale must be accompanied by the original transportation certificate. The second party

(or retail outlet) will photocopy the original transportation certificate and provide this photocopy plus a receipt to third party buyers of the bales or forage. Third party buyers must have the photocopy of the transportation certificate and the receipt (to show where the forage was purchased) in their possession when they are transporting or storing forage in a restricted area.

(4)(a) remains the same.

(4)(b) For out-of-state pelleted products the label on the product must have the following statement: "This product has been certified by (state, agency, province) to be in compliance with Montana's standards for Noxious Weed Seed Free Forage." Montana may enter into reciprocal agreements with other states, agencies, and/or provinces that will identify the certification procedures to be used.

(4)(c) and (5) remain the same.

RULE IX (4.5.309) CERTIFICATION OF AGENTS (1) Each person desiring to be an agent must be trained and certified according to department standards. This certification will be for a three-year period.

(2)(a) through (g) remains the same.

(3) The department will require agents to qualify annually by taking a written quiz and passing with a 90 per cent during the years recertification training is not offered. recertify after the third year of initial certification. Agents who become initially certified during the first or second year of the three-year cycle, will recertify according to the established schedule.

(4) The following are minimum requirements for recertification training beginning in 1996: and every fourth year thereafter.

(4)(a) through (e) remains the same.

(f) recertify with a written examination score of 90 per cent or better a written recertification quiz may be offered at the conclusion of the training session.

(5) Remains the same.

RULE XII (4.5.312) COLLECTION OF FEES (1)(a) through (h) remains the same.

(i) Fees collected and deposited in a government agency account may be used to support any activity or expense associated with the NWSFF program in that county.

(2)(a) through (d) remains the same.

RULE XIII (4.5.313) FEES (1) through (2)(a) remain the same.

(b) within 90 days of the first cutting; or

(c) remains the same but is renumbered (b).

(c) If additional inspections are required because of weather operation delays or other related problems, the discretion of whether to charge an additional inspection fee will be left to the agent. The department will not require that the 25 cents per acre be charged for additional inspections due to weather, or other related problems, so the

maximum inspection fee (if charged) will be \$1.25/acre.

(3) through (6) remains the same.

RULE XV (4.5.315) IDENTIFICATION OF PRODUCTS AND PACKAGE

TYPES (1) through (b)(vi) remains the same.

(vii) Sanfoin

SAN

(viii) Other forage (agent must describe)

OF

(1)(c)(i) through (viii) remains the same.

~~(d)(ix) Other forage packages~~

OF OP

~~(i) agents must describe other forage~~

RULE XVI (4.5.316) CIVIL PENALTIES

(1) through (4)(h) remains the same.

(1) To transport certified \$250 \$500 \$1,000

forage in a restricted area

without a transportation

certificate or identification

markers;

(j) and (k) remains the same.

COMMENTS AND RESPONSES

RULE II (4.5.302)

Comment: The definition of "agent" seemed to contemplate that whoever does the inspection and certification work would be employed by the department and covered by department insurance.

Response: While the department does have the authority to employ a person as an agent, the department's intentions at this time is to contract for the work. In that event, the agent or the entity for whom he/she is employed will have to possess insurance. If the work is contracted to the MSU Extension Service for example, then the extension employees who do the work would be covered under the terms of the state insurance policy. Likewise, if the department contracts with the county, the county employees doing the work would be similarly covered under the county policy. Private contract agents will be required to have their own liability insurance.

RULE III (4.5.303)

Comment: It states in part "The department may enter into agreements with other states and/or provinces which will allow forage to be certified on a regional basis." If a state has adopted the Regional Forage Certification Standard, such as Wyoming, is it necessary to enter into an agreement?

Response: Yes. It is required by 80-7-906, MCA, of the Noxious Weed Seed Free Forage Act.

Comment: Several commenters stated that the state and regional NWSFF programs should be considered as one and the same program.

Response: The rules were set up to accommodate the Montana NWSFF program. Montana producers can make a choice to follow the Montana certification program in which case their forage

products will be restricted to sale and use to Montana. Any producers can elect to have fields inspected for regional weeds allowing sale of their forage into other states using the regional program. However, as the Act states, Montana must have agreements in place with the other states and/or provinces into which the producers want to market their products.

Comment: One commenter was concerned that if forage had been certified in Wyoming under a regional program, and then shipped to Montana, that under HB 445 the Montana Department of Agriculture has to be notified that it's coming in, why?

Response: Under 80-7-906(2), MCA, it does state that a person delivering noxious weed seed free forage into the state shall notify the department. The statute also allows the department to set up reciprocal agreements with other states, in which case if the agreement between the states allows for no notification, the notification could be waived.

RULE IV (4.5.304)

Comment: One commenter asked why a person has to make application in the county in which he resides versus making application in the county where the producers' forage is grown.

Response: The department agrees. The change is reflected in Rule IV(1).

Comment: One person stated that Rule IV(2) (4.5.304) should be eliminated. The person producing the hay should fill out the application and send it in to the agent or department.

Response: The department believes that the agent is responsible for completing the top portion of the application form, but if the agent wants to give a producer the form to complete that would be acceptable. This change was made in Rule IV(2).

RULE VI (4.5.306)

Comment: One commenter expressed concern on products being brought into Montana from Canada. They asked if a product processed through a steam pelleting would be considered to be noxious weed seed free.

Response: Rule VI addresses the pelleting process. The use of specific size screens and temperature must be used in the pelleting process in order to meet state requirements for shipment of NWSFF into the state.

Comment: Concern from one individual was expressed on the language of Rule VI(2)(a).

Response: The suggested wording changes were made in the rule.

Comment: One person commented that if the pelleting process proposed doesn't totally kill all of the noxious weed seeds and one weed seed makes it through are we not in some way or another defeating our purpose, which is to provide forage, free of viable noxious weed seeds. If we can't kill all the seeds why not pellet the forage only from certified hay.

Response: The department believes that if the process stated in the rules are followed, there would be less than 1 per cent noxious weed seeds that would find their way through the process, and that would not be significant. However, the department also recommends the use of certified noxious weed seed free forage for use in the production of pellets.

Comment: Several commenters stated that they had specific concerns with Rule VI(1) and (2) which would eliminate most commercial horse products from use in the state where the Montana Noxious Weed Seed Free Forage Act would be applicable.

The commenter requested that an exemption be provided in Rule VI(1) as follows: "A person desiring to certify processed feed products as noxious weed seed free must make an annual application on the department's application form; except that, processed pelleted feeds containing less than 35% forage products which have been pelleted at temperatures exceeding 160 degrees F., are exempt from noxious weed seed free certification requirements and the requirements of this act. The application shall be valid from the date of issuance through December 31 of that calendar year."

Response: The process for producing pellets is identified in Rule VI(2)(d). The rule further states that an equivalent pelleting procedure may be approved. Any person may apply for department approval of an alternative procedure for pelleting certified forage as set forth in the rule.

RULE VII (4.5.307)

Comment: There were several commenters expressing some concern that the two week time frame for inspection of straw was confusing because only one week's notice is required for the inspection of hay. One commenter stated that it should be one week for all inspections. One of the commenters stated the rule should read "for fields to be certified for straw only notification of field inspections must be made within 14 days before harvest."

Response: After much discussion with parties on both sides of the issue, it was decided to retain the proposed language.

Comment: One commenter stated "Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If this is not possible, to clean the equipment, the first three bales, or 500 lbs of forage bales, shall be considered non-certified and will not be included as part of the field unit's certified forage. When large rectangular and round bales are being produced, the first bale will not be certified."

Response: The department agrees. Rule VII(8) reflects the change.

Comment: Several commenters expressed concern about the second inspection fee being charged in Rule VII(9).

Response: The department eliminated this requirement in Rule

VII(9).

RULE VIII (4.5.308)

Comment: One commenter stated that in Rule VIII(4)(b) that it pertains to out-of-state shipments of pellets or cubes into Montana. The commenter said that they (Wyoming) uses a certification label that is sewn into the sack. The forage certification tags are pre-numbered. They can trace the tags to the district where the pellets or cubes were certified and to the manufacturer of the product. He did not recommend making up a special tag just for Montana. One of the reasons for the Regional Forage Certification Program is to have a standard system that is acceptable to the other states involved in the program.

Response: This is an issue that will be addressed through a reciprocal agreement with Wyoming and other states in the region.

Comment: Several commenters stated concern with Rule VIII. If forage has already been identified and tagged as noxious weed seed free, why is a transportation certificate needed to accompany any shipment. If only part of the bales were tagged then a transportation certificate would be necessary. If a transportation certificate is necessary, then indicate it is needed only when each bag or each bale is not individually labeled.

Response: (b)(i) These concerns resulted in amendments in Rule VIII(1)(b)(i) and (1)(c)(i).

Comment: Concern from one commenter involved NWSFF transportation certificates needing to be in the possession of the vehicle driver. It should read "a noxious weed seed free forage product transportation certificate must be in the possession of the vehicle driver or the transporter of such forage products in a restricted area or while traveling through such an area."

Response: The department agrees. The change is reflected in Rule VIII(3).

Comment: Concern was expressed on the identification marking system that will be used for NWSFF.

Response: The department decided based upon the advisory council's recommendation that tags will be required for NWSFF bales. The council and department has discussed the use of twine. The department is working with various people on this issue and find that many producers do want to use twine, but not enough information has been collected at this time to make a decision.

RULE IX (4.5.309)

Comment: One commenter expressed concern over the recertification score, why should it be 90 per cent, it was felt that the score should be 80 per cent for all tests.

Response: This requirement was eliminated in Rule IX(3).

Comment: One person expressed concern that Rule IX (1) requiring certification of agents poses the greatest threat to the whole program. The proposed rules call for an annual test and a retraining every four years, the rules imply retraining every three years, causing some confusion. Why do we have to go through this testing every year? Program changes which occur between certification periods can be sent to the inspectors to keep them current.

Response: This issue has been clarified by amending Rule IX(1) and (3).

Comment: Concern was stated that Rule IX(5) deals with an agent who intentionally falsifies an inspection certificate and is subject to a penalty. Why not make it a permanent suspension? Allowing an inspector back into the program will cast doubt to the program.

Response: The department has several statutory and administrative rule options for these situations. It can revoke certification status; change or cancel an agent's contract; and/or assess a civil penalty. The department has decided to retain its flexibility to deal with this situation on a case-by-case basis.

RULE XI (4.5.311)

Comment: One commenter had concern about embargo notification requirements within 48 hours. Rule XI(1) talks about an embargo notification within 48 hours. Should a problem arise on a Friday evening a contact with a department inspector will have to be made at the employee's home. Should the following Monday be a holiday, no one can be reached AT THE OFFICE for nearly 90 hours! If the 48 hour notification to the department is necessary, let the rule specify how this can be done during the times that the offices are closed.

Response: The 48 hour notification is specifically required in the County Noxious Weed Control Act 7-22-2126, MCA.

RULE XII (4.5.312)

Comment: One person commented that Rule XII Collection of Fees (1)(a) does not indicate how the fees that are collected in the county can be spent. Maybe it could be spent on some kind of an NWSFF educational activity or to help support the program.

Response: The department agrees and Rule XII(1)(i) was amended.

RULE XIII (4.5.313)

Comment: Several commenters expressed concern on being charged an additional inspection fee after having paid an initial inspection fee for a forage field already approved for certification, when weather conditions did not permit harvesting the forage in a timely manner.

Response: The department agrees and Rule XIII(2)(c) was amended.

Comment: Several commenters expressed concern about Rule XIII(1) which allows agents to assess state mileage and per diem rates. Producers should be notified by the agent of all fees to be charged at the time of application or prior to the actual inspection.

Response: Allowing agents to collect per diem and mileage was not modified in the rules. The department left it to the discretion of the agents whether per diem and mileage will be charged. The department assumes and recommends that the agents inform the producers about whether per diem and/or mileage will be charged.

Comment: It is stated in Rule XIII(1)(b) of the proposed rules that producers could pay at the time of inspection or they could pay within 90 days of the first cutting.

Response: The department agrees. The 90 day payment option was deleted in Rule XIII.

RULE XV (4.5.315)

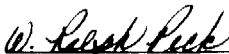
Comment: One commenter recommended a change in Rule XIV. It was suggested to add the following:

(vii) Other forage type(s) OF

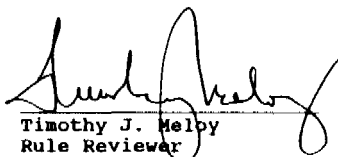
(1)(c) Add: (ix) Other package type(s) OP (1)(d) and (i) OMIT

Response: The department agrees Rule XIV(1)(b)(viii) and (1)(c)(ix) was amended.

DEPARTMENT OF AGRICULTURE



W. Ralph Peck
Director



Timothy J. Helby
Rule Reviewer

Certified to the Secretary of State office this 13th day of May, 1996.

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

In the matter of the repeal of) NOTICE OF REPEAL
Rules 6.6.2007 through 6.6.2010)
pertaining to unfair trade)
practices on cancellations,)
non-renewals, or premium increases)
of casualty or property insurance.)

TO: All Interested Persons.

1. On April 4, 1996, the state auditor and commissioner of securities of the state of Montana published notice of proposed repeal of rules 6.6.2007 through 6.6.2010 pertaining to unfair trade practices on cancellations, non-renewals, or premium increases of casualty or property insurance. The notice was published at page 869 of the 1996 Montana Administrative Register, issue number 7.

2. The agency has repealed rules 6.6.2007 through 6.6.2010, found on pages 6-216 through 6-217 of the Administrative Rules of Montana.


AUTH: 33-1-313, MCA


IMP: 33-18-1003 and 2-4-314, MCA

3. No comments were received.

Mark O'Keefe
State Auditor and
Commissioner of Insurance

By:


Claudia A. Clifford
Assistant State Auditor


Gary L. Spaeth
Rules Reviewer

Certified to the Secretary of State this 6th day of May, 1996.

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

In the matter of the adoption of) NOTICE OF ADOPTION
new rules I through X pertaining)
to actuarial opinion.)

TO: All Interested Persons.

1. On April 4, 1996, the state auditor and commissioner of securities of the state of Montana published notice of public hearing on the proposed adoption of new rules I through X pertaining to actuarial opinion. The notice was published at page 842 of the 1996 Montana Administrative Register, issue number 7.

2. The agency has adopted new rules I(6.6.6501), II(6.6.6502), III(6.6.6503), IV(6.6.6504), V(6.6.6505), VI(6.6.6506), VII(6.6.6507), VIII(6.6.6508), IX(6.6.6509) and X(6.6.6510), exactly as proposed.


3. A public hearing on the proposed rules was held on April 24, 1996. No persons attended the hearing. No data, views or arguments were presented at the hearing. There was one written submission. The agency has fully and thoroughly considered the written submission received on the proposed new rules. The following is a summary of the comment received along with the agency's response to the comment:


COMMENT: William Jensen, General Counsel for Blue Cross Blue Shield of Montana, requested confirmation that the proposed rules apply to life insurance companies and fraternal benefit societies only, and do not apply to a health service corporation which has a license as a disability insurer within the state of Montana.

RESPONSE: The agency confirms that the proposed rules do not apply to health service corporations transacting disability insurance in the state of Montana.

Mark O'Keefe
State Auditor and
Commissioner of Insurance

By:


Claudia A. Clifford
Assistant State Auditor


Gary V. Spaeth
Rules Reviewer

Certified to the Secretary of State this 6th day of May, 1996.

Montana Administrative Register

10-5/23/96

BEFORE THE CLASSIFICATION REVIEW COMMITTEE
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of rule 6.6.8301, concerning)
updating references to the NCCI)
Basic Manual for Workers)
Compensation and Employers)
Liability Insurance, 1996 ed.)

TO: All Interested Persons.

1. On April 4, 1996, the classification review committee published a notice of proposed amendment to rule 6.6.8301 concerning updating references to the NCCI Basic Manual for Workers Compensation and Employers Liability. The notice was published at page 866, of the 1996 Montana Administrative Register, issue number 7.

2. The classification review committee has amended the rule as proposed.

3. No comments or requests for hearing were received regarding the proposed amendment.

4. Although the rule amendment becomes effective May 24, 1996, the changes to the NCCI Basic Manual for Workers Compensation and Employers Liability become effective as follows:

B-1334 . Elimination of Chemical July 1, 1996
Dyestuff Rating Plan

Child Day Care Center and Drivers July 1, 1996
and Child Day Camp and Drivers

CHRISTY WEIKART, CHAIRPERSON
CLASSIFICATION REVIEW COMMITTEE

By: Christy Weikart
Christy Weikart
Chairperson

By: Gary L. Späth
Gary L. Späth
Rules Reviewer

Certified to the Secretary of State this 9th day of May, 1996.

BEFORE THE DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of a rule pertaining to renewal) 8.2.208 RENEWAL DATES
dates)

TO: All Interested Persons:

1. On February 8, 1996, the Department of Commerce, by request of the Board of Outfitters, published a notice of amendment of the above-stated rule pertaining to guides and professional guides, at page 346, 1996 Montana Administrative Register, issue number 3.

2. The Department has amended the rule exactly as proposed.

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

COMMENT: Eight written comments were received. None supported the amendment as proposed. Five comments indicated that the number of guides needed--hunting and fishing alike--would not be known prior to the April expiration date. Fishing outfitters do not know their needs until July, and hunting outfitters do not know their needs until September. Even when needs are known, guides may still need to be licensed at the eleventh hour. The comments noted that either the guide could be licensed prior to the April date and then maybe not be needed, or the guide could wait to be licensed and then be forced into payment of a late renewal fee. One comment expressed hope that the rule would not be effective until April of 1997. Another commented that the renewal process should be left as is. Two commented that a July renewal deadline would be better. Two commented that September would be better. One commented that if the late penalty fee were not levied, it would not matter when the renewal date was.

RESPONSE: The Department accepts the comments and voted to maintain the April 1 renewal of guides and professional guides, but to waive imposition of a late fee for those renewal applications received after the deadline.

DEPARTMENT OF COMMERCE
JON NOEL, DIRECTOR

BY: Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 13, 1996.

BEFORE THE STATE LIBRARY COMMISSION
OF THE STATE OF MONTANA

In the matter of the)	NOTICE OF ADOPTION
amendment of ARM 10.102.5102)	OF THE AMENDMENT OF ARM
and ARM 10.102.3604 concerning)	10.102.5102 AND ARM 10.
funding of library federations)	102.3604

TO: All Interested Persons

1. On January 11, 1996, the State Library Commission published notice of the proposed amendment of ARM 10.102.5102 and ARM 10.102.3604 concerning funding of library federations at page 18 of the 1996 Montana Administrative Register, issue number 1.

2. The commission has adopted the amendments as proposed in the original notice.

3. At the public hearing, four persons spoke as proponents for the amendments. There were no opponents. No written comments or testimony were received.

By: Darlene M. Staffeldt
Darlene M. Staffeldt
Acting State Librarian

Certified to the Secretary of State May 13, 1996

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

In the matter of the amendment)
of ARM 12.6.901 relating to)
water safety on Johnson and) NOTICE OF AMENDMENT
South Sandstone Reservoirs.)
)

To: All Interested Persons.

1. On March 21, 1996, the Fish, Wildlife and Parks Commission (commission) published notice of the proposed amendments of the above-captioned rule at page 710, 1996 Montana Administrative Register, issue number 6.

2. The commission has adopted the rule amendments as proposed.

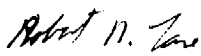
AUTH: 87-1-303, 23-1-106, MCA; IMP: 87-1-303, 23-1-106, MCA

3. No adverse comments or testimony were received.

4. The rule has been reviewed and approved by the Department of Public Health and Human Services as required by §87-1-303 (2), MCA, with a determination that the rule would not have an adverse impact on public health or sanitation.

RULE REVIEWER

FISH, WILDLIFE & PARKS COMMISSION



Robert N. Lane


Patrick J. Graham, Secretary

Certified to the Secretary of State on May 13, 1996.

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

In the matter of the amendment)
of ARM 12.6.901 relating to the)
restriction of motor propelled) NOTICE OF AMENDMENT
water craft on the Clark Fork)
River.)

To: All Interested Persons.

1. On March 21, 1996, the Fish, Wildlife & Parks Commission (commission) published notice of a public hearing on the proposed amendment of rule 12.6.901 at page 712, 1996 Montana Administrative Register, issue number 6. The hearing was conducted at 7:00 p.m. on April 23, 1996, at Ruby's Reserve Street Inn, 4825 North Reserve, Missoula, Montana.

2. The commission has amended the rule as proposed, but with the following changes:

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

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

- (A) Frenchtown Pond
- (B) Harpers Lake
- (C) Bitterroot River from the Ravalli county line to its confluence with the Clark Fork River. Exceptions: (1) Any motorized craft may be used from May 1 through June 30 on the portion of the Bitterroot River from the Florence Bridge in Ravalli County downstream to the Clark Fork River. (2) Motorized craft powered by 15 horsepower or less may operate anywhere on the Bitterroot River from October 1 through January 31.
- (D) The Blackfoot River and its tributaries from Missoula county line to the Stimson Lumber Mill Dam at Bonner.
- (E) The Clark Fork River and

tributaries from the Granite county line to the Milwaukee Bridge abutments on Milltown Reservoir.

~~(F) The Clark Fork River from the Bandmann Flats Bridge at East Missoula to the confluence of the Clark Fork River with the Bitterroot River at Kelly Island.~~

(F) The Clark Fork River from the north side of the Interstate Bridge nearest East Missoula to the Fish, Wildlife and Parks Fishing Access Site and boat ramp located off Spurgin Road and Kelly Island, from July 1 through September 30.

Powell County through (b) remain the same.

AUTH: 87-1-303, 23-1-106, MCA

IMP: 87-1-303, 23-1-106, MCA

3. The rationale for the proposed amendment, as supplemented with facts learned during the public review, is as follows: These changes address the safety issue associated with swimmers, anglers, and recreational floaters during the high use period of summer and early fall, when the potential for user conflicts and injuries are most likely to occur. During these normally low flows, motorized water craft risk damage to hulls and motors in addition to potential accidents associated with other types of recreational use. During the remainder of the year, the operation of the few motorized craft using this area during higher flows present little threat to others.

4. Approximately 80 individuals attended the public hearing conducted April 23, 1996, at Ruby's Reserve Street Inn in Missoula. Individuals provided both oral and written testimony at the hearing. In addition, several telephone and written comments received during the comment period were added to the record. A total of 108 comments were received during the formal comment period ending April 26, 1996.

Of the 108 comments, 56, or 51%, favored the rules as proposed or favored more restrictive regulations, and 53, or 49% were opposed to restriction as presented.

Some comments suggested alternatives to the proposed rule. The following is a summary of comments received and the department's response to those comments:

Comment: Regulations would not be needed if individuals respected the rights of others, showed courtesy for others and used common sense.

Response: While in principle the Department agrees, the

increasing amount of recreational use requires the implementation of enforceable rules to address safety issues.

Comment: Implement No Wake Zone instead of a motorized closure.

Response: Motorized craft operating on a river often are unable to operate at a "no wake" speed while going up river unless at nearly full speed, which would not address the safety concerns.

Comment: Restricting the use of public waters for special interest groups (floaters, outfitters) is not fair to rest of public.

Response: The rules were not proposed to favor any particular user group, and are intended to address safety concerns as more and more people use the river resources.

Comment: No real safety issue exists and no injuries or deaths have been documented as the result of motorized operations.

Response: The department has received several calls relating experiences that can only be categorized as safety issues. Although it is true no injuries or deaths have been documented, the department has a responsibility to address the potential for such accidents if safety issues exist, or are likely to exist.

Comment: I pay taxes and registration for motorized craft, therefore these waterways are as much for my personal enjoyment as they are for fishermen and rafters.

Response: The department recognizes the contributions of motorized users to providing funds for access site development, but safety considerations sometimes require restrictions which may limit or exclude certain types of recreation on certain waters, similar to posting speed limits for automobiles.

Comment: Too many rules already exist on our rivers.

Response: The rules pertaining to recreational use of rivers are intended to provide for the safety and welfare of all recreationists, and may be more restrictive for one user group than another. With more people vying for use of these limited resources, additional rules will likely occur in the future.

Comment: Motorized craft are an effective tool for search and rescue, and are often used to assist non-motorized users who get in trouble.

Response: The rules allow for the use of motorized craft for "official patrol, search and rescue, maintenance of hydroelectric projects and related facilities with prior notification by the utility, or for scientific

purposes, or for special events such as testing motorized watercraft by prior written approval of the director;..."

Comment: Noise created by motorized craft is an issue that needs addressing and perhaps a decibel level needs to be established.

Response: Most individual watercraft meet noise standards imposed by current law (23-2-526(3) MCA) of 86 decibels when measured at a distance of 50 feet, and manufacturers have been reducing noise levels on new craft as technology allows.

Comment: Allow motorized water craft to use entire river during high water.

Response: The tentative rule recommendation was modified to allow use from the East Missoula Interstate Bridge to the Kelly Island boat ramp from Oct. 1 through May 31. The closure period of June through September represents the high non-motorized use period by swimmers, tubers and wade anglers, as well as low average flows for the river, which makes use of motorized craft difficult or impossible. With increasing use of the river during summer months this restriction was felt warranted for safety reasons.

Comment: Establish every other day as motorized use or non-motorized use, or establish times of day when particular activities can occur.

Response: Non-motorized use, including swimming and angling, of this portion of the Clark Fork is estimated to represent 90 to 95% of the existing recreational activity. The recommended changes to the draft rule will still retain a significant period of time for motorized use.

Comment: Motorized use disturbs and disrupts nesting waterfowl and other wildlife, especially in early spring.

Response: Any disturbance, whether motorized or non-motorized, can have an effect on nesting birds. Nesting normally occurs some distance from the river banks, and walking in areas along the river perhaps poses a greater disturbance factor than river users. All river recreationists need to be aware of their impacts on the wildlife resource, which can be accomplished through education and information.

Comment: Wakes from motorized craft create sedimentation problems and cause bank erosion, and should be sufficient reason for banning all motorized use on rivers.

Response: During low flows, this activity may be detrimental to fish eggs and aquatic life by depositing fine sediments over them, as well as bank vegetation.

However, data to substantiate the extent of these potential impacts on this section of river would require further study to justify further restrictions.

Comment: Restrictions need to be placed on floaters, since there is getting to be too many using certain areas.

Response: This is a valid observation, and one can anticipate that such restrictions may have to occur at some point in the future, especially on areas like the Alberton Gorge. The Smith River has such restrictions, but legislation is needed to establish them on any other body of water.

Comment: Floaters should pay costs associated with access site maintenance through registration of all craft.

Response: Legislation would be required to implement a registration requirement for non-motorized craft.

Comment: Rafts, canoes, kayaks and personal water craft should have identifying numbers on them so a person could report violations or misconduct.

Response: Again, legislation would be necessary to implement this suggestion.

Comment: Closure of Clark Fork may result in more use at Milltown, which is already becoming a safety issue with current users.

Response: The amount of motorized use on the affected portion of river has not been great, and the river from Milltown Dam to the East Missoula Interstate Bridge will remain open. The displaced use is not anticipated to be large, but will be monitored by the department.

Comment: Non-motorized craft should also be banned from the river for the same safety reasons indicated, since the only fatalities that have occurred have been with non-motorized users.

Response: Hazards certainly exist for all river users, and all recreationists must recognize that fact. This rule addresses primarily the issue of many non-motorized users in the river during the summer months that pose a significant safety issue if motorized craft were also using this section of river. The diversion dams do represent safety concerns for all users.

Comment: Personal watercraft should be banned from this section of river.

Response: Personal watercraft are included in the seasonal closure. In addition, a 1995 law requires personal watercraft to operate at a no wake speed when within 50 feet of the following: a dock, swimmer, swimming raft, non-motorized boat or anchored vessel (23-2-531). All motorized craft are restricted from operating or knowingly permitting any person to

operate a vessel within 50 feet of a person engaged in fishing, unless unavoidable, without permission (23-1-525 MCA).

Comment: Several comments related to aesthetics, including the desire for a quiet experience along rivers.

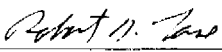
Response: The FWP Commission's authority does not extend to what would be defined as social issues.

Comment: The islands in the river are used for wildlife education, are designated wildlife areas and should be protected from motorized use and wakes.

Response: The islands should be posted to no trespassing during the breeding-rearing season to eliminate human activity on them. Any watercraft, whether motorized or non-motorized, will create some disturbance to birds, but the impacts have not been documented to be so detrimental that a total ban of all watercraft is warranted.

RULE REVIEWER

FISH, WILDLIFE AND PARKS
COMMISSION


Robert N. Lane


Patrick J. Graham, Secretary

Certified to the Secretary of State on May 13, 1996.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of)
rules 17.54.102, 105, 106, 128,)
130, 17.54.201, 17.54.303, 307,)
17.54.421, 17.54.601, 609, 610,)
612, 17.54.701, 702, 17.54.802,)
803, 807, 823-825, and 833 updating)
federal incorporations by reference)

NOTICE OF
AMENDMENT OF RULES

(Hazardous Waste)

To: All Interested Persons

1. On January 11, 1996, the Department published notice of the proposed amendment of the above-captioned rules at page 20 of the 1996 Montana Administrative Register, Issue No. 1.

2. The Department has amended the rules as proposed.

3. The Department has thoroughly considered all comments on the proposed amendments. A summary of comments received and the Department's responses are as follows:

COMMENT: Department should continue technical training and outreach after the Department's reorganization.

RESPONSE: The Department recognizes the complexity of hazardous waste management regulations and the need to provide technical and compliance assistance to the regulated community. The Department intends to continue such assistance under the Department's new organizational structure.

COMMENT: The definition of "CAMU" should be broadened to include voluntary clean ups conducted under the state superfund laws.

RESPONSE: In order for the Department to maintain federal authorization of its hazardous waste program, the Department must adopt rules that are consistent (i.e., have the same scope and stringency) with the federal regulations concerning the identification and management of hazardous waste. The definition adopted in ARM 17.54.201(22) meets these criteria.

The request to add voluntary clean ups to the definition would make the state rules less stringent and narrower in scope than the federal rules. The Montana Legislature has expressed its intent that the state maintain federal authorization of the state hazardous waste program by adopting rules that are consistent with the federal hazardous waste regulations. See, §§75-10-402(1), (2), and 75-10-405(1)(o), MCA. Adoption of the definition of CAMU suggested by the comment would jeopardize the state program's ability to maintain federal authorization, and thereby violate the expressed policy of the state of Montana.

In addition, the Department believes that the state superfund laws provide mechanisms for using the CAMU approach through the permit waiver provision and the process for

selection of environmental requirements, criteria or limitations (ERCLs). See, §§75-10-721, 75-10-734, MCA. Furthermore, the Department intends to consider a future adoption of a rule to specifically address environmental media (i.e., soil, water, etc.) that has been contaminated with hazardous waste. That rule may also broaden the applicability of the CAMU approach to other types of remedial activities, including voluntary cleanups under the state superfund laws.

For these reasons, the Department has adopted the rule as proposed.

COMMENT: The Department should add a definition of the word "contain" as it is used in ARM 17.54.201(103).

RESPONSE: The Department believes a definition for the word "contain" is unnecessary at this time. The U.S. Environmental Protection Agency (EPA) is currently in the process of developing proposed rules which are intended to provide mechanisms for determining whether certain types of waste which have been contaminated with hazardous waste may no longer be considered "hazardous" for regulatory purposes. In essence, these federal rules would specify circumstances in which a waste would be considered to no longer "contain" a hazardous waste. After the EPA adopts these rules in final form, the Department will consider the adoption of equivalent state rules.

COMMENT: The proposed parenthetical addition concerning mixtures of hazardous waste in ARM 17.54.303(1)(b)(iii) should be deleted due to the recent DC Circuit Court's action of vacating the U.S. EPA's stay of the used oil mixture rule.

RESPONSE: The parenthetical statement in ARM 17.54.303(1)(b)(iii) was added to clarify the scope and applicability of the land disposal restrictions (ARM 17.54.150) to listed hazardous wastes that are listed solely because they exhibit a characteristic of hazardous waste. Under the provisions of ARM 303(1)(b)(iii), as amended, mixtures of a nonwastewater and a hazardous waste that is listed solely because it exhibits a characteristic (i.e., ignitability, corrosivity, reactivity or toxicity) cannot be land disposed until treated to meet the applicable treatment standards and cannot be diluted to meet those standards.

The used oil mixture rule found in 40 CFR §279.10(b)(2) (incorporated by reference in ARM 17.54.309(5)) provides that mixtures of used oil and listed hazardous waste that are listed solely because they exhibit a characteristic are not subject to regulation as a hazardous waste (and therefore not subject to land disposal restrictions) if the resulting mixture does not exhibit a characteristic of hazardous waste. These mixtures are regulated as used oil under 40 CFR Part 279.

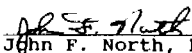
In response to a lawsuit filed by Safety-Kleen Corp., EPA issued an administrative stay of the used oil mixture rule in October 1995. On January 19, 1996, the U.S. Circuit Court of Appeals for the District of Columbia ruled that the

administrative stay was procedurally invalid. Safety-Kleen v. EPA, (92-1629). Therefore, the used oil mixture rule remains effective until changed by EPA in accordance with appropriate rulemaking procedures. The Department has been informed that the EPA has been ordered by the court in the Safety-Kleen case to file a report of its intentions regarding the future of the used oil mixture rule for the court's consideration.

Because the Safety-Kleen case is still pending, the future status of the used oil mixture rule is uncertain. The Department therefore deems it inadvisable to look to the used oil mixture rule for guidance in determining whether to amend ARM 17.54.303(1)(b)(iii) as proposed. In addition, if the Department were to delete the proposed language as suggested by the comment, the Department's ability to maintain federal authorization of its hazardous waste program could be jeopardized. For these reasons, the Department has amended the rule as proposed.


Mark A. Simonich, Director

Reviewed by:


John F. North, Rule Reviewer

Certified to the Secretary of State May 13, 1996.

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

In the matter of the) NOTICE OF TRANSFER
transfer of rules 11.7.401)
through 11.7.412, rules)
11.8.304 through 11.8.313,)
and rules 11.17.101 through)
11.17.146, pertaining to)
juvenile corrections)

To: All Interested Persons

1. Pursuant to Chapter 546, Laws of Montana 1995, effective July 1, 1995, juvenile corrections programs are transferred from the Department of Family Services to the Department of Corrections. In order to implement the transfer, ARM 11.7.401 through 11.7.412, inclusive, ARM 11.8.304 through 11.8.313, inclusive, and ARM 11.17.101 through 11.17.146, are hereby transferred to the Department of Corrections, ARM 20.9.101 through 20.9.578, inclusive.

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


<u>OLD</u>	<u>NEW</u>	
11.7.401	<u>20.9.101</u>	Definitions
11.7.402	<u>20.9.103</u>	Composition and Membership Requirements
11.7.404	<u>20.9.106</u>	Referrals to the Committee
11.7.406	<u>20.9.110</u>	Procedures for Youth Placement Committee Meetings
11.7.408	<u>20.9.113</u>	Placement Recommendation Procedures
11.7.409	<u>20.9.115</u>	Criteria for Approving Recommendations
11.7.410	<u>20.9.117</u>	Temporary and Emergency Placements
11.7.411	<u>20.9.120</u>	Recommendations for Residential Treatment
11.7.412	<u>20.9.122</u>	Confidentiality of Committee Meetings and Records

11.8.304	<u>20.9.301</u>	On-Site Hearing for Aftercare Agreement Violation, Initial Investigation and Informal Settlement
11.8.306	<u>20.9.305</u>	On-Site Hearing for Aftercare Agreement Violation, Formal Hearing Procedure
11.8.308	<u>20.9.307</u>	Aftercare Violation Hearing - Detention
11.8.310	<u>20.9.310</u>	Aftercare Violation Hearing - Hearing Procedure
11.8.312	<u>20.9.315</u>	Waiver of Right to Hearing
11.8.313	<u>20.9.320</u>	Failure to Appear for Hearing
11.17.101	<u>20.9.501</u>	Youth Detention Facility, Purpose
11.17.102	<u>20.9.503</u>	Youth Detention Facility, Definitions
11.17.103	<u>20.9.506</u>	Youth Detention Facility, Licenses
11.17.105	<u>20.9.510</u>	Youth Detention Facility, Licensing Procedures
11.17.106	<u>20.9.513</u>	Youth Detention Facility, License Revocation and Denial
11.17.108	<u>20.9.515</u>	Youth Detention Facility, Hearing
11.17.110	<u>20.9.518</u>	Youth Detention Facility, Confidentiality of Records and Information
11.17.111	<u>20.9.520</u>	Youth Detention Facility, Reports
11.17.113	<u>20.9.524</u>	Youth Detention Facility, Administration
11.17.114	<u>20.9.526</u>	Youth Detention Facility, Fiscal Management
11.17.115	<u>20.9.528</u>	Youth Detention Facility, Personnel
11.17.117	<u>20.9.533</u>	Youth Detention Facility, Environment
11.17.118	<u>20.9.535</u>	Youth Detention Facility, Fire
10-5/23/96		Montana Administrative Register

Safety

11.17.120	<u>20.9.538</u>	Youth Detention Facility, Nutrition
11.17.121	<u>20.9.541</u>	Youth Detention Facility, Housekeeping
11.17.122	<u>20.9.545</u>	Youth Detention Facility, Security
11.17.124	<u>20.9.547</u>	Youth Detention Facility, Admission
11.17.125	<u>20.9.550</u>	Youth Detention Facility, Rights of Youth
11.17.127	<u>20.9.555</u>	Youth Detention Facility, Communication
11.17.129	<u>20.9.558</u>	Youth Detention Facility, Supervision of Medication
11.17.131	<u>20.9.561</u>	Youth Detention Facility, Services and Program
11.17.134	<u>20.9.566</u>	Youth Detention Facility, Discipline
11.17.135	<u>20.9.569</u>	Youth Detention Facility, Passive Physical Restraint
11.17.137	<u>20.9.572</u>	Youth Detention Facility, Temporary Lockup/Secure Observation
11.17.138	<u>20.9.575</u>	Youth Detention Facility, Mechanical Restraint
11.17.146	<u>20.9.578</u>	Youth Detention Facility, Release, Transfer and Transportation


Rule Reviewer


Director, Public Health and
Human Services


Rule Reviewer


Director, Department of
Corrections

Certified to the Secretary of State May 13, 1996.

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

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of rule 11.7.510	)	RULE 11.7.510 PERTAINING TO
pertaining to the goal for	)	THE GOAL FOR REDUCING THE
reducing the percentage of	)	PERCENTAGE OF CHILDREN IN
children in foster care for	)	FOSTER CARE FOR TWO OR MORE
two or more years	)	YEARS

TO: All Interested Persons

1. On October 26, 1995, the Department of Public Health and Human Services published notice of the proposed amendment of rule 11.7.510 pertaining to the goal for reducing the percentage of children in foster care for two or more years at page 2224 of the 1995 Montana Administrative Register, issue no. 20. On December 21, 1995, the Department of Public Health and Human Services published a corrected notice of such proposed amendment, to include a paragraph regarding notice and comment at page 2792 of the 1995 Montana Administrative Register, issue no. 24.

2. The Department has amended rule 11.7.510 as proposed.

3. The Department has thoroughly considered all commentary received:

One comment, covering several issues in regard to the rulemaking, has been received:

COMMENT: Did the department purposely leave out the usual language providing for a time period to comment, and if it was purposely left out, why?

RESPONSE: No, it was left out inadvertently. The department published a corrected notice with the paragraph on comments and time-limits in regard to commenting in the corrected notice referred to above.

COMMENT: Did the department meet the goal of 2% last fiscal year and how many children is 2% for this fiscal year?

RESPONSE: Under the current records system, computing the percentage of children leaving foster care who have been in foster care for two or more years has not been feasible. The department will have the ability to compute the percentages as directed in the amended version of the rule in future fiscal years thanks to a newly implemented computer system. Between fiscal years 1994 and 1995, the department reduced the number of children in foster care in connection with child protective services by 2.35%. This percentage is derived without including

correction's placements made by juvenile probation or parole officers, or children who are included in the foster care budget because their adoptions are subsidized. If correction's placements are included with child protective services placements, but subsidized adoptions remain excluded, the difference results in .5% decrease of children in foster care between the two fiscal years. If subsidized adoptions but not correction's placements are included, there exists no statistically significant difference in numbers between the two fiscal years. If both correction's and subsidized adoptions are included, the difference results in 1.5% increase of children in foster care.

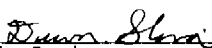
COMMENT: Can the department raise the goal from 2% to 5%, and if so, why not? What would it cost to raise the goal to 5%, and is that amount in the department's budget?

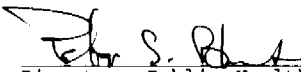
RESPONSE: The department has the authority to raise the goal to 5%. However, the department prefers to wait until after implementation of its new permanency-planning program prior to making a decision on whether it should increase the percentage set by the goal. The Kellogg Foundation is funding the new program as authorized by the 1995 legislature.

The Social Security Act mandates that the State set the goal in statute or administrative rule, but there are no specific implementation requirements. Neither are there sanctions for failing to meet the goal. Therefore, there are no specific costs attributable to the goal, and no specific budget allocation for meeting the goal.

COMMENT: What do other states have for their goals and are we comparable?

RESPONSE: To answer this question, department staff contacted human services staff from surrounding states. The brief survey found that both North Dakota and South Dakota have set a goal of 1/2 of 1% of the maximum permitted the previous year. Wyoming and Idaho currently have no goal in state law.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State May 13, 1996.

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

In the matter of the repeal	)	NOTICE OF THE
of rules 11.22.101, and	)	REPEAL OF RULES
11.22.103 through 11.22.110)	
pertaining to purchased)	
services through title XX)	
block grants)	

TO: All Interested Persons

1. On March 21, 1996, the Department of Public Health and Human Services published notice of the proposed repeal of rules 11.22.101, and 11.22.103 through 11.22.110 pertaining to purchased services through title XX block grants at page 743 of the 1996 Montana Administrative Register, issue number 6.

2. The Department has repealed rules 11.22.101, and 11.22.103 through 11.22.110 pertaining to purchased services through title XX block grants as proposed.

3. No written comments or testimony were received.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State May 13, 1996.

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


In the matter of the	)	NOTICE OF THE
amendment of rules 20.14.104	)	AMENDMENT OF RULES
through 20.14.108, and)	
20.14.110 through 20.14.112)	
pertaining to mental health)	
nursing care centers)	

TO: All Interested Persons

1. On March 7, 1996, the Department of Public Health and Human Services published notice of the proposed amendment of rules 20.14.104 through 20.14.108, and 20.14.110 through 20.14.112 pertaining to mental health nursing care centers at page 658 of the 1996 Montana Administrative Register, issue number 5.

2. The Department has amended rules 20.14.104 through 20.14.108, and 20.14.110 through 20.14.112 as proposed.

3. No written comments or testimony were received.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State May 13, 1996.

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules, amendment or repeal of existing rules filed with the Secretary of State, except rules proposed by the Department of Revenue. Proposals of the Department of Revenue are reviewed by the Revenue Oversight Committee.

The Administrative Code Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. In addition, the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend a rule.

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with the existing or proposed rules. The address is Room 138, Montana State Capitol, Helena, Montana 59620.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE
MONTANA ADMINISTRATIVE REGISTER

Definitions: Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 1996. This table includes those rules adopted during the period April 1, 1996 through June 30, 1996 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 March 31, 1996, 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 1995 and 1996 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 April 1996, appear. Vacancies scheduled to appear from June 1, 1996, through August 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 necessary qualifications.

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 May 3, 1996.

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 APRIL, 1996

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Blue Ribbon Telecommunications Task Force (Administration)			
Mr. Doug Johnson	Governor	Mason	4/16/1996
Missoula			1/1/1997
Qualifications (if required):	public member		
Board of Athletics (Commerce)			
Mr. John Kanna	Governor	reappointed	4/25/1996
Bozeman			4/25/1999
Qualifications (if required):	public member		
Board of Hail Insurance (Agriculture)			
Ms. Rebecca McCabe	Governor	reappointed	4/18/1996
Exalaka			4/18/1999
Qualifications (if required):	public member		
Board of Optometry (Commerce)			
Dr. Douglas McBride	Governor	Bonderud	4/12/1996
Billings			4/3/2000
Qualifications (if required):	optometrist		
Board of Public Education (Education)			
Mr. Kirk Miller	Governor	Vaughney	4/18/1996
Cascade			2/1/2002
Qualifications (if required):	Republican residing in District 3		
Board of Science and Technology Development (Commerce)			
Mr. Haven Holsapple	Governor	Thuerbach	4/1/1996
Hamilton			1/1/1997
Qualifications (if required):	knowledge of early stage financing of private business		

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1996

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Executive Board of Montana College of Mineral Science and Technology Ms. Constance B. Lord Philipsburg Qualifications (if required): public member	Governor	reappointed	(Education) 4/15/1996 4/15/1999
Executive Board MSU-Billings Mr. Jim Sites Billings Qualifications (if required): public member	(Education) Governor	reappointed	4/15/1996 4/15/1999
Executive Board Montana State University Mr. Todd Murphy Clancy Qualifications (if required): public member	(Education) Governor	Abraham	4/15/1996 4/15/1999
Executive Board of Northern Montana College Mr. David G. Rice Havre Qualifications (if required): public member	(Education) Governor	reappointed	4/15/1996 4/15/1999
Executive Board of Western Montana College Mr. Kelly Flynn Townsend Qualifications (if required): public member	(Education) Governor	Helle	4/15/1996 4/15/1999
Executive Board of the University of Montana Col. Sam A. Roberts Missoula Qualifications (if required): public member	(Education) Governor	reappointed	4/15/1996 4/15/1999

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1996

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Services Advisory Council (Public Health and Human Services)			
Ms. Joan-Nell Macfadden	Governor	not listed	4/15/1996
Great Falls			4/15/1998
Qualifications (if required):	public member		
Ms. Jani McCall	Governor	not listed	4/15/1996
Billings			4/15/1998
Qualifications (if required):	public member		
Ms. Jeri Snell	Governor	not listed	4/15/1996
Miles City			4/15/1998
Qualifications (if required):	public member		
Mr. William Tallbull	Governor	not listed	4/15/1996
Busby			4/15/1998
Qualifications (if required):	public member		
Indian Burial Preservation Board (Commerce)			
Mr. Francis Auld	Governor	not listed	4/9/1996
Elmo			8/22/1997
Qualifications (if required):	representing the Salish Kootenai Tribe		
Dr. Thomas A. Foor	Governor	Periman	4/9/1996
Missoula			8/22/1996
Qualifications (if required):	representing the Montana Archaeologist Society		
Mr. Carl Fourstar	Governor	not listed	4/9/1996
Poplar			8/22/1997
Qualifications (if required):	representing Assiniboine Tribe		
Ms. Jennie Parker	Governor	Tallbull	4/18/1996
Ashland			8/22/1997
Qualifications (if required):	representing the Northern Cheyenne Tribe		

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1996

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Indian Burial Preservation Board (Commerce) cont.			
Mr. David Schwab	Governor	Herbort	4/9/1996
Helena			8/22/1997
Qualifications (if required):	representing the Montana Historical Preservation Office		
Dr. Randall Skelton	Governor	not listed	4/9/1996
Missoula			8/22/1997
Qualifications (if required):	anthropologist		
Mr. Duncan Standing Rock, Sr.	Governor	Sunchild	4/9/1996
Box Elder			8/22/1996
Qualifications (if required):	representing the Chippewa-Cree Tribe		
Rep. Jay Stovall	Governor	not listed	4/9/1996
Billings			8/22/1997
Qualifications (if required):	representing the public		
Mr. Clarence "Curly Bear" Wagner	Governor	not listed	4/9/1996
Browning			8/22/1997
Qualifications (if required):	representing the Blackfeet Tribe		
Judicial Standards Commission (Justice)			
Ms. Patty Jo Henthorn	Governor	Fisher	4/8/1996
Big Timber			7/1/1999
Qualifications (if required):	public member		
Public Employees' Retirement Board (Administration)			
Ms. Carol Lambert	Governor	reappointed	4/1/1996
Hammond			4/1/2001
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1996

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Water Pollution Control Advisory Council (Public Health and Human Services)			
Mr. Bruce Farling	Governor	Ward	4/14/1996
Missoula			11/4/1999
Qualifications (if required):	representing organizations concerned with fishing for sport		
Mr. Gary Fritz	Governor	reappointed	4/14/1996
Helena			11/4/1999
Qualifications (if required):	administrator of the water resources division of the Department of Natural Resources and Conservation		
Mr. Pat Graham	Governor	reappointed	4/14/1996
Helena			11/4/1999
Qualifications (if required):	Director of the Department of Fish, Wildlife, and Parks		
Mr. Douglas Parker	Governor	reappointed	4/14/1996
Missoula			11/4/1999
Qualifications (if required):	representing industry concerned with disposal of inorganic waste		
Mr. Ralph Peck	Governor	Giacometto	4/14/1996
Helena			11/4/1999
Qualifications (if required):	Director of the Department of Agriculture		
Mr. Joe Steiner	Governor	Morgan	4/14/1996
Billings			11/4/1999
Qualifications (if required):	representing municipal government		
Mr. Robert E. Willems	Governor	reappointed	4/14/1996
Harlowton			11/4/1999
Qualifications (if required):	supervisor of a soil and water conservation district		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
AIDS Advisory Council (Public Health and Human Services)		
Ms. Alison James, Clancy	Governor	8/18/1996
Qualifications (if required): student representative		
Ms. Pam Carter, Bozeman	Governor	8/18/1996
Qualifications (if required): none specified		
Rep. John Bohlinger, Billings	Governor	8/18/1996
Qualifications (if required): legislator		
Rev. D. Gregory Smith, Helena	Governor	8/18/1996
Qualifications (if required): none specified		
Ms. Pam Bragg, Helena	Governor	8/18/1996
Qualifications (if required): public member		
Mr. David Herrera, Billings	Governor	8/18/1996
Qualifications (if required): none specified		
Mr. Terry Cyr, Missoula	Governor	8/18/1996
Qualifications (if required): public member		
Mr. Frank Gary, Butte	Governor	8/18/1996
Qualifications (if required): public member		
Mr. Steve Bennetts, Great Falls	Governor	8/18/1996
Qualifications (if required): none specified		
Ms. Rita Munzenrider, Kalispell	Governor	8/18/1996
Qualifications (if required): none specified		
Pastor Paul Goodman, Billings	Governor	8/18/1996
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
AIDS Advisory Council (Health and Environmental Sciences) Dr. Connie O'Connor, Helena Qualifications (if required): none specified	cont. Governor	8/18/1996
Ms. Verbena Saylor, Poplar Qualifications (if required): none specified	Governor	8/18/1996
Mr. David G. Rice, Havre Qualifications (if required): none specified	Governor	8/18/1996
Dr. Elizabeth Olberding, Helena Qualifications (if required): none specified	Governor	8/18/1996
Ms. Terri Dunn, Whitefish Qualifications (if required): none specified	Governor	8/18/1996
Mr. Marshall Miller, Helena Qualifications (if required): none specified	Governor	8/18/1996
Advisory Council on Disability (Administration) Mr. James Meldrum, Helena Qualifications (if required): none specified	Governor	6/16/1996
Mr. Peter Leech, Missoula Qualifications (if required): none specified	Governor	6/16/1996
Ms. Sherri Anderson, Helena Qualifications (if required): none specified	Governor	6/16/1996
Mr. John Shea, Anaconda Qualifications (if required): none specified	Governor	6/16/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

Board/current position holder	Appointed by	Term end
Advisory Council on Disability (Administration) cont.		
Ms. Mary Morrison, Missoula	Governor	6/16/1996
Qualifications (if required): none specified		
Mr. Michael Regnier, Missoula	Governor	6/16/1996
Qualifications (if required): none specified		
Mr. Bill Roberts, Helena	Governor	6/16/1996
Qualifications (if required): none specified		
Aging Advisory Council (Governor)		
Ms. Pauline Nikolaissen, Kalispell	Governor	7/18/1996
Qualifications (if required): member from Region IV		
Ms. Mary Alice Rehbein, Lambert	Governor	7/18/1996
Qualifications (if required): member from Region I		
Ms. Dorothea C. Neath, Helena	Governor	7/18/1996
Qualifications (if required): member from Region IV		
Ms. Vi Thomson, Missoula	Governor	7/18/1996
Qualifications (if required): member from Region XI		
Agricultural Development Council (Agriculture)		
Ms. Julie Burke, Glasgow	Governor	7/1/1996
Qualifications (if required): active in agriculture		
Mr. Everett Snortland, Conrad	Governor	7/1/1996
Qualifications (if required): active in agriculture		
Mr. John Swanz, Judith Gap	Governor	7/1/1996
Qualifications (if required): active in agriculture		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alfalfa Leaf-Cutting Bee Advisory Committee (Agriculture) Mr. Tim Wetstein, Joliet Qualifications (if required): member of Montana Alfalfa Seed Association	Governor	7/1/1996
Board of Banking (Commerce) Mr. Loren Tucker, Virginia City Qualifications (if required): public member	Governor	7/1/1996
Mr. Robert T. Baxter, Thompson Falls Qualifications (if required): officer of a state bank	Governor	7/1/1996
Board of Barbers (Commerce) Mr. Rodney L. Grover, Helena Qualifications (if required): barber	Governor	7/1/1996
Board of Cosmetologists (Commerce) Ms. Mary Brown, Helena Qualifications (if required): licensed cosmetologist	Governor	7/1/1996
Board of Hearing Aid Dispensers (Commerce) Mr. Walter Hopkins, Great Falls Qualifications (if required): hearing aid dispenser	Governor	7/1/1996
Mr. Ben Havdahl, Helena Qualifications (if required): public member	Governor	7/1/1996
Board of Landscape Architects (Commerce) Mr. Jim Foley, Billings Qualifications (if required): licensed architect	Governor	7/1/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Nursing (Commerce) Ms. Denise Hochberger, Chester Qualifications (if required): licensed practical nurse	Governor	7/1/1996
Ms. Jean E. Ballantyne, Billings Qualifications (if required): registered nurse and an educator	Governor	7/1/1996
Board of Pharmacy (Commerce) Mr. Ed J. Harrington, Belgrade Qualifications (if required): pharmacist	Governor	7/1/1996
Board of Physical Therapy Examiners (Commerce) Mr. Robert Bruce Bowman, Lewistown Qualifications (if required): physical therapist	Governor	7/1/1996
Board of Private Security Patrol Officers and Investigators (Commerce) Rep. Gay Ann Masolo, Townsend Qualifications (if required): public member	Governor	8/1/1996
Board of Public Accountants (Commerce) Ms. Ivah G. Schmitz, Missoula Qualifications (if required): licensed public accountant	Governor	7/1/1996
Board of Radiologic Technologists (Commerce) Dr. Dennis S. Yutani, Glasgow Qualifications (if required): medical doctor	Governor	7/1/1996
Ms. Debbie Sanford, Lewistown Qualifications (if required): limited permit technologist	Governor	7/1/1996
Ms. Judy Martz, Butte Qualifications (if required): public member	Governor	7/1/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Radiologic Technologists (Commerce) cont. Ms. Cynthia L. Smith, Billings Qualifications (if required): radiologic technologist	Governor	7/1/1996
Board of Regents of Higher Education (Education) Mr. Michael Green, Malta Qualifications (if required): student representative	Governor	6/1/1996
Board of Sanitarians (Commerce) Ms. Patricia M. Switzer, Richey Qualifications (if required): public member	Governor	7/1/1996
Board of Veterinary Medicine (Commerce) Dr. Kenneth Joe Bruchez, Hobson Qualifications (if required): veterinarian	Governor	7/31/1996
Child Care Advisory Council (Family Services) Ms. Judy Tibbets, Miles City Qualifications (if required): represents persons interested in child care	Governor	6/30/1996
Ms. Kathleen Miller Green, Missoula Qualifications (if required): child care provider	Governor	6/30/1996
Ms. Patty Laplant, Browning Qualifications (if required): represents child care providers	Governor	6/30/1996
Ms. Mary Gibson, Kalispell Qualifications (if required): represents persons interested in child care	Governor	6/30/1996
Ms. Janet Bush, Missoula Qualifications (if required): represents persons interested in child care	Governor	6/30/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

Board/current position holder	Appointed by	Term end
Child Care Advisory Council (Family Services) cont. Ms. Linda Patrick Briese, Helena Qualifications (if required): represents state agency	Governor	6/30/1996
Committee on Telecommunications Services for the Handicapped (Social and Rehabilitation Services) Ms. Joan Mandeville, Great Falls Qualifications (if required): represents Montana's Independent Local Phone Exchange Co.	Governor	7/1/1996
Ms. Cathy Brightwell, Helena Qualifications (if required): representative of an Interlata Interchange carrier	Governor	7/1/1996
Mr. James L. Allen, Lolo Qualifications (if required): handicapped member	Governor	7/1/1996
Mr. Edward Van Tighem, Great Falls Qualifications (if required): handicapped member	Governor	7/1/1996
Community Services Advisory Council (Governor) Ms. Jan Kenitzer, Baker Qualifications (if required): representing private citizens	Governor	7/1/1996
Mr. Charles McCarthy, Helena Qualifications (if required): representing human services	Governor	7/1/1996
Ms. Norma Bixby, Lame Deer Qualifications (if required): representing tribal government	Governor	7/1/1996
Electrical Board (Commerce) Mr. Gene Koistad, Billings Qualifications (if required): public member	Governor	7/1/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

Board/current position holder	Appointed by	Term end
Governor's Advisory Council on Disability (Administration)		
Ms. Anne MacIntyre, Helena	Governor	6/16/1996
Qualifications (if required): ex-officio member		
Historical Society Board of Trustees (Historical Society)		
Ms. Virginia Lucht, Bigfork	Governor	7/1/1996
Qualifications (if required): public member		
Ms. Jean Birch, Great Falls	Governor	7/1/1996
Qualifications (if required): public member		
Ms. Anne Hibbard, Helena	Governor	7/1/1996
Qualifications (if required): public member		
Indian Burial Preservation Board (Commerce)		
Dr. Thomas A. Poor, Missoula	Governor	8/22/1996
Qualifications (if required): representing the Montana Archaeologist Society		
Mr. John Pretty On Top, Crow Agency	Governor	8/22/1996
Qualifications (if required): representative of the Crow Tribe		
Mr. Duncan Standing Rock, Sr., Box Elder	Governor	8/22/1996
Qualifications (if required): representative of Chippewa-Cree Tribe		
Mr. Gilbert Horn, Harlem	Governor	8/22/1996
Qualifications (if required): representative of Gros Ventre Tribe		
Mr. Mickey Nelson, Helena	Governor	8/22/1996
Qualifications (if required): representative of coroners' association		
Mr. Germaine White, Pablo	Governor	8/22/1996
Qualifications (if required): representative of Little Shell		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis & Clark Bicentennial Celebration Advisory Council (Historical Society)		
Ms. Nancy Maxson, Missoula	Governor	8/26/1996
Qualifications (if required): represents Glacier Country		
Mr. Darrell Kipp, Browning	Governor	8/26/1996
Qualifications (if required): represents Glacier Country		
Ms. Mary Partridge, Miles City	Governor	8/26/1996
Qualifications (if required): represents Custer Country		
Mr. Loren Stiffarm, Harlem	Governor	8/26/1996
Qualifications (if required): represents Russell Country		
Dr. Robert Bergantino, Butte	Governor	8/26/1996
Qualifications (if required): represents Gold West Country		
Ms. Betty White, Ronan	Governor	8/26/1996
Qualifications (if required): represents Glacier Country		
Col. Harold Stearns, Missoula	Governor	8/26/1996
Qualifications (if required): representative of military affairs		
Mr. John G. Lepley, Fort Benton	Governor	8/26/1996
Qualifications (if required): represents Russell Country		
Ms. Edythe McCleary, Hardin	Governor	8/26/1996
Qualifications (if required): represents Custer Country		
Mr. Mike Labriola, Great Falls	Governor	8/26/1996
Qualifications (if required): represents Russell Country		
Mr. Robert Mann, Plentywood	Governor	8/26/1996
Qualifications (if required): represents Missouri River Country		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

Board/current position holder	Appointed by	Term end
Lewis & Clark Bicentennial Celebration Advisory Council Ms. Gloria Wester, Laurel Qualifications (if required): represents Custer Country	(Historical Society) Governor	cont. 8/26/1996
Ms. Diane Zimmerman, Missoula Qualifications (if required): represents Glacier Country	Governor	8/26/1996
Ms. Jeanne French, Plentywood Qualifications (if required): represents Missouri River Country	Governor	8/26/1996
Mr. Jack Hines, Big Timber Qualifications (if required): represents Yellowstone Country	Governor	8/26/1996
Mr. Tim Crawford, Helena Qualifications (if required): represents Gold West Country	Governor	8/26/1996
Ms. Jan Blayden, Missoula Qualifications (if required): represents Glacier Country	Governor	8/26/1996
Mr. Dennis Seibel, Bozeman Qualifications (if required): represents Yellowstone Country	Governor	8/26/1996
Mental Disabilities Board of Visitors (Governor) Ms. Helen C. Green, Big Sandy Qualifications (if required): represents mental disabilities organization	Governor	8/1/1996
Ms. Arlene Breum, Missoula Qualifications (if required): represents mental disabilities organization	Governor	8/1/1996
Ms. Marjorie Fehrer, Bozeman Qualifications (if required): consumer	Governor	8/1/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Mental Disabilities Board of Visitors (Governor) cont. Mr. Wallace A. King, Helena Qualifications (if required): professional	Governor	8/1/1996
Mr. Robert W. Visscher, Livingston Qualifications (if required): professional	Governor	8/1/1996
Microbusiness Advisory Council (Commerce) Mr. Peter Greybull, Lodge Grass Qualifications (if required): represents Indian tribes	Governor	6/30/1996
Ms. Jody Smith, Miles City Qualifications (if required): microbusiness owner	Governor	6/30/1996
Mr. David T. Bond, Whitefish Qualifications (if required): microbusiness owner	Governor	6/30/1996
Ms. Mary Brydich, Helena Qualifications (if required): represents cities with population greater than 15,000	Governor	6/30/1996
Mr. Doug Boutillier, Helena Qualifications (if required): represents banking industry	Governor	6/30/1996
Ms. Janene Brown, Libby Qualifications (if required): represents city with population less than 15,000	Governor	6/30/1996
Montana Library Services Advisory Council (Education) Mr. Jim Heckel, Great Falls Qualifications (if required): none specified	Chairperson	6/30/1996
Montana Mint Committee (Agriculture) Mr. Brian Schweitzer, Whitefish Qualifications (if required): active mint grower	Governor	7/1/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

Board/current position holder	Appointed by	Term end
Montana Special Education Advisory Panel (Office of Public Instruction)		
Ms. Maria Pease, Lodge Grass	Superintendent	6/30/1996
Qualifications (if required): parent of child with disabilities		
Ms. Crystal Dreese, Billings	Superintendent	6/30/1996
Qualifications (if required): individual with a disability		
Ms. Tammy Lacey, Fairfield	Superintendent	6/30/1996
Qualifications (if required): general educator		
Ms. Mary Susan Fishbaugh, Billings	Superintendent	6/30/1996
Qualifications (if required): higher education		
Ms. Connie Hepburn, Phillipsburg	Superintendent	6/30/1996
Qualifications (if required): parent of child with disabilities		
Rep. Royal C. Johnson, Billings	Superintendent	6/30/1996
Qualifications (if required): legislator		
Mr. Dale Lambert, Hobson	Superintendent	6/30/1996
Qualifications (if required): teacher of children with disabilities		
Ms. Mary Hudspeth, Libby	Superintendent	6/30/1996
Qualifications (if required): county superintendent		
Ms. Gail Marker, Billings	Superintendent	6/30/1996
Qualifications (if required): deaf/blind representative		
Ms. Merry Fahrman, East Helena	Superintendent	6/30/1996
Qualifications (if required): general educator		
Mr. Leonard Orth, Billings	Superintendent	6/30/1996
Qualifications (if required): special education program administrator		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Special Education Advisory Panel (Office of Public Instruction) cont.		
Ms. Kristie Branman, Helena	Superintendent	6/30/1996
Qualifications (if required): individual with a disability		
Mr. Joe Mathews, Helena	Superintendent	6/30/1996
Qualifications (if required): state agency		
Ms. Kim Miller, Lewistown	Superintendent	6/30/1996
Qualifications (if required): regular classroom teacher		
Petroleum Tank Release Compensation Board (Health and Environmental Sciences)		
Mr. Richard Levandowski, Helena	Governor	6/30/1996
Qualifications (if required): represents Fire Prevention and Investigation Bureau		
Private Security Patrol Officers and Investigators (Commerce)		
Mr. Greg Moose, Bozeman	Governor	8/1/1996
Qualifications (if required): represents Peace Officers Standards and Training Advisory Council		
Risk Management Advisory Committee (Administration)		
Ms. Geraldyn Driscoll, Helena	Governor	6/22/1996
Qualifications (if required): none specified		
Mr. Ralph Peck, Helena	Governor	6/22/1996
Qualifications (if required): none specified		
Capt. Thomas Muri, Helena	Governor	6/22/1996
Qualifications (if required): none specified		
Mr. Pat Chenovick, Helena	Governor	6/22/1996
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

Board/current position holder	Appointed by	Term end
Risk Management Advisory Committee (Administration) cont.		
Ms. Janie Wunderwald, Helena Qualifications (if required): none specified	Governor	6/22/1996
Mr. Forest Farris, Helena Qualifications (if required): none specified	Governor	6/22/1996
Ms. Cheryl Bozdog, Helena Qualifications (if required): none specified	Governor	6/22/1996
Ms. Laura Calkin, Helena Qualifications (if required): none specified	Governor	6/22/1996
Ms. Karen Munro, Helena Qualifications (if required): none specified	Governor	6/22/1996
Mr. Randy Mosley, Helena Qualifications (if required): representing the Department of Natural Resources and Conservation	Governor	6/22/1996
Mr. John Skufca, Helena Qualifications (if required): none specified	Governor	6/22/1996
Mr. Mike Zahn, Helena Qualifications (if required): none specified	Governor	6/22/1996
Ms. Ann Gilkey, Helena Qualifications (if required): representing the Department of Health and Human Services	Governor	6/22/1996
Mr. Michael Buckley, Helena Qualifications (if required): none specified	Governor	6/22/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Advisory Committee (Administration) cont.		
Ms. Donna Campbell, Helena Qualifications (if required): none specified	Governor	6/22/1996
Mr. Thomas H. Gibson, Bozeman Qualifications (if required): none specified	Governor	6/22/1996
Ms. Barb Charlton, Helena Qualifications (if required): none specified	Governor	6/22/1996
Mr. Gary Managhan, Helena Qualifications (if required): none specified	Governor	6/22/1996
Mr. Bruce Swick, Helena Qualifications (if required): none specified	Governor	6/22/1996
Ms. Marci Lynn, Helena Qualifications (if required): represents Department of Administration	Governor	6/22/1996
State Advisory Council on Food and Nutrition (Health and Environmental Sciences) Sen. Ethel Harding, Polson Qualifications (if required): member of the Senate	Governor	8/30/1996
Ms. Lynn Paul, Bozeman Qualifications (if required): represents the MSU Extension Service	Governor	8/30/1996
Mr. David Thomas, Helena Qualifications (if required): none specified	Governor	8/30/1996
Mr. Gary Watt, Helena Qualifications (if required): represents OPI School Food Services Program	Governor	8/30/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Advisory Council on Food and Nutrition (Health and Environmental Sciences) cont. Ms. Judy Morrill, Bozeman Qualifications (if required): represents food and nutrition programs for elderly	Governor	8/30/1996
SummitNet Executive Council (Administration) Dr. Richard Crofts, Helena Qualifications (if required): none specified	Commissioner	6/30/1996
Mr. Michael (Mick) J. Robinson, Helena Qualifications (if required): Information Technology Advisory Council representative	Governor	6/30/1996
Ms. Lois A. Menzies, Helena Qualifications (if required): Director of the Department of Administration	Governor	6/30/1996
Mr. Bob Person, Helena Qualifications (if required): Information Technology Advisory Council representative	Governor	6/30/1996
Mr. Dennis M. Taylor, Helena Qualifications (if required): Information Technology Advisory Council representative	Governor	6/30/1996
Ms. Janet Kelly, Miles City Qualifications (if required): local government representative	Governor	6/30/1996
Teachers' Retirement Board (Administration) Mr. James E. Cowan, Seeley Lake Qualifications (if required): public member	Governor	7/1/1996
Tourism Advisory Council (Commerce) Ms. Thelma M. Baker, Missoula Qualifications (if required): public member	Governor	7/1/1996
Mr. Carl Kochman, Great Falls Qualifications (if required): public member	Governor	7/1/1996

VACANCIES ON BOARDS AND COUNCILS -- June 1, 1996 through August 31, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Tourism Advisory Council (Commerce) cont.		
Mr. Ed Henrich, Anaconda	Governor	7/1/1996
Qualifications (if required): representing Innkeepers		
Mr. Larry McRae, Kalispell	Governor	7/1/1996
Qualifications (if required): public member		
Mr. Arnold D. "Smoke" Elser, Missoula	Governor	7/1/1996
Qualifications (if required): public member		
Western Interstate Commission on Higher Education (University System)		
Mr. Francis J. Kerins, Helena	Governor	6/19/1996
Qualifications (if required): public member		
Dr. Jeff Baker, Helena	Governor	6/19/1996
Qualifications (if required): Commissioner of Higher Education		
Wheat and Barley Committee (Agriculture)		
Mr. Lanny Christman, Dutton	Governor	8/20/1996
Qualifications (if required): represents District IV		
Mr. Jim Squires, Glendive	Governor	8/20/1996
Qualifications (if required): represents District VII		