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MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 16

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENT,
amendment, and adoption	)	AND ADOPTION OF RULES
of rules pertaining to fees,	)	PERTAINING TO THE ALTERNATIVE
renewal, unprofessional	)	HEALTH CARE SERVICE INDUSTRY
conduct, licensing of out-of-)	
state applicants, certification))	
for specialty practice of)	
naturopathic childbirth)	
attendance, naturopathic)	
physician continuing education,)	
and direct entry midwife)	
apprenticeship requirements)	

NO PUBLIC HEARING CONTEMPLATED

1. On September 21, 1996, the Board of Alternative Health Care proposes to amend and adopt rules pertaining to the practice of naturopathic medicine, and direct entry midwifery.

2. The Board is proposing to amend ARM 8.4.301, 8.4.302, 8.4.303, 8.4.403, 8.4.405, 8.4.503, 8.4.507, 8.4.508. Those amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.4.301 FEES (1) through (2)(b) will remain the same.
(c) naturopathic renewal ~~\$350.00~~ \$250.00
(d) through (g) will remain the same.
(h) midwife examination ~~\$300.00~~ \$400.00
(i) midwife renewal ~~\$300.00~~ \$250.00
(j) through (n) will remain the same."

Auth: Sec. 37-26-201, 37-27-105, MCA; IMP, Sec. 37-26-201, 37-27-205, 37-27-210, MCA

REASON: The proposed amendment will lower naturopath and midwife renewals to reflect the board's current budget position and raise the exam fee due to an increase by the midwife exam service.

"8.4.302 RENEWAL (1) All naturopathic physician licenses, naturopathic specialty certificates, and direct entry midwife licenses will expire ~~on April 30 of each year, on the date set by ARM 8.2.208, commencing in the year 1993, unless~~ otherwise provided by statute. A renewal notice will be sent by the board to each license/certificate holder to the last address in the board's files. Failure to receive such notice shall not relieve the license/certificate holder of his/her obligation to pay renewal fees in such a manner that they are received by the department on or before the renewal date. All licensees must submit the proper renewal fee, proper documentation of

completion of appropriate continuing education hours as required by statute or rule, and any other forms or documents required by the board.

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

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

REASON: The proposed amendment will reflect the adoption of a Department-wide rule setting renewal dates, rather than setting each by separate board rule.

"8.4.303 UNPROFESSIONAL CONDUCT For the purposes of implementing the provisions of section 37-26-408 and 37-27-213, MCA, The board defines unprofessional conduct for naturopathy and midwifery as follows:

(1) ~~Any act involving moral turpitude, dishonesty or corruption relating to the practice of naturopathy or midwifery whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgement and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purpose of this section, conviction includes all instances in which a plea of guilty is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;~~

(2) will remain the same, but will be renumbered (1);

(3) ~~Advertising which is false, fraudulent or misleading;~~

(4) ~~Resorting to fraud, misrepresentation or deception in the examination or treatment of a patient or in billings or reporting to a person, company, institution or agency;~~

(5) will remain the same, but will be renumbered (2);

(6) ~~Malpractice, or an act or acts falling below the generally accepted standard of care for naturopathy or midwifery whether actual harm was suffered by any patient;~~

(7) ~~Suspension, revocation, or restriction of the individual's license to practice naturopathy or midwifery by competent authority in any state, federal, or foreign jurisdiction for reasons that would be grounds for disciplinary sanction in this jurisdiction, a certified copy of the order or agreement being conclusive evidence of the revocation, suspension or restrictions;~~

(8) ~~Possession, use, addiction to, diversion or distribution of controlled substances or legend drugs in any way other than legitimate use, or violation of any drug law;~~

(9) will remain the same, but will be renumbered (3);

(10) ~~Interfering with an investigation or disciplinary proceeding by willful misrepresentation of the facts or by the use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;~~

(11) ~~Failure to comply with an order issued by the board;~~

(12) through (14) will remain the same, but will be renumbered (4) through (6);

~~(15) Aiding or abetting an unlicensed person to practice when a license is required;~~

(16) will remain the same, but will be renumbered (7);

~~(17) Willful or repeated violations of rules established by any health agency or authority of the state or a political subdivision thereof;~~

~~(18) Engaging in the practice of naturopathy or midwifery while suffering from a contagious or infectious disease creating a serious risk to public health;~~

~~(19) The willful betrayal of a practitioner-patient privilege as provided by law;~~

(20) through (25) will remain the same, but will be renumbered (8) through (13)."

Auth: Sec. ~~37-1-312, 37-26-201, 37-27-105, MCA; IMP, Sec. 37-1-316, 37-1-319, 37-26-201, 37-26-400, 37-27-105, 37-27-213, MCA~~

REASON: The proposed amendment will delete language which can now be found in statute at Section 37-1-316, MCA, and should not unnecessarily be repeated in rules.

"8.4.403 LICENSING BY ENDORSEMENT OF OUT-OF-STATE

APPLICANTS (1) through (1)(a) will remain the same;

(b) the candidate holds, ~~or has previously held,~~ a valid license to practice as a naturopathic physician in another state or jurisdiction. Official written verification of such licensure status must be received by the board from the other state or jurisdiction;

(c) the candidate has completed and filed with the board a notarized application for licensure ~~by endorsement,~~ and the required application fee;

(d) through (d)(i) will remain the same;

(ii) ~~Endorsement~~ Candidates who have taken the NPLEX examination must have successfully passed, at minimum, sections on basic sciences, clinical science with minor surgery, and homeopathic add-ons.

(e) will remain the same;

~~(f) The candidate holding an inactive or otherwise non-current license must meet the above requirements, plus all other requirements of section 37-26-404(1)(b), MCA, and this chapter, including the applicable requirements that:~~

~~(i) the applicant's inactive or non-current license has not been disciplined;~~

~~(ii) his inactive or non-current license has not been suspended or revoked for malpractice;~~

~~(iii) the applicant has been actively engaged in the practice of naturopathic medicine for at least one year prior to applying for a Montana Naturopathic license, in a state or territory of the U.S., the District of Columbia, or a foreign country, that does not license naturopathic physicians."~~

Auth: Sec. ~~37-26-201, MCA; IMP, Sec. 37-1-304, 37-26-404, MCA~~

REASON: The proposed amendments will implement changes mandated by passage of HB 518 by the 1995 legislature, which standardized many board procedures.

"8.4.405 NATUROPATHIC PHYSICIAN CONTINUING EDUCATION REQUIREMENTS (1) through (2)(a)(iii) will remain the same.

(iv) Preparation for and presentation of a program shall be allowed at the rate of the one continuing education credit for each hour of preparation or presentation, limited to one presentation of the program.

(iv) will the same, but will be renumbered (v).

(b) will remain the same.

(i) One continuing education credit shall be granted for each hour of participation in the continuing education activity excluding breaks and meals. ~~Continuing education activities and courses taken after January 1, 1992, will be accepted by the board of alternative health care for the initial reporting period April 30, 1994. Thereafter, A licensed naturopath must earn at least 15 continuing education credits within the 12 months prior to renewal on April 30 of each year. (Five must be in naturopathic pharmacy, five additional in obstetrics if licensee has childbirth specialty certificate.) A maximum of two credits by cassette or videotape will be allowed.~~

(ii) through (vii) will remain the same."

Auth: Sec. 37-1-319, 37-26-201, MCA; IMP, 37-1-306, 37-26-201, MCA

REASON: The proposed amendment will specifically address the question of credit allowed for preparing and delivering a presentation on professional topics for education of an audience. Licensees will be allowed one credit for each hour spent preparing or presenting. The proposed amendment will also delete old language addressing credits for the start-up of CE in 1994.

"8.4.503 DIRECT ENTRY MIDWIFE APPRENTICESHIP REQUIREMENTS

(1) through (2)(b) will remain the same;

(c) agreement of supervisor to supervise no more than two ~~four~~ direct entry midwife apprentices at the same time.

~~(i) A waiver will allow an individual supervisor to supervise up to four direct entry midwife apprentices at the same time from the date of adoption of these rules until September 1, 1997.~~

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

(5) A level III direct entry midwife apprenticeship is served as either level III-A, as defined below, under the personal supervision of the licensed supervisor or as level III-B, as defined below, under indirect supervision, as defined by board rules, at the discretion of the supervisor. ~~However, in order to meet the 10 personally supervised continuous care birth requirement of ARM 8.4.501, indirect supervision will only be approved by the board after this requirement has been met. A formal outline of indirect supervision communication shall be submitted in writing to the board for approval, prior~~

to implementation, which shall include supervisor chart review, and may include telephone contact supervision. The focus of level III shall be continuous prenatal, perinatal and postnatal care. To complete level III, the direct entry midwife apprentice shall:

(a) through (e) will remain the same.

(6) Level III direct entry midwife apprentices are separated as follows:

(a) A level III-A direct entry midwife apprentice shall require personal supervision in the form of the physical presence of the licensed supervisor;

(b) A level III-B direct entry midwife apprentice shall require indirect supervision in that the physical presence of the licensed supervisor is not always required. Level III-B may only be implemented upon prior board approval after the following requirements have been met;

(i) verification of completion of 10 personally supervised continuous care births, as required by ARM 8.4.501;

(ii) verification of completion of at least 75% of educational/academic requirements for full licensure;

(iii) a formal outline of the method of indirect supervision communication shall be submitted in writing to the board for approval, which shall include supervisor chart review and may include telephone contact supervision.

(6) (7) Direct entry midwife apprenticeship applicants who have, at the time of application, through an apprenticeship or other supervisory setting, participated as the primary birth attendant at 25 births, 15 of which included continuous care, may enter directly into direct entry midwife apprenticeship license level III-B. The 25 births and 15 continuous care births shall be evidenced by the signed birth certificate as primary birth attendant, an affidavit from the birth mother, or documented records from the applicant, as shown on the birth experience form prescribed by the board.

(a) will remain the same.

(7) will remain the same, but will be renumbered (8);

(a) through (b) will remain the same;

(c) supervise no more than two four direct entry midwife apprentices at the same time, except as allowed by waiver in subsection (2), above;

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

Auth: Sec. 37-27-105, MCA; IMP, Sec. 37-27-201, 37-27-205, 37-27-210, 37-27-213, 37-27-321, MCA

REASON: The proposed amendments will clarify the distinction between level III A & B apprentices, and set forth the procedure to move up to level III-B. Previously, both supervisors and apprentices were not certain how and when the indirect supervision could be used.

"8.4.507 REQUIRED REPORTS (1) A licensed direct-entry midwife shall submit the semiannual summary reports on each client, covering the six month period of January 1 - July 1, or July 1 - January 1 as appropriate, as required by 37-27-320,

MCA. The reports are due on or before January 15 and July 15 of each year.

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

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

REASON: The proposed amendments will clarify the reporting period as covering January 1 - July 1 and July 1 - January 1, with 15 days allowed for submission of the required report.

"8.4.508 MIDWIVES CONTINUING EDUCATION REQUIREMENTS

(1) through (2)(a)(iii) will remain the same.

(iv) Preparation for and presentment of a program shall be allowed at the rate of one continuing education credit for each hour of preparation or presentment, limited to one presentation of the program.

(iv) will remain the same, but will be renumbered (v).

(b) will remain the same.

(i) One continuing education credit shall be granted for each hour of participation in the continuing education activity excluding breaks and meals. ~~Continuing education activities and courses taken after January 1, 1992, will be accepted by the board of alternative health care for the initial reporting period ending April 30, 1994. Thereafter, A licensed direct-entry midwife must earn at least 14 continuing education credits within the 12 months prior to renewal on April 30 of each year. A maximum of two credits by cassette or video tape will be allowed.~~

(ii) through (vi) will remain the same."

Auth: Sec. 37-1-319, 37-27-105, MCA; IMP, Sec. 37-1-306, 37-27-105, MCA

REASON: The proposed amendment will specifically address the question of credit allowed for preparing and delivering a presentation on professional topics for education of an audience. Licensees will be allowed one credit for each hour spent preparing or presenting. The proposed amendment will also delete old language addressing credits for the start-up of CE in 1994.

3. The proposed new rules will read as follows:

"I. LICENSURE OF OUT-OF-STATE APPLICANTS (1) A license to practice as a direct entry midwife in the state of Montana may be issued at the discretion of the board provided the applicant completes and files with the board an application for licensure and the required application fee. The candidate must meet the following requirements:

(a) The candidate holds a current, valid and unrestricted license to practice as a direct entry midwife in another state or jurisdiction, which was issued under standards equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s);

(b) The candidate shall supply a copy of a high school diploma or its equivalent, plus verification in the form of certified transcripts sent directly from an institute of higher education, or certificates of completion from other courses of study, indicating the candidate has successfully completed educational requirements in pregnancy and natural childbirth, approved by the board as per ARM 8.4.504;

(c) The candidate shall supply proof of successful completion of all parts of the North American Registry of Midwives (NARM) examination with a score of 75% or higher. Candidate scores on the examination must be forwarded by the exam agency directly to the board;

(d) The candidate shall supply written documentation of good moral character consisting of three letters of reference, at least one of which must be from a licensed direct entry midwife;

(e) The candidate shall supply a copy of the laws and rules from the state of licensure, which were in effect at the time the license was granted in the other state."

Auth: Sec. 37-27-105, MCA; IMP, Sec. 37-1-304, MCA

"II. SCREENING PANEL (1) The board screening panel shall consist of at least four board members including the naturopathic physician member who has served the longest on the board, the direct entry midwife member who has served the longest on the board, the public board member, and the medical doctor board member. The chairman may reappoint screening panel members, or replace screening panel members as necessary at the chairman's discretion."

Auth: Sec. 37-26-201, 37-27-105, MCA; IMP, Sec. 37-1-307, MCA

"III. COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board. The board form shall contain a release of medical records statement, to be signed by the complainant.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation, or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter may be dismissed for lack of sufficient information.

Auth: Sec. 37-26-201, 37-27-105, MCA; IMP, Sec. 37-1-308, 37-1-309, MCA

REASON: The proposed new rules will implement changes mandated by the passage of HB 518 by the 1995 Legislature, which standardized many of the board procedures.

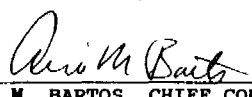
4. Interested persons may submit their data, views or arguments concerning the proposed amendments, and adoptions in writing to the Board of Alternative Health Care, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

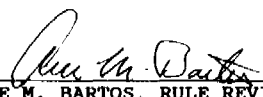
5. If a person who is directly affected by the proposed amendments, and adoptions wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Alternative Health Care, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

6. If the Board receives requests for a public hearing on the proposed amendments, and adoptions from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed action, 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 4 based on the 37 licensees in Montana.

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

BY: _____


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 12, 1996.

BEFORE THE BOARD OF OPTOMETRY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENT,
amendment, repeal and adoption	)	REPEAL AND ADOPTION OF RULES
of rules pertaining to the	)	PERTAINING TO THE PRACTICE OF
general practice requirements,	)	OPTOMETRY
unprofessional conduct, fees,)	
disciplinary actions, and)	
continuing education)	
concerning the practice of)	
optometry)	

NO PUBLIC HEARING CONTEMPLATED

1. On September 21, 1996, the Board of Optometry proposes to amend, repeal and adopt rules pertaining to the practice of optometry.

2. The Board is proposing to amend ARM 8.36.406, 8.36.409, 8.36.412, 8.36.601, 8.36.602. Those amendments will read as follows: (new matter underlined, deleted matter interlined)

8.36.406 GENERAL PRACTICE REQUIREMENTS

(1) through (1)(a)(iv) will remain the same.

~~(b) office space must be private, separate, and outside the confines of any store;~~

~~(c) professional advertising must indicate without question that the practice is being conducted by the optometrist and no impression given that any company or corporation is conducting the practice. The name of the optometrist must be in type at least twice as legible as that of his location. Advertisements must also state that the optometrist is located at or in the named place and must not indicate that an optometric department is being conducted at or in the location;~~

~~(d) advertising of an optometrist must be kept separate from advertising of the company or corporation from whom he is renting;~~

(e) will remain the same but will be renumbered (b).

(f) will remain the same but will be renumbered (c).

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

Auth: Sec. ~~37-1-131, 37-10-202, 37-10-301, 37-10-311,~~
MCA; IMP, Sec. ~~37-10-301, 37-10-311,~~ MCA

REASON: 8.36.406 (1)(b), (c) and (d) are proposed for amendment and deletion as the statutory authority of Section 37-10-311, MCA which gave authority for restriction on advertising and office space arrangement has been repealed.

"8.36.409 FEE SCHEDULE

(1) through (3) will remain the same.
(4) ~~Reciprocity~~ Out-of-state license application \$250.00
(5) through (7) will remain the same."
Auth: Sec. 37-10-202, MCA; IMP, Sec. 37-1-134, 37-1-304,
37-10-302, 37-10-303, 37-10-307, MCA

"8.36.412 UNPROFESSIONAL CONDUCT Unprofessional conduct includes, but is not limited to, the following items or combination thereof:

- ~~(1) Fraud or misrepresentation in applying for or procuring an optometric license or in connection with applying for or procuring periodic renewal of an optometric license.~~
- ~~(2) Cheating on or attempting to subvert the optometric licensing examination(s).~~
- ~~(3) The commission or conviction of a gross misdemeanor or a felony in this state or any other jurisdiction, or the entry of a guilty or nolo contendere plea to a gross misdemeanor or a felony charge, directly or indirectly relating to the practice of optometry.~~
- ~~(4) The commission or conviction of a gross misdemeanor or a felony as defined by federal law, or the entry of a guilty or nolo contendere plea to a gross misdemeanor or a felony charge, directly or indirectly relating to the practice of optometry.~~
- ~~(5) Conduct likely to deceive, defraud or harm the public.~~
- ~~(6) will remain the same but will be renumbered (1).~~
- ~~(7) Willfully or negligently violating the confidentiality between doctor and patient, except as required by law.~~
- ~~(8) will remain the same but will be renumbered (2).~~
- ~~(9) will remain the same but will be renumbered (3).~~
- ~~(10) Being found mentally incompetent or insane by any court of competent jurisdiction.~~
- ~~(11) will remain the same but will be renumbered (4).~~
- ~~(12) The use of any false, fraudulent, deceptive or misleading statement in any document connected with the practice of optometry.~~
- ~~(13) Aiding or abetting the practice of optometry by an unlicensed, incompetent or impaired person.~~
- ~~(14) will remain the same but will be renumbered (5).~~
- ~~(15) Being addicted or habituated to a drug or intoxicant.~~
- ~~(16) will remain the same but will be renumbered (6).~~
- ~~(17) Except as otherwise permitted by law, prescribing, procuring an optometric license or in connection with applying for or procuring periodic renewal of an optometric license.~~
- ~~(18) through (20) will remain the same but will be renumbered (7) through (9).~~
- ~~(21) Disciplinary action of another state or jurisdiction against a licensee or other authorization to practice optometry based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in~~

this act, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

(22) will remain the same but will be renumbered (10).

~~(23) Failure to report to the board any adverse action taken against him or her by another licensing jurisdiction by any peer review body, by any health care institution, by any professional society or association, by any governmental agency, by any law enforcement agency or by any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in the act.~~

(24) will remain the same but will be renumbered (11).

~~(25) Failure to report to the board surrender of a license or authorization to practice optometry in another state or jurisdiction, or surrender of membership on any staff or in any professional association or society while under disciplinary investigation by any of these authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this act.~~

(26) will remain the same but will be renumbered (12).

~~(27) Failure to report to the board any adverse judgement, settlement or award arising from a professional liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in the act.~~

~~(28) Failure to report to the board the relocation of his or her office, in or out of the jurisdiction.~~

(29) will remain the same but will be renumbered (13).

(30) will remain the same but will be renumbered (14).

~~(31) Failure to practice the profession with proper diligence.~~

~~(32) Advertising in a manner that tends to deceive, mislead or defraud the public.~~

(33) will remain the same but will be renumbered (15).

~~(34) For any person to do or perform an act constituting the practice of optometry without first obtaining a license in accord with this act and the regulation of the board.~~

(35) will remain the same but will be renumbered (16).

~~(36) If any person practices or attempts to practice optometry while his or her license is suspended, the license may be permanently revoked.~~

(37) through (39) will remain the same but will be renumbered (17) through (19).

~~(40) Contracting communicable, contagious or infectious diseases that endanger patient's health."~~

Auth: Sec. 37-1-319, 37-10-202, MCA; IMP, Sec. 37-1-316, 37-1-319, 37-10-301, 37-10-311, MCA

REASON: ARM 8.36.409 and 8.36.412 are proposed for amendment due to the passage of the HB 518 by the 1995 legislature which standardized many of the board's procedures.

"8.36.601 REQUIREMENTS (1) As stated in 37-10-308, MCA, beginning June 1, 1971, each licensed optometrist in active

~~practice in the state of Montana shall be required to attend not less than 12 18 hours annually of scientific clinics, forums, or optometric educational studies as may be provided or approved by the board of optometrists as a prerequisite for his license renewal.~~

(1)(a) through (5) will remain the same."

Auth: Sec. 37-1-312, 37-10-202, MCA; IMP, Sec. 37-1-306, 37-10-308, MCA

"8.36.602 APPROVED PROGRAMS OR COURSES (1) The type of educational programs approved by the board shall be those affiliated with national, regional or state optometric associations, societies, academies, colleges of optometry, or approved by the international association of boards of examiners in optometry's council on optometric practitioners education (COPE).

(a) Any other continuing education course not covered above must be submitted by the licensee and have prior approval by the board to qualify. Any course not submitted to the board and approved prior to attendance will not be allowed for credit. The course program/syllabus, and information on the credentials and qualifications of the course presenter must accompany the approval form.

(2) will remain the same."

Auth: Sec. 37-1-312, 37-10-202, MCA; IMP, Sec. 37-1-306, 37-10-308, MCA

REASON: The proposed amendments to ARM 8.36.601 and 8.36.602 will clarify Board continuing education approval procedures, as many licensees have recently been denied credit for failure to obtain pre-approval.

3. The Board is proposing to repeal ARM 8.36.405 (authority 37-10-202, MCA and implementing 37-10-303, MCA); 8.36.408 (authority 37-10-202, MCA and implementing 37-10-311, MCA); 8.36.410 (authority 37-1-101, MCA and implementing 37-10-307, MCA); 8.36.411 (authority 37-1-131, 37-1-136, 37-10-202, MCA and implementing 37-1-136, MCA). The text of these rules is located at pages 8-1072, 8-1073 and 8-1074, Administrative Rules of Montana. The rules are being proposed for repeal because the passage of HB 518 by the 1995 legislature standardized many of the board procedures, and made these rules unnecessary.

4. The proposed new rules will read as follows:

"I. LICENSURE OF OUT-OF-STATE APPLICANTS (1) A license to practice optometry in the state of Montana may be issued at the discretion of the board provided the applicant completes and files with the board an application for licensure and the required application fee. The candidate must meet the following requirements:

(a) the candidate holds a current, valid and unrestricted license to practice optometry in another state or jurisdiction,

which was issued under standards equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s),

(b) the candidate shall supply a copy of the certified transcript sent directly from a college, university or institution approved by the board, including schools of optometry accredited by the international association of boards of examiners in optometry, in which the practice and science of optometry is taught in a course of study covering 8 semesters or 4 years of actual attendance,

(c) the candidate shall supply proof of successful completion of all parts of the national examination offered by the national board of examiners in optometry (NBEO) with a score of 70 percent or higher. Candidate scores on the examination must be forwarded by the exam agency directly to the board,

(d) candidates who were licensed without sitting for the NBEO examination shall supply proof of successful completion of a qualifications examination (acceptable to the board) administered by the licensing authority of the state or jurisdiction granting the license, and shall meet qualifications to be therapeutically qualified,

(e) the candidate shall read Montana statutes and rules of the board and sign a disclaimer verifying completion of this review, and

(f) the candidate shall supply a copy of the laws and rules from the state of licensure, which were in effect at the time the license was granted in the other state."

Auth: Sec. 37-10-202, MCA; IMP, Sec. 37-1-304, MCA

"II SCREENING PANEL (1) The board screening panel shall consist of at least two board members including the optometrist board member who has served longest on the board, and the public member of the board. The chairman may reappoint screening panel members, or replace screening panel members as necessary at the chairman's discretion."

Auth: Sec. 37-10-202, MCA; IMP, Sec. 37-1-307, MCA

"III COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board. The board form shall contain a release of medical records statement, and shall require the notarization of the complainant's signature.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall

be considered by the screening panel of the board for appropriate action including dismissal, investigation, or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel shall not review anonymous complaints.

Auth: Sec. 37-10-202, MCA; IMP, Sec. 37-1-308, 37-1-309, MCA

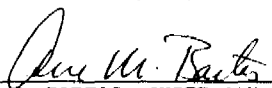
REASON: The proposed new rules will implement changes mandated by the passage of HB 518 by the 1995 Legislature, which standardized many of the board procedures.

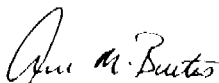
5. Interested persons may submit their data, views or arguments concerning the proposed amendments, repeals and adoptions in writing to the Board of Optometry, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

6. If a person who is directly affected by the proposed amendments, repeals and adoptions 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 Optometry, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

7. If the Board receives requests for a public hearing on the proposed amendments, repeals and adoptions from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed actions, 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 23, based on the 233 licensees in Montana.

BOARD OF OPTOMETRY
CYNTHIA JOHNSON, OD, CHAIRMAN

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

A handwritten signature in cursive script, reading "Annie M. Bartos". The signature is written in dark ink and is positioned above a horizontal line.

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 12, 1996.

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT,
amendment, repeal and adoption) REPEAL AND ADOPTION OF RULES
of rules pertaining to the) PERTAINING TO THE PRACTICE OF
licensure of physical) PHYSICAL THERAPY
therapists, physical therapist)
assistants and foreign-trained)
physical therapists)

NO PUBLIC HEARING CONTEMPLATED

1. On September 21, 1996, the Board of Physical Therapy Examiners proposes to amend, repeal and adopt rules pertaining to the practice of physical therapy.

2. The Board is proposing to amend ARM 8.42.402, 8.42.403, 8.42.404, 8.42.405, 8.42.406, 8.42.410, 8.42.411, 8.42.412. Those amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.42.402 EXAMINATIONS (1) through (5)(a) will remain the same.

(6) The jurisprudence examinations shall be an open book examination covering current Montana physical therapy statutes and rules, subject to Title 37, chapters 1, 2, and 11, Montana Code Annotated, ~~state and federal narcotic statutes, and~~ standards of care and definition of moral turpitude. The jurisprudence examination must be passed by all examination and ~~endorsement out-of-state~~ applicants before original licensure will be granted. ~~For endorsement candidates~~ Separate provisions will be made for taking the jurisprudence examination prior to licensure. Applicants failing the jurisprudence examination must retake said until passed. The fee of each retake will be assessed in accordance with the established fee schedule."

Auth: Sec. ~~37-1-131~~, 37-11-201, MCA; IMP, Sec. 37-1-304, 37-11-303, 37-11-304, MCA

"8.42.403 FEES (1) The fees shall be as follows:

(a) Application for NPTE and NPAT examination
(for each examination taken) \$125

(b) Application for ~~endorsement out-of-state~~
licensure 50

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

Auth: Sec. 37-1-134, 37-11-201, MCA; IMP, Sec. 37-1-304, 37-11-201, 37-11-304, ~~37-11-307~~, 37-11-308, ~~37-11-309~~, MCA

"8.42.404 RENEWAL OF LICENSE (1) As provided by 37-11-308, MCA, all licenses must be renewed on or before April 1 of each year the renewal date set by ARM 8.2.208. A grace period of six months after the renewal deadline will automatically be extended and late renewals will be accepted upon payment for the renewal fee ~~or~~ and the late renewal fee. Any requests for renewal made after the six months grace period will be determined on a case-by-case basis after review by the board.

(2) ~~The board will send each licensee a first renewal notice on or before February 1, and a second notice on or before March 1 of each year.~~ Notices will be sent to the last address which the licensee has made available to the board. It shall be the licensee's responsibility to notify the board immediately upon change of address. Failure to receive a renewal notice shall not constitute grounds for failure to make timely renewal.

(3) will remain the same."

Auth: Sec. ~~37-11-201~~, MCA; IMP, Sec. ~~37-11-308~~, MCA

"8.42.405 TEMPORARY LICENSES (1) Applicants for licensure ~~by endorsement~~ who are holders of a license in another state may be issued a temporary license to practice pending licensure by the board. An interview with at least one board member may be required. Said temporary license will expire when the board makes its final determination on licensure.

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

Auth: Sec. ~~37-1-131~~, ~~37-1-319~~, ~~37-11-201~~, MCA; IMP, Sec. ~~37-1-305~~, ~~37-11-309~~, MCA

"8.42.406 LICENSURE BY ENDORSEMENT OF OUT-OF-STATE APPLICANTS (1) Each applicant applying for licensure ~~by endorsement who holds a current license in another state~~ must have taken the NPTE or NPTAE or the national registry exam in another state to be considered for licensure ~~by endorsement~~. All NPTE or NPTAE scores must be reported directly to the board office through the interstate reporting service. All national registry exam scores must be substantiated by the records of the American Congress of Physical Medicine, 80 North Michigan Avenue, Chicago, Illinois 60602. If the applicant supplies the board with results from the NPTE or NPTAE, such results shall be equal to or higher than a scaled score of 600 in order for the individual to be licensed ~~by endorsement~~. The overall score of those applicants that have taken only the national registry exam, must be in accordance with the pass or fail grades as mandated by the registry. ~~Those applicants failing the national registry exam will not be licensed by endorsement.~~

(2) Applicants for licensure ~~by endorsement from another state~~ shall file with the board office an application which shall include the following:

(a) application for licensure ~~by endorsement from another state~~ fee;

(b) copy of their certificate of graduation or transcripts from a board-approved physical therapy school or physical therapist assistant curriculum;

(2)(c) through (2)(h) will remain the same.

(3) Applicants applying for licensure ~~by endorsement from another state~~ who have not been actively engaged in the profession of physical therapy or physical therapist assistant in the five years immediately preceding application shall be required to undergo continued study in the field of physical therapy or physical therapist assistant. Continued study may include, but will not be limited to:

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

Auth: Sec. ~~37-1-312, 37-11-201, 37-11-303, 37-11-307,~~
MCA; IMP, Sec. ~~37-1-304, 37-11-101, 37-11-303, 37-11-307,~~ MCA

"8.42.410. FOREIGN-TRAINED PHYSICAL THERAPIST APPLICANTS

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

(f) if from a non-English speaking culture, the applicant shall display competency in the English language by passing the national examination Test of English as Foreign Language (TOEFL) with a score of ~~55~~ 50 of the total possible points on each subject. The applicant would contact TOEFL by writing:

TOEFL
Box 899
Princeton, New Jersey 08541, USA

A fee is required by TOEFL and must be paid by the applicant.

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

Auth: Sec. ~~37-1-131, 37-11-201,~~ MCA; IMP, Sec. ~~37-11-310,~~
MCA

"8.42.411 LIST OF LICENSED PHYSICAL THERAPISTS

(1) Upon written request and payment of ~~\$20~~ \$5 the board office shall mail to an interested person a list of licensed physical therapists. The list is furnished by the board for public information purposes only. It is not intended for use by private parties as a mailing list and no permission has been obtained from the individual licensees for such purposes. The use of material supplied by a state agency as a mailing list to private parties without the permission of those on the list is prohibited by 2-6-109, MCA."

Auth: Sec. ~~37-11-201,~~ MCA; IMP, Sec. ~~37-11-201,~~ MCA

"8.42.412 UNPROFESSIONAL CONDUCT

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

~~(b) All advertising which is false, fraudulent or misleading;~~

~~(c) Misrepresentation or fraud in any aspect of the conduct of the profession;~~

(d) will remain the same, but will be renumbered (b);

~~(e) An act or acts below the standard of care for~~

~~physical therapists or physical therapist assistants providing similar treatment;~~

~~(f) Suspension, revocation or restriction of individual's license to practice as a physical therapist or physical therapist assistant by competent authority in any state, federal or foreign jurisdiction;~~

~~(g) The possession of, addiction to, prescription for use of, diversion of, or distribution of, controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, or violation of any drug law;~~

~~(h) Violation of any state or federal statute or administrative rule regulating the practice of physical therapy, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;~~

~~(i) Failing to cooperate with the board by:~~

~~(i) not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the board; or~~

~~(ii) not responding to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding;~~

~~(j) Interfering with an investigation or disciplinary proceeding by wilful misrepresentation of facts to the board or its authorized representative, or by the use of threats or harassment against any patient, or witness to prevent him, her or them from providing evidence in a disciplinary proceeding or any other legal action;~~

~~(k) will remain the same, but will be renumbered (c);~~

~~(l) Failing to comply with an order issued by the board or with an assurance of discontinuance entered into with the board;~~

~~(m) will remain the same, but will be renumbered (d);~~

~~(i) through (ii) will remain the same;~~

~~(n) through (r) will remain the same, but will be renumbered (e) through (i);~~

~~(s) Engaging in the profession in a manner involving contact with the public while suffering from a contagious or infectious disease, thereby creating serious risk to public health;~~

~~(t) Being convicted of any gross misdemeanor or felony relating to the practice of physical therapy. For the purposes of this subsection, conviction includes all proceedings in which the sentence has been deferred or suspended;~~

~~(u) Aiding or abetting an unlicensed person to practice when a license is required;~~

~~(v) and (w) will remain the same, but will be renumbered (j) and (k)."~~

Auth: Sec. 37-1-131, 37-1-319, 37-11-201, 37-11-321, MCA; IMP, Sec. 37-1-316, 37-1-319, 37-11-321, MCA

REASON: The proposed amendments will implement changes required by the passage of HB 518 by the 1995 legislature, which standardized board procedures in statute.

3. The Board is proposing to repeal ARM 8.42.401 (authority 37-11-201, MCA and implementing 37-11-304, MCA); 8.42.413 (authority 37-1-131, 37-1-136, 37-11-201, MCA and implementing 37-1-136, 37-11-321, MCA); 8.42.701 (authority 37-1-131, 37-11-201, 37-11-202, MCA and implementing 37-11-202, MCA). The text of these rules is located at pages 8-1205, 8-1213, 8-1213.1 and 8-1219, Administrative Rules of Montana. The rules are being proposed for repeal because of the adoption of HB 518, the Uniform Licensing Act, which standardized these board procedures in statute, and eliminated the necessity for the rules.

4. The proposed new rules will read as follows:

"I. SCREENING PANEL (1) The board screening panel shall consist of at least three board members, including the physical therapist board member who has served longest on the board; the medical doctor board member; and the public member of the board. The chairman may reappoint screening panel members, or replace screening panel members as necessary at the chairman's discretion."

Auth: Sec. 37-11-201, MCA; IMP, Sec. 37-1-307, MCA

"II. COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board, including a signed release of confidentiality and treatment records, and notarization of the signature.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation, or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter may be dismissed for lack of sufficient information."

Auth: Sec. 37-11-201, MCA; IMP: Sec. 37-1-308, 37-1-309, MCA.

"III. CONTINUING EDUCATION (1) All licensees shall submit evidence of completion of continuing education

requirements biennially with their license renewal. Training for entry into a field is not considered adequate assurance of continued competence throughout a physical therapist or physical therapist assistant career.

(2) The board/staff will not preapprove continuing education programs or sponsors. Qualifying criteria for continuing education is specified in these rules. It is the responsibility of the licensee to select quality programs that contribute to their knowledge and competence which also meet these qualifications.

(3) The continuing education program must meet the following criteria:

(a) the activity must have significant intellectual or practical content. The activity must deal primarily with substantive physical therapy issues as contained in the physical therapy definition in Montana. In addition, the Board may accept continuing education activities from other professional groups or academic disciplines if the licensee demonstrates that the activity is substantially related to his or her role as a physical therapist or physical therapist assistant. A continuing education program is defined as a class, institute, lecture, conference, workshop, cassette or videotape,

(b) the activity must be conducted by an individual or group qualified by practical or academic experience,

(c) all acceptable continuing education courses must issue a program or certificate of completion containing the following information: full name and qualifications of the presenter; title of the presentation attended; number of hours and date of each presentation attended; name of sponsor; and description of the presentation format,

(d) excluded are programs that promote a company, individual, or product (hosted programs are not approved), and programs whose subject is practice economics except those programs specifically dealing with workers' compensation or public health.

(4) Implementation for continuing education shall be as follows:

(a) one continuing education credit shall be granted for each hour of participation in the continuing education activity excluding breaks and meals. Continuing education activities and courses taken after October 1, 1995, will be accepted by the board for the initial reporting period April 30, 1998.

Thereafter, a licensee must earn at least 20 continuing education credits within the 24 months prior to the renewal date in each even numbered year. A maximum of two credits by cassette or videotape will be allowed,

(b) no continuing education is required for licensees renewing their license for the first time,

(c) all licensees must submit to the board, on the appropriate year's license renewal, a report summarizing their obtained continuing education credits. The board will review these reports and notify the licensee regarding his/her noncompliance. Licensees found to be noncompliant with the

requirement will be asked to submit to the board for approval a plan to complete the continuing education requirements for licensure. Prior to the next consecutive year's license renewal deadline, those licensees who were found to be in noncompliance will be formally reviewed to determine their eligibility for license renewal. Licensees who at this time have not complied with continuing education requirements will not be granted license renewal until they have fulfilled the board-approved plan to complete the requirements. Those not receiving notice from the board regarding their continuing education should assume satisfactory compliance. Notices will be considered properly mailed when addressed to the last known address on file in the board office. No continuing education used to complete delinquent continuing education plan requirements for licensure may be used to meet the continuing education requirements for the next continuing education reporting period,

(d) if a licensee is unable to acquire sufficient continuing education credits to meet the requirements, he or she may request a waiver. All requests for waiver will be considered by the board and evaluated on an individual basis,

(e) it is the responsibility of the licensee to establish and maintain detailed records of continuing education compliance (in the form of programs and certificates of attendance) for a period of two years following submission of a continuing education report,

(f) from the continuing education reports submitted each biennium, the board will randomly audit 5% of the reports and request certificates of completion for continuing education credits reported."

Auth: Sec. 37-1-319, 37-11-201, MCA; IMP: Sec. 37-1-306, 37-11-201, MCA.

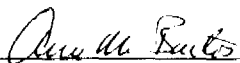
REASON: The proposed new rules will implement changes mandated by the passage of HB 518 and SB 171 by the 1995 Legislature, allowing the board to require continuing education for renewal, and standardizing other procedures among the licensing boards.

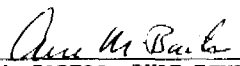
5. Interested persons may submit their data, views or arguments concerning the proposed amendments, repeals and adoptions in writing to the Board of Physical Therapy Examiners, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

6. If a person who is directly affected by the proposed amendments, repeals and adoptions 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 Physical Therapy Examiners, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

7. If the Board receives requests for a public hearing on the proposed amendments, repeals and adoptions from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed actions, 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 57 based on the 570 licensees in Montana.

BOARD OF PHYSICAL THERAPY EXAMINERS
CHARLOTTE FANNON, PT, CHAIRMAN

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


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 12, 1996.

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

In the matter of the proposed	) NOTICE OF PROPOSED AMENDMENT,
amendment, repeal and adoption	) REPEAL AND ADOPTION
of rules pertaining to fees,	) OF RULES PERTAINING TO THE
application requirements,	) PRACTICE OF VETERINARY
temporary permits, examinations,	) MEDICINE AND EMBRYO TRANSFER
annual renewals, continuing)
education, unprofessional)
conduct, applications for)
certification of embryo trans-)
fer, unprofessional conduct)
for embryo transfer, disciplin-)
ary actions and advisory)
committee)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On September 21, 1996, the Board of Veterinary Medicine proposes to amend, repeal and adopt rules pertaining to the practice of veterinary medicine and embryo transfer.

2. The proposed amendment of ARM 8.64.402, 8.64.501 through 8.64.505, 8.64.508, 8.64.509, 8.64.802 and 8.64.807 will read as follows: (new matter underlined, deleted matter interlined)

"8.64.402 FEE SCHEDULE

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

(e) Temporary permit

50

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

Auth: Sec. 37-1-134, 37-18-202, MCA; IMP, Sec. 37-1-134, 37-1-304, 37-1-305, 37-18-302, 37-18-303, 37-18-307, 37-18-401, 37-18-405, MCA

"8.64.501 APPLICATION REQUIREMENTS (1) through (1)(b) will remain the same.

(2) All applicants must have taken the national board examination and the clinical competency test within five years 62 months prior to the next scheduled examination date as set by the board and have their scores reported to the board office through the interstate reporting service or its equivalent.

(a) will remain the same.

(3) Foreign veterinary school graduates must have completed the requirements of the American veterinary medical association's education commission for foreign veterinary graduates (ECFVG) as evidenced by a copy of the ECFVG certificate before an application will be accepted.

(a) will remain the same.

(b) For specific information on the requirements of the ECFVG, contact the American Veterinary Medical Association, ECFVG, 903 1931 North Meacham Road, Suite 100, Schaumburg, IL 60192 60173.

(4) will remain the same."

Auth: Sec. 37-18-202, MCA; IMP, Sec. 37-18-202, 37-18-302, 37-18-303, MCA

"8.64.502 TEMPORARY PERMITS (1) An applicant ~~for~~ examination requesting a temporary permit must submit an application for a temporary permit to the board and must have on file with the board a completed application ~~for examination~~, the proper ~~examination~~ fee, and any information as the board may require pursuant to ARM 8.64.501 ~~or 8.64.509~~.

(2) An applicant for licensure by examination may be issued a temporary permit if he/she is employed by, working under the supervision of, and in the same office with a veterinarian licensed in Montana.

(3) An applicant for licensure who is taking the jurisprudence examination may be issued a temporary permit if he/she is working under the supervision of a veterinarian licensed in Montana."

Auth: Sec. 37-1-319, 37-18-202, MCA; IMP, Sec. 37-18-303(5) 37-1-305, MCA

"8.64.503 EXAMINATION FOR LICENSURE (1) through (2) will remain the same.

(3) Any applicant who has failed the examination may apply to be re-examined at a subsequent examination and shall pay the proper examination fee. The applicant then must retake the practical and oral portion of the examination as given by the board. The applicant may, if he/she so desires, retake the national board examination and/or clinical competency test to bring the average up, or must retake the national board examination and/or clinical competency test if the ~~five-year~~ 62 month allowance period has expired."

Auth: Sec. 37-18-202, MCA; IMP, Sec. 37-18-303, MCA

"8.64.504 ANNUAL RENEWAL OF CERTIFICATE OF REGISTRATION

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

Auth: Sec. 37-18-202, MCA; IMP, Sec. 37-18-202, 37-18-307, MCA

"8.64.505 CONTINUING EDUCATION (1) and (1)(a) will remain the same.

(i) Proof of continuing education attendance must be in the form of a certificate of completion and/or program containing the following information:

- (A) name of licensee,
- (B) name of presenter,
- (C) title of presentation,
- (D) date of presentation,
- (E) number of hours, and

(F) presentation format.

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

(3) The board will randomly audit 2% of the continuing education reports submitted each continuing education year. Certificates of completion and/or programs must be submitted upon request of the board.

~~(3) (4) Pursuant to section 37-18-307, MCA, those~~ persons exempt under the above provisions are:

(a) new licensees who have secured a license by examination and are applying for their first annual certificate of registration; and

(b) will remain the same.

(5) If a licensee is unable to acquire sufficient continuing education credits, he or she may request a hardship exemption. All requests for exemptions will be evaluated by the board on an individual basis.

Auth: Sec. 37-1-131, 37-1-319, 37-18-202, MCA; IMP, Sec. 37-18-202, 37-1-306, 37-18-307, MCA

"8.64.508 UNPROFESSIONAL CONDUCT

For the purposes of implementing the provisions of ~~section 37-18-311(1)(e)~~ 37-1-319, MCA, the board defines "unprofessional conduct" as follows:

~~(1) Any act involving moral turpitude, dishonesty, or corruption relating to the practice of veterinary medicine whether the act constitutes a crime or not. If the act constitutes a crime conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purpose of this section, conviction includes all instances in which a plea of guilty is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended.~~

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

~~(3) Advertising which is false, fraudulent, or misleading.~~

(4) and (5) will remain the same, but will be renumbered (2) and (3).

~~(6) Malpractice, or an act or acts, including failure to obtain informed consent and failure to provide follow-up care, falling below the generally accepted standard of care for veterinarians in the same practice situation whether actual harm was suffered by any patient or client.~~

~~(7) Suspension, revocation or restriction of the individual's license to practice the profession by competent authority in any state, federal or foreign jurisdiction for reasons that would be grounds for disciplinary sanction in this jurisdiction, a certified copy of the order or agreement being conclusive evidence of the revocation, suspension or restriction.~~

(8) and (9) will remain the same, but will be renumbered (4) and (5).

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

~~(10) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by the use of threats or harassment against any client or witness to prevent or discourage them from providing evidence in a disciplinary proceeding or any other legal action.~~

~~(11) Failing to comply with an order issued by the board or an assurance of discontinuance entered into with the board.~~

(12) through (14) will remain the same, but will be renumbered (6) through (8).

~~(15) Aiding or abetting an unlicensed person to practice when a license is required.~~

~~(16) (9) Practicing veterinary medicine while the practitioner's license is suspended, revoked or not currently renewed.~~

(17) will remain the same, but will be renumbered (10).

~~(18) Engaging in the practice of veterinary medicine while suffering from a contagious or infectious disease creating a serious risk to public health.~~

(19) will remain the same, but will be renumbered (11).

~~(20) (12) A veterinarian may choose whom to serve. Once the veterinarian has undertaken treatment of a patient, the veterinarian shall not neglect it. Abandoning, neglecting or otherwise physically abusing a patient once the veterinarian has undertaken treatment of the patient."~~

Auth: Sec. 37-1-131, 37-1-319, 37-18-202, 37-18-311, MCA; IMP, Sec. 37-1-131, 37-1-316, 37-1-319, MCA

"8.64.509 LICENSURE OF OUT-OF-STATE APPLICANTS

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

(f) The candidate has completed and filed with the board an application for licensure, and the required application fee no later than 45 days prior to the examination date.

(g) and (h) will remain the same."

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

"8.64.802 APPLICATIONS FOR CERTIFICATION - QUALIFICATION

(1) through (2)(c) will remain the same.

(3) Applicants must be at least 18 years of age and have successfully completed at least six semester hours of 300 level reproductive physiology and endocrinology courses from accredited colleges or universities, ~~or, through June 30, 1992, equivalent education or experience as determined by the board.~~

(4) will remain the same."

Auth: Sec. 37-18-202, MCA; IMP, Sec. 37-18-104, MCA

"8.64.807 UNPROFESSIONAL CONDUCT (1) The board may, with respect to the practice of non-surgical embryo transfer, either refuse to grant a certificate of registration or suspend or revoke a certificate of registration on the grounds and

procedures set forth in ~~37-18-311~~ 37-1-312, MCA, and ARM 8.64.405.

(2) will remain the same.

~~(a) Any act involving moral turpitude, dishonesty or corruption relating to the practice of embryo transfer whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the certificate holder or applicant of the crime described in the complaint, indictment or information, and of the person's violation of the statute on which it is based. For the purpose of this section, conviction includes all instances in which a plea of guilty is the basis for the conviction and all proceeding in which the sentence has been deferred or suspended.~~

(b) will remain the same, but will be renumbered (a).

~~(c) Advertising which is false, fraudulent, or misleading;~~

(d) and (e) will remain the same, but will be renumbered (b) and (c).

~~(f) Malpractice, or any act or acts falling below the generally accepted standard of care for embryo transfer technicians whether actual harm was suffered by any patient or client;~~

(g) will remain the same, but will be renumbered (d).

~~(h) Possession, use, addiction to, diversion or distribution of controlled substances or legend drugs in any way other than legitimate use for embryo transfer procedures as authorized by the supervising veterinarian licensed in Montana, or violation of any drug law;~~

(i) will remain the same, but will be renumbered (e).

(i) through (iii) will remain the same.

~~(j) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by the use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;~~

~~(k) Failure to comply with an order issued by the board or an assurance of discontinuance entered into with the board;~~

(l) through (n) will remain the same, but will be renumbered (f) through (h).

~~(o) Aiding or abetting an uncertified person to practice when a certificate is required;~~

~~(p) (i) Performing embryo transfer while the embryo transfer technician's certificate is suspended, revoked, or not currently renewed.~~

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

~~(r) Engaging in the practice of embryo transfer while suffering from a contagious or infectious disease creating a serious risk to public health;~~

(s) will remain the same, but will be renumbered (k)."

Auth: Sec. 37-1-319, 37-18-202, MCA; IMP, Sec. 37-1-316, 37-18-104, MCA

REASON: The proposed amendments will implement House Bill 518, the Uniform Professional Licensing and Regulation Procedures Act, passed by the 1995 legislature, which standardized many of the procedures.

3. The Board is proposing to repeal ARM 8.64.405 located at page 8-1784, Administrative Rules of Montana (authority section 37-1-136, 37-18-202, MCA, implementing section 37-1-136, MCA); and ARM 8.64.701 located at page 8-1799, Administrative Rules of Montana (authority section 37-1-131, 37-18-104, MCA, implementing section 37-1-131, 37-18-104, MCA). The reason for the proposed repeals is the passage of House Bill 518, the Uniform Professional Licensing and Regulation Procedures Act, passed by the 1995 legislature, which standardized the procedures in statute.

4. The proposed new rules will read as follows:

"I SCREENING PANEL (1) The board screening panel shall consist of at least four board members, three of whom shall be the licensed veterinarian board members who have served on the board the longest, and one of whom shall be the public member of the board. The chairman may reappoint screening panel members, or replace screening panel members as necessary at the chairman's discretion."

Auth: Sec. 37-18-202, MCA; IMP, Sec. 37-1-307, MCA

"II COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter may be dismissed for lack of sufficient information."

Auth: Sec. 37-18-202, MCA; IMP, Sec. 37-1-308, 37-1-309,
MCA

REASON: The proposed new rules will implement changes mandated by the passage of House Bill 518, the Uniform Professional Licensing and Regulation Procedures Act, passed by the 1995 legislature, which standardized much of the board procedures in statute.

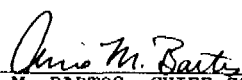
5. Interested persons may submit their data, views or arguments concerning the proposed amendments, repeals and adoption in writing to the Board of Veterinary Medicine, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

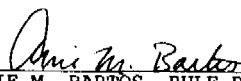
6. If a person who is directly affected by the proposed amendments, repeals and adoptions wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Veterinary Medicine, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 19, 1996.

7. If the Board receives requests for a public hearing on the proposed amendments, repeals and adoptions from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments, repeals and adoptions, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 94 based on the 945 licensees in Montana.

BOARD OF VETERINARY MEDICINE
W. DEAN HOLMES, DVM, PRESIDENT

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
rule 16.8.1906 and the repeal of)	AMENDMENT AND
16.8.301, 401-404, 805, 1104, 1507,))	REPEAL OF RULES
1601, 1603 and 1904 regarding air)	
quality.)	NO PUBLIC HEARING
	CONTEMPLATED
	(Air Quality)

To: All Interested Persons

1. On November 7, 1996, the board proposes to amend and repeal the above-referenced rules.

2. The board proposes to repeal ARM 16.8.301, located at page 16-139, Administrative Rules of Montana (AUTH: 75-2-211, MCA; IMP: 75-2-411, MCA), which refers to the grounds specified in 75-2-411, MCA, for applying for rehearing before the board. The rule is unnecessary because it merely refers the reader to existing statutory requirements.

The board proposes to repeal ARM 16.8.401 through 16.8.404, located at page 16-141, Administrative Rules of Montana (AUTH: 75-2-211, MCA; IMP: 75-2-402, MCA), which specify the procedures for board hearings regarding emergency orders of the department. Most of the provisions of the rules repeat statutory language. The provisions of ARM 16.8.403, regarding notice to the persons involved, are unnecessary because the requirements for due process of law already require the department to provide reasonable notice of any required hearing. In the case of an emergency hearing to be held within 24 hours, due process requirements would require the department to comply with the notice procedures specified in the rule, by notifying the persons involved by telephone or by an equally effective means.

The board proposes to repeal ARM 16.8.805, located at page 16-155, Administrative Rules of Montana (AUTH: 75-2-111, MCA; IMP: 75-2-202, MCA), which specifies the purpose of the state ambient air quality standards. This purpose section is unnecessary to interpretation of the ambient air quality standards.

The board proposes to repeal ARM 16.8.1104, located at page 16-196, Administrative Rules of Montana (AUTH: 75-2-111, 75-2-204, MCA; IMP: 75-2-204, 75-2-211, MCA), which required the owner or operator of an existing emission source or stack, constructed after November 23, 1968, to apply for an air quality permit by January 1, 1981. The rule is no longer necessary because the department believes that all such facilities have either applied for an air quality permit or have altered the facility in a manner that would require an air quality permit

under other provisions of the department's air quality rules.

The board proposes to repeal ARM 16.8.1601 and 1603, located at page 16-241, Administrative Rules of Montana (AUTH: 15-32-203, MCA; IMP: 15-32-102 and 15-32-201, MCA), which specify the certification and testing standards for the statutory combustion device tax credit for installation of a residential energy system using a low emission wood or biomass combustion device. The tax credit applied only to years prior to January 1, 1996, and most persons eligible for the credit should have claimed it by now. If a person claims the tax credit on a late or amended tax return, the department will apply the same standards that are included in the present rule.

The board proposes to repeal ARM 16.8.1904, located at page 16-258, Administrative Rules of Montana (AUTH: 75-2-111, MCA; IMP: 75-2-211, MCA), which specifies the requirements for additional air quality fees assessed by the department to fund special activities. The rule is unnecessary because it merely repeats statutory language.

Repeal of these rules is proposed to meet the 1995 Legislature's House Joint Resolution No. 5, which requested the Governor to request state agencies reduce unnecessary provisions of their rules.

3. The board proposes to amend ARM 16.8.1906 as follows (material to be deleted is interlined):

16.8.1906 AIR QUALITY PERMIT APPLICATION/OPERATION FEE ASSESSMENT APPEAL PROCEDURES (1) Remains the same.

~~(2) An appeal may be initiated pursuant to (1) above by filing with the board an affidavit setting forth the grounds for such appeal and requesting a hearing before the board. An appeal must be based on the allegation that the department's fee assessment is erroneous or excessive. An appeal may not be based only on the amount of the fee schedule adopted by the board and contained in this rule.~~

~~(3) Any hearing before the board concerning the department's fee assessment must be conducted according to the contested case provisions of the Montana Administrative Procedure Act.~~

~~(4) Nothing in these rules may be construed as preventing the applicant for an air quality permit from submitting to the department that portion of the applicable fee which has been appealed during the pendency of the appeal proceedings before the board.~~

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

Most of the rule language proposed to be deleted is unnecessary because it repeats statutory language. Additionally, it is unnecessary in subsection (4) to specify that a permit applicant can submit a permit application fee pending the results of an appeal. The applicant has this right without it being specified in the rule.

Amendment of these rules is proposed to meet the 1995 Legislature's House Joint Resolution No. 5, which requested the

Governor to request state agencies reduce unnecessary provisions of their rules.

4. The board proposes to repeal ARM 16.8.1507 which was adopted at page 1844 of the Montana Administrative Register Issue No. 13 (AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, MCA). This is an incorporation by reference rule, and with reorganization of the rules and transferring them to Title 17, subchapters 14 and 15 are being combined, making ARM 16.8.1507 unnecessary since subchapter 14 had a rule incorporating by reference the same documents being incorporated in subchapter 15.

5. Interested persons may submit their data, views, or arguments concerning the proposed amendment and repeal, in writing, to the Board of Environmental Review, P.O. Box 200901, Helena, MT 59620-0901, no later than September 23, 1996.

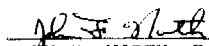
6. If a person who is directly affected by the proposed amendment and repeal wishes to present data, views, and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to the Board of Environmental Review, PO Box 200901, Helena, MT 59620-0901. A written request for a hearing must be received no later than September 22, 1996.

7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Because more than 250 people are directly affected by the proposed amendment and repeal, a hearing will be held if requested by 25 or more persons who are directly affected by the proposed amendment and repeal.

BOARD OF ENVIRONMENTAL REVIEW


CINDY E. YOUNKIN, Chairperson

Reviewed by:


JOHN F. NORTH, Rule Reviewer

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the repeal of	)	NOTICE OF
Title 17, Chapter 30, Subchapter	)	PROPOSED REPEAL
15, and the amendment of 17.30.1001	)	AND AMENDMENT OF RULES
and 17.30.1022 concerning)	
permitting of in-situ uranium	)	NO PUBLIC HEARING
mining.	)	CONTEMPLATED
		(Water Quality)

To: All Interested Persons

1. On November 7, 1996, the board proposes to repeal Title 17, Chapter 30, subchapter 15, and amend 17.30.1001 and 17.30.1022.

2. The rules proposed to be repealed may be found at pages 17-3075 through 17-3105 of the Administrative Rules of Montana. AUTH: 50-1704 RCM 1947 [not codified temporary], 75-5-401, MCA; IMP, 50-1704 RCM 1947 [not codified temporary], 75-5-401, MCA

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

17.30.1001 DEFINITIONS For the purpose of this subchapter, the following definitions, in addition to those in 75-5-103, MCA, will apply:

(1)-(8) Remain the same.

~~(9) "MIMUCS" means the Montana in-situ mining of uranium control system as defined in ARM Title 17, chapter 30, subchapter 15.~~

(10)-(15) Remain the same but renumbered (9)-(14).

AUTH: 75-5-201, 75-5-401, MCA; IMP, 75-5-301, 75-5-401, MCA

17.30.1022 EXCLUSIONS FROM PERMIT REQUIREMENTS (1) For the purposes of this subchapter, the following are not subject to the permit requirements of ARM 17.30.1023, 17.30.1024, 17.30.1030 through 17.30.1033, 17.30.1040 and 17.30.1041:

(a)-(k) Remain the same.

~~(l) in-situ mining of uranium facilities controlled under MIMUCS;~~

(m) and (n) Remain the same but renumbered (l) and (m).

(2) Remains the same.

AUTH: 75-5-401, MCA; IMP, 75-5-401, 75-5-602, MCA

4. The rules proposed for repeal are the Montana In-Situ Mining of Uranium Control System (MIMUCS) rules. The repeal of the rules is proposed because the rules are unnecessary.

In 1978, the Board of Health and Environmental Sciences adopted the MIMUCS rules. These rules established a permit system to control discharge of pollutants into ground water

from in-situ solution mining of uranium. In 1982, the Board adopted ground water permit rules. Those rules contained a specific exclusion for operations conducted pursuant to the MIMUCS rules.

Both the MIMUCS rules and the ground water rules are adopted pursuant to 75-5-401, MCA. In 1995, the Legislature amended that statute to exclude from any permit required pursuant to 75-5-401, MCA, any activity subject to the permitting requirement of the Strip and Underground Mine Reclamation Act. That Act requires a permit for in-situ uranium operations, but it could be interpreted to exclude certain smaller operations. The coal and uranium rules require compliance with the standards contained in the appropriate ground water rules.

The Department has reviewed the water quality protection standards contained in both the MIMUCS and the ground water rules. It has determined that water quality would be better protected if in-situ uranium mining were subject to the ground water rules. These rules reflect the advances in science and technology that have occurred since 1978. Because the MIMUCS rules are no longer necessary, repeal is in conformance with the request of Governor Racicot to implement HJR5.

5. Interested persons may submit their data, views, or arguments concerning the proposed action in writing, to the Board of Environmental Review, PO Box 200901, Helena, MT 59620-0901, no later than September 23, 1996.

6. If a person who is directly affected by the proposed repeal and 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 the Board of Environmental Review, PO Box 200901, Helena, MT 59620-0901. A written request for a hearing must be received no later than September 23, 1996.

7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25 persons, based on the number of persons involved in in-situ uranium mining in Montana.

BOARD OF ENVIRONMENTAL REVIEW

Reviewed by

By Cindy E. Younkin
CINDY E. YOUNKIN, Chairperson

John F. North
John F. North, Rule Reviewer

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING
rules 26.4.301 and 26.4.1303, and) FOR PROPOSED AMENDMENT
repeal of 26.4.121-132, 26.4.221-) AND REPEAL OF RULES
232, and 26.4.1231-1242, for the)
abandoned mine reclamation program.)

(Abandoned Mines)

To: All Interested Persons

1. On September 20, 1996, at 10:00 a.m., the Board will hold a public hearing in Room 42 of the Metcalf Building, 1520 E. 6th Ave., Helena, Montana, to consider the amendment and repeal of the above-captioned rules.

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

26.4.301 DEFINITIONS The following definitions apply to all terms used in the Strip and Underground Mine Reclamation Act and subchapters 3 through 13 of this chapter:

(1) ~~"Abandoned mine land reclamation fund" means the fund defined in ARM 26.4.1231(1).~~

(2)-(138) Remain the same but are renumbered (1)-(137).

AUTH: 82-4-204, 82-4-205, MCA; IMP: 82-4-203, MCA

26.4.1303 RULES APPLICABLE TO COAL OPERATIONS ONLY

(1) The following rules are applicable only to the strip and underground mining of coal: ARM 26.4.763 (Coal Conservation), 26.4.801 through 26.4.807 (Alluvial Valley Floors), 26.4.811 through 26.4.816 (Prime Farmlands), 26.4.1131 through 26.4.1138 (Areas Upon Which Mining Is Prohibited), 26.4.1141 through 26.4.1148 (Designation of Lands Unsuitable), 26.4.1221 through 26.4.1228 (Small Operator Assistance Program), and ~~26.4.1231 through 26.4.1242 (Abandoned Mine Land Reclamation)~~ and those portions of subchapter 3 that apply to these rules. In addition, certain portions of other rules may be applicable only to coal mining if the text of the rule clearly so indicates.

AUTH: 82-4-204, 82-4-205, MCA; IMP: 82-4-227, 82-4-228, 82-4-231, 82-4-232, 82-4-233, 82-4-235

3. The rules to be repealed may be found at ARM pages 26-386 through 26-394; 26-425 through 26-439; 26-754 through 26-767.

26.4.121 through 26.4.132 -- AUTH: 82-4-422, MCA; IMP: 82-4-311, MCA

26.4.221 through 26.4.232 -- AUTH: 82-4-422, MCA; IMP: 82-4-424, MCA

26.4.1231 through 26.4.1242 -- AUTH: 82-4-204, 82-4-205, MCA;

IMP: 82-4-239, MCA

4. The Board is proposing these amendments and repeal of the rules because it is not necessary for the Department to have abandoned mine land rules. This program is federally funded. In administering this program, the Department is bound by federal law (Title IV of the Surface Mine Control and Reclamation Act of 1977) regulations of the Office of Surface Mining, and federal grant conditions. These provisions establish procedures and requirements from which a state may not deviate. Department rules merely impose those conditions as a matter of state law and make no substantive additions or amendments to the applicable federal requirements. Repeal of these rules is in conformance with the Governor's directive that state agencies reduce rules by at least 5% as requested by the 1995 Montana Legislature in HJR5.

5. Interested persons may submit their data, views, or arguments concerning the proposed amendment and repeal, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to the Board of Environmental Review, Department of Environmental Quality, Metcalf Building, PO Box 200901, Helena, MT 59620-0901, no later than September 23, 1996.

6. Vic Anderson has been designated to preside over and conduct the hearing.

BOARD OF ENVIRONMENTAL REVIEW

by Cindy E. Yonkin
CINDY E. YONKIN, Chairperson

Reviewed by

John F. North
John F. North, Rule Reviewer

Certified to the Secretary of State August 12, 1996.

**BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA**

IN THE MATTER OF THE PROPOSED)	
ADOPTION OF RULES PERTAINING TO	)	NOTICE OF PUBLIC
THE OPERATION, INSPECTION,	)	HEARING
CLASSIFICATION, ROTATION, AND)	
INSURANCE OF COMMERCIAL TOW TRUCKS)	

TO: All Interested Persons

1. On Thursday, September 12, 1996, at 10:00 a.m., a public hearing will be held in the auditorium of the Scott Hart Building, 303 North Roberts, Helena, Montana, to consider the adoption of proposed new rules I through IX, pertaining to the operation, inspection, classification, rotation, and insurance of commercial tow trucks. The department previously published a notice of proposed adoption of rules on this subject (MAR 1996 Issue No. 4, Feb. 22, 1996, pp. 503-11); but due to the large number of comments received, the department has decided to incorporate those comments and initiate a new rulemaking process.

The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you desire an accommodation, please contact the department no later than Tuesday, September 10, 1996, to advise it of the nature of the accommodation that you need. Please contact Rob Smith at 215 North Sanders, Helena, Montana 59620, tel. (406) 444-2026.

2. The proposed rules provide as follows:

RULE I DEFINITIONS In addition to the definitions contained in 61-8-903 and 61-9-416, MCA, and unless the context requires otherwise, the following definitions apply to this subchapter:

(1) "CVSA" means the Commercial Vehicle Safety Alliance.
(2) "Garage keeper's legal liability insurance" means insurance coverage for loss or damage to motor vehicles (as defined in the policy) which are in the care of the insured, an entity that keeps customers' motor vehicles for storage or repair, which loss or damage is caused by the insured's failure to exercise the degree of care required by law.

(3) "Independent classification" means classification by a qualified person independent of the patrol, but having written authorization from the patrol to classify tow trucks pursuant to rule II.

(4) "Manufacturer's rating" means the rating set forth on the vehicle's nomenclature plate. If the nomenclature plate is not available, the rating is established using a static load test with actual loads meeting the requirements of the class, done in the presence of a patrol officer.

(5) "Noncommercially modified tow truck equipment" means tow truck equipment that has been non-commercially modified in

a way that the operational characteristics of the equipment have been affected.

(6) "Operator" means the business entity that owns or operates a commercial tow truck as defined in 61-9-416, MCA; the business entities referred to include, but are not limited to, sole proprietorships, partnerships, and corporations.

(7) "Patrol" means the highway patrol division of the Montana department of justice.

(8) "State rotation system" means the state law enforcement rotation system established in 61-8-908, MCA.

(9) "Tow truck equipment" means:

(a) the chassis of the tow truck;

(b) the specialized equipment mounted on the truck chassis which is designed and intended for towing or recovery of wrecked, disabled, or abandoned vehicles or other objects creating a hazard on the public roadways; and

(c) the equipment listed in 61-9-416, MCA, and in rule VII.

AUTH: 61-8-911, MCA

IMP: 61-8-903, MCA

RULE II CLASSIFICATION OF TOW TRUCK EQUIPMENT (1) All operators of commercial tow truck equipment in the state of Montana must have their tow trucks classified.

(2) All operators of commercially manufactured tow truck equipment must submit to the department proof of the manufacturer's rating of their tow truck(s).

(3) All operators of noncommercially manufactured or modified tow truck equipment must:

(a) have their equipment classified by the department if the equipment was in service on or before October 1, 1995; or

(b) have their equipment independently classified or meet the requirements of subsection (5) (b) below, if the equipment was placed in service after October 1, 1995.

(4) In order to have noncommercially manufactured or modified tow truck equipment classified, an operator must submit to the patrol a written and signed application which contains the following:

(a) a request that a particular tow truck be classified;

(b) the tow truck's serial number and base of operations;

(c) the operator's name, address and telephone number; and

(d) an affidavit that the equipment was in use on or before October 1, 1995 (if applicable).

(5) If an operator seeks to have noncommercially manufactured or modified tow truck equipment which was placed in service after October 1, 1995 certified, the operator must, in addition to the things required by subsection (4), submit:

(a) a written and signed independent classification; or

(b) proof that the tow truck equipment is covered by a suitable policy of product liability insurance.

(6) Upon receipt of an operator's request for classification of his or her equipment, the patrol shall set and inform the operator of a time for inspecting and classifying the equipment.

(7) Upon completion of the classification inspection, the patrol shall inform the operator in writing of the classification; in addition, the patrol shall inform the operator that it has twenty days in which to inform the chief of the patrol that the operator disputes the classification of its equipment.

AUTH: 61-8-911, MCA

IMP: 61-8-905, MCA

RULE III TOW TRUCK CLASSIFICATION DISPUTE RESOLUTION
ADVISORY COMMITTEE - ESTABLISHMENT (1) Pursuant to 61-8-905, MCA, there is a tow truck classification dispute resolution advisory committee (hereafter "the committee"), consisting of three members. The committee shall act as a hearing examiner with the powers set forth in 2-4-611, MCA, and it shall issue a recommended proposal for decision as discussed in 2-4-621, MCA. The attorney general shall make the final decision.

(2) The attorney general shall appoint the members of the committee. Applications for appointment to the committee from the highway patrol and the department of transportation shall come from the heads of those agencies. Applications from the tow truck industry may be made by anyone involved in that industry.

(3) All applications must be in writing and must be received by September 1 of the year of appointment. The deadline and procedure for applications for initial appointment to the committee shall be established by the attorney general.

(4) The terms of the members of the committee shall be three years, starting on October 1 of the year of appointment. The attorney general shall stagger the terms and shall appoint the successor to any committee member unable to complete his or her term.

AUTH: 61-8-911, MCA

IMP: 61-8-905, MCA

RULE IV TOW TRUCK CLASSIFICATION DISPUTE RESOLUTION
ADVISORY COMMITTEE - JURISDICTION AND PROCEDURE (1) Pursuant to 61-8-905, MCA, the dispute resolution advisory committee shall hear all disputes that arise regarding the classification or qualification of tow truck equipment. In addition, the committee shall hear any dispute concerning the Montana Professional Tow Truck Act that the attorney general refers to it.

(2) At its initial meeting following the appointment of any new member, the committee shall elect a chairman to preside over its meetings and hearings. The committee shall also elect a vice chairman to preside in the chairman's absence. A quorum of the committee shall consist of at least two members, one of whom must be from the tow truck industry. A majority vote of a quorum shall be necessary to take any official action of the committee.

(3) After receiving an operator's written notification that it disputes the classification of its equipment, or after the attorney general has referred a dispute to it, the committee

shall:

(a) give all parties to the dispute reasonable notice of the date, time, and location at which the committee will hear the dispute;

(b) request notification by any party of its desire to call witnesses, and the proposed subject of the witnesses' testimony;

(c) provide the complaining party an opportunity to present reasons the proposed action should not be taken;

(d) provide the responding party an opportunity to answer the complaining party;

(e) provide any other party an opportunity to address the committee regarding the dispute;

(f) provide any witness it deems relevant an opportunity to address the committee;

(g) keep a tape recording of any hearing that may be copied or transcribed at the request of any party who pays the cost thereof;

(h) ensure that all hearings are public unless the presiding officer determines that, as a matter of law, the hearing must be closed; and

(i) issue a written proposal for decision which may be contested before the attorney general pursuant to 2-4-621, MCA.

AUTH: 61-8-911, MCA

IMP: 61-8-905, MCA

RULE V VEHICLE STORAGE REQUIREMENTS - INSURANCE (1) For purposes of compliance with the insurance standards of 61-8-906, MCA, an operator's storage facility is deemed to be part of its business premises.

(2) The chief of a local law enforcement agency or of the patrol may request that a qualified operator in the state rotation system improve its storage facility so as to comply with 61-8-906, MCA. If the operator wishes to contest the request, he or she must contact the office of the attorney general.

(3) Pursuant to 69-12-102, MCA, each and every commercial tow truck operator shall cause proof of insurance coverage to be filed with the Montana public service commission in accordance with ARM 38.3.712, notwithstanding the fact that any individual operator may be a subsidiary of another operator and may be covered by the parent operator's insurance.

(4) If the department is advised at any time by the public service commission that an operator's insurance is expired or cancelled, the operator will be given 48 hours to correct the problem, then he or she will be removed from the rotation list.

(5) If the operator provides proof of insurance at a later date, the operator will be placed back on the rotation list; such placement is not retroactive. A complete inspection will not be required.

(6) If the operator's insurance expires on a date other than the due date of the inspection, the following procedure will be followed:

(a) The inspector will determine that the policy is at a

minimum an annual policy;

(b) The inspector will enter the date of the insurance expiration on the inspection form and decal; and

(c) If the decal indicates that the insurance is expired, the operator need only produce written proof of current insurance. Such proof is to be carried in the tow truck at all times.

AUTH: 61-8-911, MCA

IMP: 61-8-906, MCA

RULE VI SAFETY INSPECTION PROCESS (1) All operators of commercial tow truck equipment in the state of Montana must have an annual safety inspection as set forth in (2), (3), and (4) below.

(2) The department hereby adopts by reference the CVSA level 1 inspection, 49 CFR Chapter III, Subchapter B, Appendix G, as standards for the chassis portion of the safety inspections required by 61-8-907, MCA. Copies of these regulations may be obtained from the Montana Highway Patrol, 2550 Prospect Avenue, Helena, Montana 59620. Compliance with the CVSA level 1 standards must be determined before the tow truck is placed in the state rotation system. The inspector need not complete the CVSA level 1 form unless the tow truck operator requests CVSA certification, but all applicable standards must be met.

(3) Standards for the safety inspection of the towing and recovery equipment that is mounted on the chassis are set forth in rules VIII and IX.

(4) Standards for the safety inspection of the equipment that a commercial tow truck must carry are set forth in 61-9-411 and 61-9-416, MCA.

(5) All safety inspectors must have a CVSA level 1 inspector's certification before being qualified to inspect tow trucks.

(6) A department-approved inspection form will be completed by the inspector. If minimum standards are met, a department-approved decal will be affixed to the lower right hand corner of the windshield indicating passage of the inspection. The decal will indicate the date of the inspection, the expiration date of the tow truck's insurance, and the class and license plate number of the tow truck.

(7) The safety certification is effective for one year, beginning October 1 of each year. There will be a 60-day grace period at the expiration of the certification to allow for the scheduling of and inspection of the tow truck.

(8) It is the responsibility of the tow truck owner/operator to contact the Montana highway patrol and request the inspection. The inspection site must be relatively flat and of a hard surface to allow for movement of the inspector under the tow truck.

(9) The department may inspect any tow truck when questions or concerns arise as to the safety or serviceability of the tow truck and there are reasonable grounds for those concerns. The operator must be given advance written notice of

such an inspection, and the notice must specify the alleged defect.

(10) If any additional tow truck is put into service the tow truck must be qualified and classified prior to answering any calls from the law enforcement rotation system.

(11) If any commercial tow truck is sold, the tow truck is not qualified until it is reinspected by the department. In addition, the seller must remove the tow truck's certification decal.

(12) This rule is subject to the following qualifications:

(a) if the inspection identifies a defect of any type the operator is entitled to request a second inspection by another inspector;

(b) if the inspection identifies a non-safety-related defect or deficiency, the defect or deficiency must be corrected and the tow truck reinspected. If the defect or deficiency is not corrected and the tow truck reinspected within 10 days, the tow truck must be removed from the state rotation system;

(c) if the inspection identifies a safety-related defect or deficiency the tow truck will be immediately taken out of service. The tow truck cannot be used in the state rotation system until the reinspection confirms that the defect or deficiency has been corrected; and

(d) if either the inspection form or certification decal is lost, removed, rendered unreadable, or destroyed, the operator must immediately notify the nearest patrol office that can provide a copy of the inspection report from its files and/or reissue a certification decal.

(13) Once a successful inspection is completed, the inspecting officer will provide a copy of the approved inspection report to the tow truck operator. The inspector will also personally affix the certification decal to the windshield.

AUTH: 61-8-911, MCA

IMP: 61-8-907, MCA

RULE VII STATE LAW ENFORCEMENT ROTATION SYSTEM - ADMISSION AND SUSPENSION (1) An operator seeking to participate in the state law enforcement rotation program must submit a written application to the patrol showing:

(a) the name of the operator's insurance company;

(b) the class of the operator's tow truck(s);

(c) that the operator meets the safety standards of the patrol, as set forth in the Administrative Rules of Montana; and

(d) that the operator possesses a unique business name and telephone number.

(2) An operator participating in the state rotation system must respond to or decline any call from the rotation system; he or she may not authorize any other operator to respond to that call. Violation of this rule may result in suspension (permanent or temporary) from the rotation system.

(3) This rule does not apply to class "E" towing operations, or to a qualified operator who subcontracts with another operator for temporary assistance in the interests of public safety.

AUTH: 61-8-911, MCA

IMP: 61-8-908, MCA

RULE VIII GENERAL TOW TRUCK SAFETY STANDARDS (1) All commercial tow truck operators must meet the following standards:

(a) for any wire rope purchased or received and placed into service after October 1, 1995, the operator must have documentation of the type of wire rope installed, the date of installation, and the tow truck on which it was installed;

(b) all drums must be capable of fully extending the wire rope and retracting it fully;

(c) any winch equipment, snatch blocks or block and tackle equipment must not show any deformation, significant wear or damage;

(d) the operator's business name and address must be visible on both sides of the tow truck and readable at 50 feet in normal sunlight;

(e) the operator must have two-way radio equipment capable of communicating to a base station. A mobile or cellular phone is acceptable; and

(f) adequate wire rope. Wire rope with any of the following defects will be deemed inadequate:

(i) more than 6 randomly distributed broken wires in one lay or 3 broken wires in one strand;

(ii) any abrasion that causes more than 1/3 loss of any individual wire;

(iii) any evidence of deterioration from corrosion;

(iv) any kinking, crushing, flattening, or damage that distorts the rope structure;

(v) any heat damage;

(vi) any opening up of any tucked splice or core protrusion along the entire length;

(vii) any hooks that are twisted more than 10 degrees; or

(viii) any indication of attachment slippage or more than one broken wire at the fitting.

AUTH: 61-8-911, MCA

IMP: 61-8-908, MCA

RULE IX SPECIFIC TOW TRUCK SAFETY STANDARDS (1) In addition to the standards listed above for all commercial tow truck operators, operators of class "A" tow trucks must have:

(a) a truck chassis with a minimum manufacturer's gross weight rating of 10,000 lbs. or more;

(b) dual tires on the rear axle with a minimum load rating of "E"; except that tow trucks with single rear wheels in service prior to October 1, 1995, with established records and history of capability are acceptable;

(c) at least one winch drum that is at least 1/2 full of wire rope on each drum, and wire rope of a minimum diameter of 3/8 inch;

(d) a dual or single boom with a rated capacity of at least 4 tons;

(e) a portable dolly capable of hauling untowable vehicles;

(f) if equipped with a wheel lift system, the system must be capable of lifting 2,000 lbs. when fully extended; and

(g) chains used for recovery, towing, or securing that are at least 3/8 inch in size.

(2) In addition to the standards listed above for all commercial tow truck operators, operators of class "B" tow trucks must have:

(a) a truck chassis with a minimum manufacturer's gross weight rating of 18,000 lbs. or more;

(b) dual tires on the rear with a minimum load rating of "E";

(c) at least one winch drum that is at least 1/2 full of wire rope on each drum, and wire rope of a minimum diameter of 7/16";

(d) a dual or single boom with a rated capacity of at least 8 tons;

(e) if equipped with a wheel lift system, the system must be capable of lifting 4,000 lbs. when fully extended; and

(f) chains used for recovery, towing, or securing that are at least 7/16" in diameter.

(3) In addition to the standards listed above for all commercial tow truck operators, operators of class "C" tow trucks must have:

(a) a truck chassis with a minimum manufacturer's gross weight rating of 32,000 lbs. or greater;

(b) a minimum of dual wheels on rear axle and be equipped with tires with a load rating of "H";

(c) at least one winch drum that is at least 1/2 full of wire rope on each drum, and wire rope of a minimum diameter of 9/16";

(d) a dual or single boom with a rated capacity of at least 16 tons;

(e) an air brake system capable of supplying air to the towed vehicle;

(f) if equipped with a wheel lift system, the system must have a working load rating of 8,000 lbs. when fully extended; and

(g) chains used for recovery, towing, or securing that are at least 1/2" in diameter.

(h) if any class "C" tow truck 24 tons or larger is utilized, it is recommended that 6 x 19, 26 or 37 XIP or IP wire rope, with a minimum of 5/8" diameter be utilized, and that all chains be of 5/8" diameter and of grade "8" rating or better.

(4) Class "D" tow trucks are class "A", "B" and/or "C" tow trucks with rollbacks and car carriers. These rollbacks or car carriers must be mounted on a chassis that is minimally equal to the gross weight rating of the rollback or car carrier. In addition to the safety standards listed above for all commercial tow truck operators, operators of class "D" commercial tow trucks must meet the following standards:

(a) one 4-ton winch with the drum at least 1/2 full of wire rope that is at least 3/8" in diameter;

(b) a minimum of 4 securing devices (combination chains and binders) each with a working load limit of 3,500 lbs; and

(c) dual tires on the rear axle with a minimum load rating of "G".

(5) Class "E" refers to a type of towing or recovery operation in which tow truck operators use two or more class "C" tow trucks, with a combined manufacturer's rating of at least 80,000 lbs. and supportive equipment (banders, air bags, skidders, forklifts, etc.). Each tow truck utilized by a class "E" operator must have the minimum equipment identified above relative to its class.

AUTH: 61-8-911, MCA

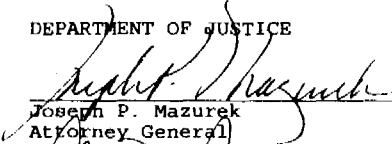
IMP: 61-8-908, MCA

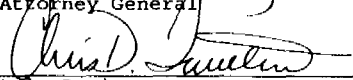
3. The rules are necessary to implement 1995 Mont. Laws ch. 283.

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Major Bert Obert, Montana Highway Patrol, 2550 Prospect Avenue, Helena, Montana 59620, and must be received no later than September 20, 1996.

5. Rob Smith has been designated to preside over and conduct the hearing.

DEPARTMENT OF JUSTICE


Joseph P. Mazurek
Attorney General


Chris D. Juelin
Rule Reviewer

Certified to the Secretary of State

August 13, 1996

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF THE PROPOSED
of ARM 42.17.103 relating to) AMENDMENT
General Withholding Taxes)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 3, 1996, the Department of Revenue proposes to amend ARM 42.17.103 relating to general withholding taxes.

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

42.17.103. WAGES, TIPS AND OTHER PAYMENTS (1) and (2) remain the same.

(3) The payor of distributions made up in whole or in part of contributions made pursuant to ~~section (3)~~ (2)(a) or solely of employer contributions shall notify the recipients of the availability to state withholding, and the requirements for the payment to state income tax on the taxable portion of a distribution.

(a) and (b) remain the same.

AUTH: Sec. 15-30-305, MCA; IMP, Sec. 15-30-201, MCA.

3. The amendment is necessary to correct a clerical error. Section (2) was originally (3) when this rule was adopted and during an amendment process in April, 1996 it was renumbered (2). Section (5) was renumbered (3) and contained the language stated above. However, the reference to section(3)(a) should have been changed to (2)(a) to coincide with the movement of that section.

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

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


no later than September 20, 1996.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Cleo Anderson at the above address no later than September 20, 1996.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of

the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be greater than 25.


CLEO ANDERSON
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State August 12, 1996

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

In the matter of the) NOTICE OF AMENDMENT
amendment of rule 2.55.408)
pertaining to the retro-)
spective rating plans.)
)

TO: All Interested Persons:

1. On July 3, 1996, the State Compensation Insurance Fund published notice of the proposed amendment to rule 2.55.408, concerning the retrospective rating plans, at page 1770 of the 1996 Montana Administrative Register, issue number 13.

2. The Board has amended the following rule as proposed:

2.55.408 RETROSPECTIVE RATING PLANS

AUTH: Sec. 39-71-2315 and 39-71-2316 MCA.

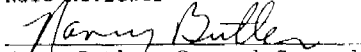
IMP: Sec. 39-71-2316, 39-71-2330 and 39-71-2341 MCA.

3. The Board received and considered the following comment:

COMMENT: Mr. Don Chance, Montana Building Industry Association, testified representing a trade Association of about 1,100 companies and 40,000 employees statewide. They are in favor of the state establishing group retrospective rating capability. The industry has been interested in group retros but have not had an opportunity to establish such a program in Montana. Their experience is in other states in the northwest where retrospective rating programs are available. They have found it is the most effective tool they have available to create a significant incentive for safety improvements in the field among small contractors. Currently small contractors do not have access to individual retrospective rating programs and they do not have the resources to put in place aggressive loss control programs. They encouraged the State Fund to move forward in adopting this rule amendment.



Dal Smilie, Chief Legal Counsel
Rule Reviewer


Nancy Butler, General Counsel
Rule Reviewer

Rick Hill
Chairman of the Board

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the repeal) NOTICE OF REPEAL AND
and transfer of rules per-) TRANSFER OF RULES PERTAINING
taining to nutritionists) TO NUTRITIONISTS

TO: All Interested Person:

1. On March 7, 1996, the Board of Medical Examiners published a notice of proposed repeal and transfer of the above-stated rules at page 616, 1996 Montana Administrative Register, issue number 5.
2. The Board has repealed ARM 8.28.1807 and transferred 8.28.911 to 8.28.1809 exactly as proposed.
3. No comments or testimony were received.

BOARD OF MEDICAL EXAMINERS
JAMES BONNET, M.D., PRESIDENT

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 12, 1996.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF RULES
of rules pertaining to examin-) PERTAINING TO THE PRACTICE
ations, out-of-state candidates) OF PUBLIC ACCOUNTING
for examination, education)
requirements and fees)

TO: All Interested Persons:

1. On June 6, 1996, the Board of Public Accountants published a notice of public hearing on the proposed amendment of rules pertaining to the practice of public accounting at page 1460, 1996 Montana Administrative Register, issue number 11. The hearing was held on July 8, 1996, in Helena, Montana.

2. The Board has amended ARM 8.54.402, 8.54.403 and 8.54.410 exactly as proposed. The Board has amended ARM 8.54.408 as proposed, but with the following changes: (authority and implementing sections will remain the same as proposed)

"8.54.408 EDUCATION REQUIREMENTS (1) Prior to July 1, 1997:

(a) ~~a A candidate for examination, to be approved to sit for the exam, and subsequently to be certified or licensed as a public accountant, who submits an application for an examination administered prior to July 1, 1997, or a candidate who applies by transfer of grades prior to July 1, 1997, must, have graduated from a college or university accredited to offer a baccalaureate degree (or be in his/her final semester), with a concentration in accounting. A concentration in accounting shall include have completed 24 semester hours (36 quarter hours) of accounting, auditing, and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics and finance. The 18 semester hours (27 quarter hours) shall include no more than 6 semester hours (9 quarter hours) in one area.~~

(b) Subsequent to successful passage of the exam, the candidate, to be certified or licensed as a public accountant, must have graduated from a college or university accredited to offer a baccalaureate degree.

(2) A candidate who has a previously approved application for an exam administered prior to or in May 1996, is still current under the provisions of ARM 8.54.405, ~~but and will not~~ be required to meet the educational requirements of (1) above prior to certification or licensure.

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

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

COMMENT NO. 1: One comment was received stating the proposed rule changes will discourage applicants from sitting for the exam in Montana, although there are measurable economic benefits to the state and the city of Billings. The Billings community is willing to assist the Board in addressing logistical and support functions. The comment suggested that the Board change proposed rule ARM 8.54.408(1)(a) to delete the new phrase "to be approved to sit for the exam..."

RESPONSE: The Board noted that the administration of the exam is for the purpose of providing a licensure examination, and not to create an economic tool for any community or the state. The Board noted that Montana is currently the only U.S. state which does not require completion of educational requirements in advance of approval to sit for the licensing exam. Finally, the Board noted it is not safeguarding the public by allowing applicants to sit for the exam without the education qualifying them for licensure. The exam was not created, nor is it to be used for economic uses.

COMMENT NO. 2: Forty-nine comments were received stating the proposed rule ARM 8.54.408(1)(a) requiring a baccalaureate degree with a concentration in accounting (24 semester hours of accounting courses) is a sudden change which will affect career plans made some time ago for many applicants, before they first applied for the exam in Montana. The comments stated that it is unfair to change the educational requirement retroactively, or once the application has been approved, as many applicants planned to take the exam first, and meet the current lower educational requirements after passing the exam.

RESPONSE: The Board concurs with the comments and will change ARM 8.54.408(2) as shown above, to state the previously approved applicants will NOT be required to meet the new educational standards, but will be qualified under the previous rule standards.

COMMENT NO. 3: One comment was received stating the amended education and exam rule will cause the Board to lose a great deal of money, and the rules should therefore not be amended.

RESPONSE: The Board noted that it was not created, nor does it function as a money making or for-profit entity. See response to comment No. 1 above.

COMMENT NO. 4: Nine comments were received stating the Board should allow a period of time (a grace period) between the amendment date and the new policy effective date on the educational requirement changes to ARM 8.54.408, as this would be more fair to those already preparing under the old requirements.

RESPONSE: The Board concurs with the comment to the extent that it will not impose the new educational requirements on the current applicants. See response to comment NO. 2 above.

COMMENT NO. 5: Four comments were received stating there has been a recent movement toward globalization of public accountants, and the establishment of international standards for public accountants, but the Montana proposed rule amendments will reverse this trend and should not be adopted.

RESPONSE: The Board noted that Montana is the only state in the U.S. that currently allows applicants to take the exam without a degree requirement being met. This state is therefore adjusting its standards to meet the rest of the country, rather than moving away from the national standards. Montana will continue to accept foreign candidates, but they must meet the same qualifications as domestic candidates, and complete the educational requirements before they are approved to sit for the exam.

COMMENT NO. 6: One comment was received stating the proposed amendments are unclear as to whether those candidates who have already been approved and taken the exam in at least one administration of the exam would be able to continue to take the exam as next scheduled without meeting the new rule requirement, or would have to re-qualify or re-apply.

RESPONSE: The Board concurred and noted it will not impose the new educational requirements on currently approved applicants. See response to comment NO. 2 above.

COMMENT NO. 7: Three comments were received stating the proposed amendments are unnecessarily strict for the purpose of limiting the number of candidates. Montana could manage more than 500 people at each administration of the exam by using several sites. The proposed amendments are not necessary for security concerns either, as the Billings site was safe and had a low risk of cheating and other fraudulent acts.

RESPONSE: The Board noted that applicants could still be taking the exam to cheat without the Board's knowledge, as the sanctions for this practice are not too strict, but the rule changes would discourage this practice as far as possible. Additionally, the projected numbers of 3000 candidates by the November, 1997 exam administration would be prohibitive for this state and the Board's limited staff and other resources. Finally, the security concerns expressed by NASBA did cause the Board to initiate changes for approval of candidates and administration of the exam in Montana.

COMMENT NO. 8: Three comments were received stating many employers prefer that accounting graduates take the CPA exam before they begin working. Since many students currently graduate in the summer, the proposed rule at ARM 8.54.408 (1) (a) would prevent the student from taking the CPA exam in May of their last year of college. The Board should consider adopting modified language stating, "...or be in their final semester, or have 16 or less semester credits (24 quarter credits) to be taken in future semesters."

RESPONSE: The Board concurred with the comment and will amend the rule. The Board will delete the degree requirement for approval to sit for the exam entirely, and keep only the 24 semester accounting credits requirement. This will allow candidates not in their final semester toward the degree to sit for the exam immediately upon completion of the 24 semester accounting credits regardless of their actual date of graduation. The Board noted that national standards are moving toward requiring a degree BEFORE the candidate sits for the exam. However, the amendment will impose the same 24 semester accounting credits requirements on ALL applicants, and not single out or unfairly discriminate or favor any group of applicants. The 150 semester hour education requirement that will be effective in July of 1997 will change the Board's procedures, and create the need to re-examine the rule for possible imposition of a degree requirement in addition to the 150 semester hour credits at that time.

COMMENT NO.9: One comment was received stating the proposed amendments would exclude out-of-state candidates from taking the exam in Montana, with no evidence that out-of-state applicants are less well prepared than in-state applicants. MSU-Billings would be able to assist in the administration of the exam, but the amendments appear to target out-of-state students and foreign students as more likely to cause trouble, which is unfair.

RESPONSE: The Board does not agree with the comment, as the rules do not target out-of-state or foreign applicants for discriminatory treatment, but instead impose the same requirements on all applicants to be legitimate applicants with the knowledge and education to qualify to take the exam. The Board will expect all candidates to meet these requirements.

BOARD OF PUBLIC ACCOUNTANTS
JIM SMRCKA, 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, August 12, 1996.

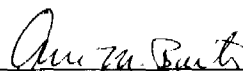
BEFORE THE CONSUMER AFFAIRS DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

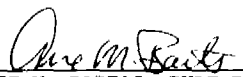
In the matter of the amendment	)	NOTICE OF AMENDMENT OF
and repeal of rules pertaining	)	8.78.202 REPAIRS, ESTIMATES
to the repair and servicing of	)	AND INVOICES, 8.78.301
automobiles, consumer reporting	)	DISCLOSURE FEES, 8.78.402
agencies, and the operation of	)	LICENSE-BOND REQUIREMENTS,
proprietary schools	)	8.78.403 LICENSE-GENERAL
	)	REGULATIONS, AND
	)	REPEAL OF 8.78.404 PERMIT-
	)	APPLICATION PROCEDURES,
	)	8.78.405 PERMIT-GENERAL
	)	REGULATIONS, 8.78.406
	)	VIOLATIONS

TO: All Interested Persons:

1. On May 23, 1996, the Department of Commerce published a notice of proposed amendment and repeal of the above-stated rules at page 1352, 1996 Montana Administrative Register, issue number 10.
2. The Division has amended and repealed the rules exactly as proposed.
3. No comments or testimony were received.

CONSUMER AFFAIRS DIVISION
ANNIE M. BARTOS, CHIEF COUNSEL

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


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW AND THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the transfer of) NOTICE OF TRANSFER
rules 16.8.101 through 16.8.2025,)
pertaining to air quality, and)
16.9.101 through 16.9.106,)
pertaining to air and water quality))
tax certification, with the)
exception of any repealed rules.)

(Air Quality)

To: All Interested Persons

1. Pursuant to Chapter 418, Laws of Montana 1995, effective July 1, 1995, the air quality division was transferred from the Department of Health and Environmental Sciences to the Department of Environmental Quality. In order to implement that legislation, ARM 16.8.101 through 16.8.2025, and 16.9.101 through 16.9.106, inclusive with the exception of any repealed rules, are transferred to the Department of Environmental Quality, ARM 17.8.101 through 17.8.1234, and 17.80.101 through 17.80.106. (Refer to 2-15-133, MCA).

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

OLD	NEW	
Sub-Chapter 1 -	Variance Procedures	<u>General Provisions</u>
16.8.101	<u>17.8.120</u>	<u>Variance Procedures--Initial</u>
		<u>Application</u>
16.8.102	<u>17.8.121</u>	<u>Variance Procedures--Renewal</u>
		<u>Application</u>
16.8.201	<u>17.8.130</u>	<u>Enforcement Procedures--Notice of</u>
		<u>Violation--Order to Take Corrective</u>
		<u>Action</u>
16.8.202	<u>17.8.131</u>	<u>Enforcement Procedures--Appeal to</u>
		<u>Board</u>
16.8.302	<u>17.8.140</u>	<u>Rehearing Procedures--Form and Filing</u>
		<u>of Petition</u>
16.8.303	<u>17.8.141</u>	<u>Rehearing Procedures--Filing</u>
		<u>Requirements</u>
16.8.304	<u>17.8.142</u>	<u>Rehearing Procedures--Board Review</u>
16.8.701	<u>17.8.101</u>	<u>Definitions</u>
16.8.704	<u>17.8.105</u>	<u>Testing Requirements</u>
16.8.705	<u>17.8.110</u>	<u>Malfunctions</u>
16.8.707	<u>17.8.111</u>	<u>Circumvention</u>
16.8.708	<u>17.8.103</u>	<u>Incorporations By Reference</u>
16.8.709	<u>17.8.106</u>	<u>Source Testing Protocol</u>
16.8.710	<u>17.8.102</u>	<u>Incorporation by Reference--</u>
		<u>Publication Dates and Availability of</u>
		<u>Referenced Documents</u>

Sub-Chapter 2 - Ambient Air Quality

16.8.806	<u>17.8.201</u>	<u>Definitions</u>
16.8.807	<u>17.8.204</u>	<u>Ambient Air Monitoring</u>

16.8.808	<u>17.8.205</u>	Enforceability
16.8.809	<u>17.8.206</u>	Methods and Data
16.8.811	<u>17.8.212</u>	Ambient Air Quality Standards for Carbon Monoxide
16.8.813	<u>17.8.230</u>	Fluoride in Forage
16.8.814	<u>17.8.214</u>	Ambient Air Quality Standard for Hydrogen Sulfide
16.8.815	<u>17.8.222</u>	Ambient Air Quality Standard for Lead
16.8.816	<u>17.8.211</u>	Ambient Air Quality Standards for Nitrogen Dioxide
16.8.817	<u>17.8.213</u>	Ambient Air Quality Standard for Ozone
16.8.818	<u>17.8.220</u>	Ambient Air Quality Standard for Settled Particulate Matter
16.8.820	<u>17.8.210</u>	Ambient Air Quality Standards for Sulfur Dioxide
16.8.821	<u>17.8.223</u>	Ambient Air Quality Standard for PM-10
16.8.822	<u>17.8.221</u>	Ambient Air Quality Standard for Visibility
16.8.823	<u>17.8.202</u>	Incorporation by Reference

Sub-Chapter 9 8 - Prevention of Significant Deterioration of Air Quality

16.8.945	<u>17.8.801</u>	Definitions
16.8.946	<u>17.8.802</u>	Incorporations By Reference
16.8.947	<u>17.8.804</u>	Ambient Air Increments
16.8.948	<u>17.8.805</u>	Ambient Air Ceilings
16.8.949	<u>17.8.806</u>	Restrictions on Area Classifications
16.8.950	<u>17.8.807</u>	Exclusions From Increment Consumption
16.8.951	<u>17.8.808</u>	Redesignation
16.8.952	<u>17.8.809</u>	Stack Heights
16.8.953	<u>17.8.818</u>	Review of Major Stationary Sources and Major Modifications--Source
		Applicability and Exemptions
16.8.954	<u>17.8.819</u>	Control Technology Review
16.8.955	<u>17.8.820</u>	Source Impact Analysis
16.8.956	<u>17.8.821</u>	Air Quality Models
16.8.957	<u>17.8.822</u>	Air Quality Analysis
16.8.958	<u>17.8.823</u>	Source Information
16.8.959	<u>17.8.824</u>	Additional Impact Analyses
16.8.960	<u>17.8.825</u>	Sources Impacting Federal Class I Areas--Additional Requirements
16.8.961	<u>17.8.826</u>	Public Participation
16.8.962	<u>17.8.827</u>	Source Obligation
16.8.963	<u>17.8.828</u>	Innovative Control Technology

Sub-Chapter 10 11 - Visibility Impact Assessment

16.8.1001	<u>17.8.1103</u>	Applicability--Visibility Requirements
16.8.1002	<u>17.8.1101</u>	Definitions
16.8.1003	<u>17.8.1106</u>	Visibility Impact Analysis
16.8.1004	<u>17.8.1107</u>	Visibility Models
16.8.1005	<u>17.8.1108</u>	Notification of Permit Application
16.8.1006	<u>17.8.1102</u>	Adverse Impact and Federal Land Manager
16.8.1007	<u>17.8.1110</u>	Visibility Monitoring
16.8.1008	<u>17.8.1111</u>	Additional Impact Analysis
16.8.1009	<u>17.8.1102</u>	Incorporation by Reference

Sub-Chapter 11 7 - Permit, Construction and Operation of Air Contaminant Sources

16.8.1101	<u>17.8.701</u>	Definitions
16.8.1102	<u>17.8.705</u>	When Permit Required--Exclusions
16.8.1103	<u>17.8.715</u>	Emission Control Requirements
16.8.1105	<u>17.8.706</u>	New or Altered Sources and Stacks-- Permit Application Requirements
16.8.1107	<u>17.8.720</u>	Public Review of Permit Applications
16.8.1109	<u>17.8.710</u>	Conditions for Issuance of Permit
16.8.1110	<u>17.8.730</u>	Denial of Permit
16.8.1111	<u>17.8.731</u>	Duration of Permit
16.8.1112	<u>17.8.732</u>	Revocation of Permit
16.8.1113	<u>17.8.733</u>	Modification of Permit
16.8.1114	<u>17.8.734</u>	Transfer of Permit
16.8.1115	<u>17.8.716</u>	Inspection of Permit
16.8.1117	<u>17.8.717</u>	Compliance with Other Statutes and Rules
16.8.1118	<u>17.8.707</u>	Waivers
16.8.1119	<u>17.8.704</u>	General Procedures for Air Quality Preconstruction Permitting
16.8.1120	<u>17.8.702</u>	Incorporation by Reference
16.8.1121	<u>17.8.708</u>	Notification of Emissions Increase

Sub-Chapter 12 4 - Stack Heights and Dispersion Techniques

16.8.1204	<u>17.8.401</u>	Definitions
16.8.1205	<u>17.8.402</u>	Requirements
16.8.1206	<u>17.8.403</u>	Exemptions

Sub-Chapter 13 6 - Open Burning

16.8.1301	<u>17.8.601</u>	Definitions
16.8.1302	<u>17.8.604</u>	Prohibited Open Burning--When Permit Required
16.8.1303	<u>17.8.606</u>	Minor Open Burning Source Requirements
16.8.1304	<u>17.8.610</u>	Major Open Burning Source Restrictions
16.8.1305	<u>17.8.605</u>	Special Burning Periods
16.8.1306	<u>17.8.615</u>	Firefighter Training
16.8.1307	<u>17.8.612</u>	Conditional Air Quality Open Burning Permits
16.8.1308	<u>17.8.611</u>	Emergency Open Burning Permits
16.8.1309	<u>17.8.613</u>	Christmas Tree Waste Open Burning Permits
16.8.1310	<u>17.8.614</u>	Commercial Film Production Open Burning Permits
16.8.1311	<u>17.8.602</u>	Incorporation by Reference

Sub-Chapter 14 3 - Emission Standards

16.8.1401	<u>17.8.308</u>	Particulate Matter, Airborne
16.8.1402	<u>17.8.309</u>	Particulate Matter, Fuel Burning Equipment
16.8.1403	<u>17.8.310</u>	Particulate Matter, Industrial Processes
16.8.1404	<u>17.8.304</u>	Visible Air Contaminants
16.8.1406	<u>17.8.316</u>	Incinerators
16.8.1407	<u>17.8.320</u>	Wood-Waste Burners
16.8.1411	<u>17.8.322</u>	Sulfur Oxide Emissions--Sulfur in Fuel
16.8.1412	<u>17.8.323</u>	Sulfur Oxide Emissions--Primary Copper

		Smelters
16.8.1413	<u>17.8.321</u>	Sulfur Emissions --Kraft Pulp Mills
16.8.1423	<u>17.8.340</u>	Standard of Performance for New Stationary Sources
16.8.1424	<u>17.8.341</u>	Emission Standards for Hazardous Air Pollutants
16.8.1425	<u>17.8.324</u>	Hydrocarbon Emissions--Petroleum Products
16.8.1426	<u>17.8.325</u>	Motor Vehicles
16.8.1427	<u>17.8.315</u>	Odors
16.8.1428	<u>17.8.326</u>	Prohibited Materials for Wood or Coal Residential Stoves
16.8.1429	<u>17.8.302</u>	Incorporations by Reference
16.8.1430	<u>17.8.301</u>	Definitions
16.8.1431	<u>17.8.342</u>	Emission Standards for Hazardous Air Pollutants for Source Categories
16.8.1501	<u>17.8.330</u>	<u>Emission Standards for Existing Aluminum Plants--Definitions</u>
16.8.1502	<u>17.8.331</u>	<u>Emission Standards for Existing Aluminum Plants--Standards for Fluoride</u>
16.8.1503	<u>17.8.332</u>	<u>Emission Standards for Existing Aluminum Plants--Standard for Visible Emissions</u>
16.8.1504	<u>17.8.333</u>	<u>Emission Standards for Existing Aluminum Plants--Monitoring and Reporting</u>
16.8.1505	<u>17.8.334</u>	<u>Emission Standards for Existing Aluminum Plants--Startup and Shutdown</u>

Sub-Chapter ~~17~~ 9 - Permit Requirements for Major Stationary Sources or Major Modifications Located Within Nonattainment Areas

16.8.1701	<u>17.8.901</u>	Definitions
16.8.1702	<u>17.8.902</u>	Incorporations by Reference
16.8.1703	<u>17.8.904</u>	When Air Quality Preconstruction Permit Required
16.8.1704	<u>17.8.905</u>	Additional Conditions of Air Quality Preconstruction Permit
16.8.1705	<u>17.8.906</u>	Baseline for Determining Credit for Emissions and Air Quality Offsets

Sub-Chapter ~~18~~ 10 - Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Located Within Attainment or Unclassified Areas

16.8.1801	<u>17.8.1001</u>	Definitions
16.8.1802	<u>17.8.1002</u>	Incorporation by Reference
16.8.1803	<u>17.8.1004</u>	When Air Quality Preconstruction Permit Required
16.8.1804	<u>17.8.1005</u>	Additional Conditions of Air Quality Preconstruction Permit
16.8.1805	<u>17.8.1006</u>	Review of Specified Sources for Air Quality Impact
16.8.1806	<u>17.8.1007</u>	Baseline for Determining Credit for Emissions and Air Quality Offsets

Sub-Chapter 19 5 - Air Quality Permit Application, Operation, and Open Burning Fees

16.8.1901	<u>17.8.501</u>	Definitions
16.8.1902	<u>17.8.510</u>	Annual Review
16.8.1903	<u>17.8.505</u>	Air Quality Operation Fees
16.8.1905	<u>17.8.504</u>	Air Quality Permit Application Fees
16.8.1906	<u>17.8.511</u>	Air Quality Permit
		Application/Operation Fee Assessment
		Appeal Procedures
16.8.1907	<u>17.8.514</u>	Air Quality Open Burning Fees
16.8.1908	<u>17.8.515</u>	Air Quality Open Burning Fees for Conditional, Emergency, Christmas Tree Waste, and Commercial Film Production Open Burning Permits

Sub-Chapter 20 12 - Operating Permit Program

16.8.2001	<u>17.8.1203</u>	Air Quality Operating Permit Program Overview
16.8.2002	<u>17.8.1201</u>	Definitions
16.8.2003	<u>17.8.1202</u>	Incorporations By Reference
16.8.2004	<u>17.8.1204</u>	Air Quality Operating Permit Program Applicability
16.8.2005	<u>17.8.1205</u>	Requirements for Timely and Complete Air Quality Permit Applications
16.8.2006	<u>17.8.1206</u>	Information Required for Air Quality Operating Permit Applications
16.8.2007	<u>17.8.1207</u>	Certification of Truth, Accuracy, and Completeness
16.8.2008	<u>17.8.1210</u>	General Requirements for Air Quality Operating Permit Content
16.8.2009	<u>17.8.1211</u>	Requirements for Air Quality Operating Permit Content Relating to Emission Limitations and Standards, and Other Requirements
16.8.2010	<u>17.8.1212</u>	Requirements for Air Quality Operating Permit Content Relating to Monitoring, Recordkeeping, and Reporting
16.8.2011	<u>17.8.1213</u>	Requirements for Air Quality Operating Permit Content Relating to Compliance
16.8.2012	<u>17.8.1214</u>	Requirements for Air Quality Operating Permit Content Relating to the Permit Shield and Emergencies
16.8.2013	<u>17.8.1215</u>	Requirements for Air Quality Operating Permit Content Relating to the Operational Flexibility
16.8.2014	<u>17.8.1220</u>	Air Quality Operating Permit Issuance, Renewal, Reopening and Modification
16.8.2015	<u>17.8.1221</u>	Operation Without an Air Quality Operating Permit and Application Shield
16.8.2016	<u>17.8.1222</u>	General Air Quality Operating Permits
16.8.2017	<u>17.8.1223</u>	Temporary Air Quality Operating Permits
16.8.2018	<u>17.8.1224</u>	Additional Requirements for Operational Flexibility and Air Quality Operating Permit Changes That

		Do Not Require Revisions
16.8.2019	<u>17.8.1225</u>	Additional Requirements for Air Quality Operating Permit Amendments
16.8.2020	<u>17.8.1226</u>	Additional Requirements for Minor Air Quality Operating Permit Modifications
16.8.2021	<u>17.8.1227</u>	Additional Requirements for Significant Air Quality Operating Permit Modifications
16.8.2022	<u>17.8.1228</u>	Additional Requirements for Air Quality Operating Permit Revocation, Reopening and Revision for Cause
16.8.2023	<u>17.8.1231</u>	Notice of Termination, Modification, or Revocation and Reissuance by the Administrator for Cause
16.8.2024	<u>17.8.1232</u>	Public Participation
16.8.2025	<u>17.8.1233</u>	Permit Review by the Administrator and Affected States
16.8.2026	<u>17.8.1234</u>	Acid Rain--Permit Regulation

Chapter 9 80 - Air and Water Quality--Tax Certification
Sub-Chapter 1 - Tax Certification for Pollution Control Equipment

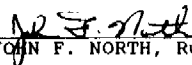
16.9.101	<u>17.80.101</u>	Definitions
16.9.102	<u>17.80.102</u>	Application for Certification as Air or Water Pollution Equipment
16.9.103	<u>17.80.103</u>	Eligibility Criteria
16.9.104	<u>17.80.104</u>	Apportionment Procedures
16.9.105	<u>17.80.105</u>	Compliance
16.9.106	<u>17.80.106</u>	Informal Conference

3. The transfer of rules 16.8.101 through 16.8.2025 and 16.9.101 through 16.9.106 is necessary because the Department of Health and Environmental Sciences was eliminated by Chapter 418, Laws of Montana 1995 and the air quality functions exercised by that agency were assumed by the Department of Environmental Quality.


MARK A. SIMONICH, Director
Department of Environmental Quality


CINDY E. YOUNKIN, Chairperson
Board of Environmental Review

Reviewed by:


JOHN F. NORTH, Rule Reviewer

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF
rules 16.8.1101, 1105 and 1120)	AMENDMENT OF RULES
adding human health risk assessment)	
to the preconstruction permit)	
application requirements for)	
incinerators.)	

(Air Quality)

To: All Interested Persons

1. On April 25, 1996, the board published notice of the proposed amendments at page 1026 of the Montana Administrative Register, Issue No. 8.

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

16.8.1101 DEFINITIONS Same as proposed.

16.8.1105 NEW OR ALTERED SOURCES AND STACKS--PERMIT APPLICATION REQUIREMENTS Same as proposed.

16.8.1120 INCORPORATION BY REFERENCE (1) Same as proposed.

(2) ~~{New Rule I in MAR Notice 17-022} lists the addresses for obtaining copies of the above-referenced materials. A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., PO Box 200901, Helena, MT 59620-0901.~~

(3) Copies of federal materials also may be obtained from EPA's Public Information Reference Unit, 401 M Street SW, Washington DC 20460, and at the libraries of each of the 10 EPA Regional Offices.

(4) Copies of the CFR may be obtained from the Superintendent of Documents, US Government Printing Office, Washington DC 20402.

3. A public hearing was held on June 21, 1996, on the proposed amendments. Comments on the proposed amendments are summarized below and the board's responses follow:

Summary of Comments: At the board hearing, in addition to three representatives of the department, eight persons testified. Tony Tweedale testified as neither supporting or opposing the proposed rulemaking. Dr. Wade Sikorski testified in opposition to the proposed rulemaking. He proposed that all existing background risk be included in the risk analysis and that the department be given authority to require alternative methods, other than incineration, for treatment of waste.

Dexter Busby, of Montana Refining, Inc., Don Quander, representing Stone Container Corporation and Exxon Corporation, Gail Abercrombie, of the Montana Petroleum Association, and Sarah Merrill, of Montanans Against Toxic Burning, expressed qualified support for the proposed rulemaking.

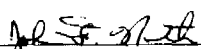
Ann Hedges, of the Montana Environmental Information Center (MEIC), proposed three amendments. MEIC proposed that the department be given authority to place conditions in a preconstruction permit necessary to mitigate environmental risk, that the allowable excess cancer lifetime risk level should be lowered to 10^{-6} , for the sum of all pollutants, and that existing facilities that construct or modify an incinerator subject to 75-2-215, MCA, be required to include risk from existing emissions sources at the facility in the human health risk analysis.


Don Quander submitted supplemental written comments for Stone Container after the hearing. He stated that Stone Container is not completely satisfied with the proposed negligible risk rule, but that Stone Container supports the proposed rulemaking as a compromise. He stated that Stone Container would not support the proposed rulemaking with the amendments proposed by MEIC.

Board's Response to Comments: The department already has authority to impose permit conditions to prevent injury to plant and animal life and property. Risk standards applied in other states vary from 10^{-4} to 10^{-7} . The proposed rulemaking was developed by the department and interested and affected groups through compromise and consensus. The standard of 10^{-6} , for individual pollutants, and 10^{-5} , for the sum of all pollutants, is within the range of standards applied in other states and adequately protects public health. The intent of the statute being implemented, 75-2-215, MCA, is to limit the additional risk posed by construction of new incinerators and modification of existing incinerators, rather than requiring a health risk assessment of existing emissions at an existing facility. The department is required to conduct an environmental assessment, or prepare an environmental impact statement, under the Montana Environmental Policy Act (MEPA), regarding any application for an air quality preconstruction permit, including a permit to construct or modify an incinerator. The department already has authority under MEPA to consider alternatives to incineration. The rule, as proposed, will ensure that emissions and ambient concentrations from new or modified incinerators, subject to 75-2-215, MCA, constitute a negligible risk to the public health, safety, and welfare and to the environment.

4. To provide greater notice to the public regarding locations for obtaining copies of documents incorporated by reference in the subchapter, and for consistency with other recent air quality rulemaking, the board added language to ARM 16.8.1120(2) and added subsections (3) and (4).

BOARD OF ENVIRONMENTAL REVIEW


JOHN F. NORTH,
Rule Reviewer


CINDY E. BOUNKIN, Chairperson

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
rules 16.8.1102 and 16.8.1113 and) ADOPTION OF RULES
adoption of new rule I, allowing)
existing facilities flexibility to)
make minor changes without)
revising their air quality)
preconstruction permits.)

(Air Quality)

To: All Interested Persons

1. On July 3, 1996, the board published notice of proposed amendment and adoption of the above-referenced rules at page 1772 of the 1996 Montana Administrative Register, Issue No. 13.

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

16.8.1102 WHEN PERMIT REQUIRED--EXCLUSIONS Same as proposed.

16.8.1113 MODIFICATION OF PERMIT (1) An air quality permit may be modified for the following reasons:

(a) and (b) Same as proposed.
(c) changes made under ARM 16.8.1102(1)(q) that would violate an existing condition in the air quality preconstruction permit. ~~Upon request of the permittee, conditions~~ Conditions in the air quality preconstruction permit concerning control equipment specifications, operational procedures, or testing, monitoring, record keeping, or reporting requirements may be revised, ~~at the department's discretion~~ modified if the modifications do not violate any applicable requirement of any statute, rule or the state implementation plan. Conditions in the air quality preconstruction permit establishing emission limits, or production limits in lieu of emission limits, may not be changed or added under this rule.

(2) Same as proposed.

NEW RULE I [16.8.1121] NOTIFICATION OF EMISSIONS INCREASE
Same as proposed.

3. On July 29, 1996, hearing officer Timothy Fox conducted a public hearing on the proposed actions. At the hearing, several persons testified in support of the proposed amendments and one person testified in opposition. The comments on the proposed amendments are summarized below, followed by the Board's responses to comments that suggested further amendments or opposed the proposed rulemaking:

Comment: Chuck Homer, air quality specialist for the Department,

testified that the Environmental Protection Agency (EPA) proposed to him that ARM 16.8.1113(1)(c) be further amended to clarify that the Department has discretion to modify a permit only if the modification does not violate any applicable requirement of any statute or rule or the state implementation plan. Mr. Homer testified that the Department was not opposed to this proposed amendment.

Board Response: The Board accepted EPA's proposed clarification, which is incorporated above.

Comment: Mr. Homer testified that Jim Carlson, of the Missoula City-County Health Department, commented to him that Mr. Carlson's department opposed the proposed rulemaking on the basis that it might lead to "emissions creep" and might jeopardize the control plans for nonattainment areas. Mr. Homer testified that it is possible that the proposed rulemaking could contribute to emissions creep but that, under the current rules, emissions creep is also possible from facilities having a potential to emit that is under the limit requiring an air quality permit.

Board Response: The Board recognizes that, under the proposed amendments, increases in emissions may occur, from facilities holding air quality permits, without permit review, and that those increases could impact nonattainment areas, as well as attainment areas. Any de minimis level for permitting, allows increases in emissions without the permit review process. Under House Joint Resolution No. 22, the legislature directed the Department to propose a de minimis level for physical changes that do not require revision of a facility's air quality permit. Currently, the air quality permit rules require a permit for construction of a new facility when potential emissions exceed 25 tons per year. The current rules also require a permit to increase particulate emissions by 15 or more tons per year under federal rules. Therefore, a reasonable range of potential emissions for a general de minimis level is between 1 and 15 tons per year. The proposed de minimis level is within that range. If a facility increases its emissions in a manner that causes or contributes to an ambient air quality violation, the Department is required to develop a control plan to reduce emissions from the facility. Therefore, facilities have an incentive to ensure that any emissions increases do not cause or contribute to an ambient air quality violation.

Comment: Mr. Homer testified that Williston Basin Interstate Pipeline Company had submitted written comments, stating that the term "alteration" should be defined, that the exemption from the permit requirement for de minimis alterations should not be limited to facilities currently holding an air quality permit and that the proposed amendments should be clarified to specify that like-kind replacement of equipment is covered under the exemption for de minimis construction and changed conditions of operation. Mr. Homer testified that the Department is currently working with the Clean Air Act Advisory Committee on a comprehensive

revision of the air quality preconstruction permit rules and that the Department intends to propose a definition of "alteration" as part of that proposed rulemaking. He testified that the Department opposes extending the permit revision exemption for de minimis alterations to facilities not holding an air quality permit because those facilities are not inspected as regularly as facilities holding a permit and expanding the exemption would impair the Department's ability to enforce applicable requirements. Mr. Homer testified that the Department intended for the proposed permit exemption language for de minimis alterations to include like-kind replacement of equipment and that the Department does not believe any further amendments are necessary to clarify this issue.

Board Response: Defining the terms "alter" and "alteration," as used in ARM 16.8.1102, and extending the exemption to facilities not holding an air quality permit are outside the scope of the proposed amendments in the published public notice of proposed rulemaking. The Board will consider defining the terms "alter" and "alteration" when a proposal has been submitted to the Board. The Board agrees with the Department that extending the permit exemption to facilities not holding an air quality permit could make it more difficult for the Department to enforce applicable requirements. The Board intends for the present amendments to exempt like-kind replacement of equipment from the permit revision requirement, subject to the same conditions applicable to other construction or changed conditions of operation, and the Board does not believe that any further amendments to the proposed language are necessary.

Comment: Scott Mitchell, attorney for Louisiana Pacific Corporation, Holly Sugar Corporation, Exxon Company, U.S.A., Stillwater Mining Company, Stone Container Corporation and ASARCO Incorporated, testified and submitted written testimony, stating that the present rules make preconstruction permitting very expensive for industry and the department and cause delays for changes even when those changes do not adversely affect air quality. He stated that new sources of less than 25 tons per year are already exempt under the current rules, even if located in a nonattainment area. Mr. Mitchell stated that the proposed amendments require facilities to annually report any actual increase in emissions. He testified that the proposed amendments are the result of many meetings and drafts by the Clean Air Act Advisory Committee, and that the companies he represents support the proposed amendments, with the revisions suggested by EPA.

Comment: Dexter Busby, of the Montana Refining Company, offered qualified support for the proposed amendments. He testified as a proponent, but stated that the baseline in the proposed amendments will make air quality permitting more complex. He stated that he encourages the Department to rewrite the permitting rules in their entirety.

Comment: Leif Griffin, environmental engineer for Stone

Container Corporation, testified and submitted written testimony in support of the proposed amendments, stating that earlier this year it took Stone 60 days to obtain a preconstruction permit to modify the scrubber system on Stone's No. 4 smelt dissolving tank, which is expected to decrease particulate emissions by 9 tons per year. He stated that the permit process was expensive for Stone and the Department and that, if there had been any delays in the permit process, Stone would not have been able to implement the project during the planned annual outage, resulting in additional costs to Stone.

Comment: Don Allen testified, and submitted written testimony, on behalf of the Montana Wood Products Association. He stated that some members of the association would have liked the permit alteration limit to have been set at 25 tons per year, rather than 15 tons, but that the association supports the proposed amendments as a good compromise.

Comment: Cesar Hernandez, representing the Cabinet Resource Group, testified neither as an opponent or as a proponent. He stated that he was not certain that he actually opposed the proposed amendments but that he had several concerns. He stated that he did not understand the exceptions or the provision giving the Department discretion to modify the conditions of an existing permit. He stated that he wondered if the exceptions in the proposed amendments would allow major industrial facilities to adversely affect the Class I air quality in the Cabinet Mountains Wilderness. He also testified that he had questions as to whether the proposed amendments would reduce public input in the permit process.

Chuck Homer responded to Mr. Hernandez's oral comments. Mr. Homer stated that the exceptions in the proposed amendments are exceptions to allowing an alteration without a permit revision. He testified that the exceptions make the rule more stringent, rather than less stringent. Mr. Homer reiterated that the proposed amendments would prohibit a facility from artificially splitting up alterations into small projects to avoid the permit alteration process. He stated, for example, a facility could not construct a boiler and the support equipment for the boiler as separate projects.

After the hearing, Mr. Hernandez submitted written comments. He stated that the 15 ton limit for the exemption is too large and too unspecific. He asked whether, in the mining context, the 15 ton limit would apply to individual pollutants such as iron, copper and arsenic or whether the limit would apply to total emissions. Mr. Hernandez also asked whether the 15 ton limit would allow a doubling of potential emissions in a Class I area and allow a perpetual state of construction and permit modifications, without testing, monitoring and reporting requirements and without public review. He stated that the proposed amendments could be more stringent.

Board Response: As Mr. Homer testified, the exceptions in the proposed amendments are exceptions to allowing a facility to

conduct construction or to modify its operation without applying for a revision to its air quality permit. These exceptions make the proposed amendments more stringent than they would be without the exceptions, rather than less stringent.

The proposed amendments will eliminate public input for de minimis alterations not requiring a permit. However, the current rules do not provide for public input when a proposed new facility does not have the potential to emit more than 25 tons per year of any pollutant. The proposed amendments require a permit, and public review, for an alteration at a permitted facility that has the potential to increase emissions by more than 15 tons per year.

The Board's response to the concern regarding impact on Class I air quality areas is the same as the Board's response above regarding the potential impact on nonattainment areas. Additionally, any increases in emissions in Class I and other attainment areas will be added to the baseline of existing emissions that must be considered when a facility submits an application to construct a major facility or major modification in those areas.

The 15 ton limit applies to individual pollutants regulated under the air quality rules. Emissions from a mining tailings pile would be regulated as particulate. Under the proposed amendments, a permit revision would not be required for a mine to conduct construction, or change the conditions of its operation, in a manner that would increase particulate emissions by 15 or fewer tons per year.

The proposed amendments would allow facilities to increase emissions without applying for a permit revision, as long as the facilities meet the requirements of the rules. Theoretically, over time, a facility could double its potential emissions and these emissions could impact a Class I area. Because of the 15 ton limit on alterations not requiring a permit revision, the increase in potential emissions allowed under the proposed amendments without a permit revision would be smaller for larger facilities, relative to current emissions, than the increase would be for smaller facilities.

By exempting de minimis activities from the air quality permit requirement, the proposed amendments would not impose any new or additional testing, monitoring or reporting requirements for potential emissions resulting from those activities, beyond any testing, monitoring or reporting requirements that might already exist in the facility's permit.

BOARD OF ENVIRONMENTAL REVIEW

Cindy E. Junkin

CINDY E. JUNKIN, Chairperson

Reviewed by:

John F. North
JOHN F. NORTH, Rule Reviewer

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF
rule 16.8.1429, and the adoption)	AMENDMENT AND
of new rule I adopting federal)	ADOPTION OF RULES
regulations for the administration)	
of maximum achievable control)	
technology standards)	(Air Quality)

To: All Interested Persons

1. On April 25, 1996, the board published notice of the proposed amendment of ARM 16.8.1429 and the adoption of new rule I at page 1024 of the Montana Administrative Register, Issue No. 8.

2. The rule was amended as proposed, with the following changes (new material is underlined; material to be deleted is interlined):

16.8.1429 INCORPORATION BY REFERENCE (1) Same as proposed.

(2) ~~{New Rule I in MAR Notice 17-022} lists the addresses for obtaining copies of the above-referenced materials. A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., PO Box 200901, Helena, MT 59620-0901.~~

(3) Copies of federal materials also may be obtained from EPA's Public Information Reference Unit, 401 M Street SW, Washington DC 20460, and at the libraries of each of the 10 EPA Regional Offices.

(4) Copies of the CFR may be obtained from the Superintendent of Documents, US Government Printing Office, Washington DC 20402.

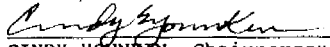
NEW RULE I [16.8.1431] EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES Adopted as proposed.

3. No comments were received but the board added language to ARM 16.8.1429 to clarify where public access to the documents being incorporated was available.

Reviewed by

BOARD OF ENVIRONMENTAL REVIEW


JOHN F. NORTH,
Rule Reviewer


CINDY YOUNKIN, Chairperson

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF
rules I-IX incorporating federal) ADOPTION OF RULES
transportation conformity rules)
and adopting interagency)
consultation procedures.)
(Air Quality)

To: All Interested Persons

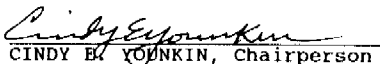
1. On July 3, 1996, the board published notice of the proposed adoption of the above-referenced rules at page 1775 of the Montana Administrative Register, Issue No. 13.

2. The board adopted the rules as proposed with no changes. The rules will be numbered as follows:

RULE I [17.8.1301] DEFINITIONS
RULE II [17.8.1302] INCORPORATIONS BY REFERENCE
RULE III [17.8.1304] DETERMINING CONFORMITY OF
TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS TO STATE OR
FEDERAL IMPLEMENTATION PLANS
RULE IV [17.8.1305] CONSULTATION REQUIREMENTS:
APPLICABILITY
RULE V [17.8.1306] CONSULTATION PROCEDURES
RULE VI [17.8.1310] SPECIAL ISSUES
RULE VII [17.8.1311] NOTICE REQUIREMENTS FOR NON-
FHWA/FTA PROJECTS
RULE VIII [17.8.1312] CONFLICT RESOLUTION
RULE IX [17.8.1313] PUBLIC CONSULTATION PROCEDURES

3. A public hearing was held on July 29, 1996, on the proposed adoption. No adverse comments were received. There were two proponents, DEQ and Montana Department of Transportation, that testified at the hearing.

BOARD OF ENVIRONMENTAL REVIEW


CINDY E. YOUNKIN, Chairperson

Reviewed by:


JOHN F. NORTH, Rule Reviewer

Certified to the Secretary of State August 12, 1996.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF ADOPTION
amendments to rules on import-	)	AMENDMENT, AND REPEAL
ation of animals and semen)	
into Montana; brucellosis;)	
tuberculosis; poultry; animal)	
identifications; control of)	
biologics; rendering plants;)	
vehicles and equipment; and)	
animal health requirements for)	
livestock markets; and adoption)	
of new rules as they relate to)	
importation of animals and)	
semen into Montana and)	
tuberculosis; and repeal of)	
rule 32.3.407B as it relates)	
to brucellosis; and rule)	
32.3.602 as it relates to)	
official tuberculin tests.)	

TO: ALL INTERESTED PERSONS:

1. On July 3, 1996, the board of livestock published notice of the proposed adoption of new rules I-III concerning importation of animals into Montana and tuberculosis; amendments to rules 32.3.201, 32.3.210, 32.3.212, 32.3.214, 32.3.215, 32.3.216, 32.3.218, 32.3.219, 32.3.220, 32.3.221, 32.3.225, 32.3.401, 32.3.403, 32.3.407A, 32.3.418, 32.3.601, 32.3.607, 32.3.2001, 32.3.2301, 32.6.1103, and 32.15.204 concerning importation of animals and semen into Montana, brucellosis, tuberculosis, poultry, animal identifications, control of biologics, rendering plants, vehicles and equipment, and animal health requirements for livestock markets; and repeal of rules 32.3.407B and 32.3.602 concerning brucellosis and official tuberculin tests. Notice was published at page 1803 of the 1996 Administrative Register, issue no. 13, as MAR NOTICE 32-3-133.

2. The board has adopted new rule I (32.3.212B), rule II (32.3.226) and rule III (32.3.602A) as proposed.
AUTH: 81-22-102, MCA
IMP: 81-22-102, MCA

3. The board has amended rules 32.3.201, 32.3.210, 32.3.212, 32.3.214, 32.3.215, 32.3.216, 32.3.218, 32.3.219, 32.3.220, 32.3.221, 32.3.225, 32.3.401, 32.3.403, 32.3.407A, 32.3.418, 32.3.601, 32.3.607, 32.3.2001, 32.3.2301, 32.6.1103, and 32.15.204 as proposed.
AUTH: 81-22-102, MCA
IMP: 81-22-102, MCA

4. The board has repealed rules 32.3.407B and 32.3.602 as proposed.

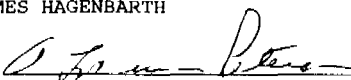
AUTH: 81-22-102, MCA

IMP: 81-22-102, MCA

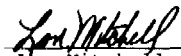
5. No comments or testimony were received.

BOARD OF LIVESTOCK
JAMES HAGENBARTH

By:


A. Laurence Petersen, Exec.
Officer, Board of Livestock

By:


Lon Mitchell, Rule Reviewer
Livestock Chief Legal Counsel

Certified to the Secretary of State August 12, 1996.

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

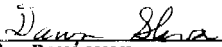
In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of rule 11.14.605	)	RULE
pertaining to income)	
eligibility and copayments)	
for day care.)	
)	

TO: All Interested Persons

1. On July 3, 1996, the Department of Public Health and Human Services published notice of the proposed amendment of rule 11.14.605 pertaining to income eligibility and copayments for day care at page 1824 of the 1996 Montana Administrative Register, issue number 13.

2. The Department has amended 11.14.605 INCOME ELIGIBILITY AND COPAYMENTS as proposed.

3. No written comments or testimony were received.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State August 12, 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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- 2.6.101 Insurance Requirements for Independent Contractors, p. 705
2.11.101 and other rule - Solicitation - Access Limitations, p. 1, 544
2.21.507 Jury Duty and Witness Leave, p. 2313, 131
2.21.1101 and other rules - The Education and Training Policy, p. 2317, 132
2.21.1201 and other rules - Personnel Policy, p. 945, 1635
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2.21.1802 and other rules - Exempt Compensatory Time, p. 2546, 405

- 2.21.3006 Decedent's Warrants, p. 2319, 136
- 2.21.3703 and other rules - Recruitment and Selection, p. 2553, 406
- 2.21.3901 and other rules - The Employee Exchange/Loan Policy, p. 2315, 137
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- 2.43.808 Mailing Information on Behalf of Non-profit Organizations, p. 481

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- 2.51.307 Orders of the Board, p. 703, 1295

(State Compensation Insurance Fund)

- I and other rule - Policy Charge - Minimum Yearly Premium, p. 1067, 1792
- 2.55.321 and other rules - Premium Rate Setting, p. 2558, 410
- 2.55.408 Retrospective Rating Plans, p. 1770

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- I and other rule - Spread of Late Blight Disease of Potatoes - Civil Penalties - Matrix, p. 3, 900
- I-XVI Preventing the Introduction of Noxious Weed Seeds from Forage in the State, p. 830, 1361
- 4.3.401 and other rules - Registration Requirements - Applicator Classifications and Requirements - Student Loans - Wheat and Barley Food and Fuel Grants - Restriction of Pesticide Rules - Endrin - 1080 Livestock Protection Collars - Registration and Use of M-44 Sodium Cyanide Capsules and M-44 Devices - Rodenticide Surcharge and Grants - Montana Agricultural Loan Authority - Agriculture Incubator Program, p. 2714, 545, 667
- 4.9.101 and other rules - Wheat and Barley Committee Rules, p. 1343, 1826
- 4.12.1428 Assessment Fees on All Produce, p. 2712, 546
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- I Supervision, Rehabilitation and Liquidation of State Regulated Employer Groups, p. 1470, 2134, 2468

- I-IV Long Term Care - Standards for Marketing - Appropriate Sale Criteria - Nonforfeiture Requirements - Forms, p. 1729, 2242, 143
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- 6.6.3801 Updating References to the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 ed., p. 1348, 1827
- 6.6.8301 Updating References to the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 ed., p. 866, 1372
- 6.6.8301 Updating References to the NCCI Basic Manual for Workers' Compensation and Employers' Liability Insurance, 1996 ed., p. 2728, 547

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- 8.2.208 Renewal Dates, p. 346, 1373

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- 8.4.505 and other rule - High Risk Pregnancy - Conditions Which Require Physician Consultation, p. 1377, 2684

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- 8.6.405 and other rules - Practice of Architecture, p. 2060

(Board of Athletics)

- 8.8.2804 and other rules - Athletic Events - Participants, p. 969, 1664

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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 July 1996, appear. Vacancies scheduled to appear from September 1, 1996, through November 30, 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 August 1, 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 JULY, 1996

Appointee	Appointed by	Succeeds	Appointment/End Date
Alfalfa Leaf-Cutting Bee Committee			
Mr. Tim Wetstein	Governor	not listed	7/1/1996
Joliet			7/1/1999
Qualifications (if required):	member of the Montana Alfalfa Seed Association		
Board of Cosmetologists	(Commerce)		
Mr. Wendell Peterson	Governor	Brown	7/10/1996
Missoula			7/1/2000
Qualifications (if required):	licensed cosmetologist		
Board of Landscape Architects	(Commerce)		
Mr. Jim Foley	Governor	reappointed	7/10/1996
Billings			7/1/2000
Qualifications (if required):	licensed landscape architect		
Board of Pharmacy	(Commerce)		
Mr. John Poush	Governor	Harrington	7/29/1996
Billings			7/1/2001
Qualifications (if required):	pharmacist		
Board of Physical Therapy Examiners	(Commerce)		
Mr. Jeff Pallister	Governor	Bowman	7/29/1996
Great Falls			7/1/1999
Qualifications (if required):	physical therapist		
Board of Public Accountants	(Commerce)		
Mr. Robert Wolfe	Governor	Schmitz	7/1/1996
Conrad			7/1/2001
Qualifications (if required):	licensed public accountant		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1996

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Realty Regulation			
Ms. Shelly Noe	(Commerce) Governor	Cummings	7/29/1996
Absarokee			5/9/1999
Qualifications (if required): public member			
Board of Veterinary Medicine			
Dr. Kenneth Brown	(Commerce) Governor	Bruchez	7/31/1996
Billings			7/31/2001
Qualifications (if required): veterinarian			
Committee on Telecommunications Services for the Handicapped (Public Health and Human Services)			
Ms. Cathy Brightwell	Governor	reappointed	7/1/1996
Helena			7/1/1999
Qualifications (if required): member from Interlata Interexchange Carrier			
Ms. Flo Ellen Hippe	Governor	Allen	7/1/1996
Great Falls			7/1/1999
Qualifications (if required): handicapped			
Ms. Joan Mandeville	Governor	reappointed	7/1/1996
Great Falls			7/1/1999
Qualifications (if required): member from an independent local exchange company			
Mr. Edward Van Tighem	Governor	reappointed	7/1/1996
Great Falls			7/1/1999
Qualifications (if required): deaf			
Judicial Nomination Commission (Supreme Court)			
Mr. Tony Harbaugh	Governor	Mockler	7/9/1996
Miles City			1/1/2000
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTERS FROM JULY, 1996

Appointee	Appointed by	Succeeds	Appointment/End Date
Montana Agriculture Development Council (Agriculture)			
Ms. Julie Burke Glasgow	Governor	reappointed	7/1/1996 7/1/1999
Qualifications (if required):	actively engaged in agriculture		
Mr. Everett Snortland Conrad	Governor	reappointed	7/1/1996 7/1/1999
Qualifications (if required):	actively engaged in agriculture		
Mr. John Swanz Judith Gap	Governor	reappointed	7/1/1996 7/1/1999
Qualifications (if required):	actively engaged in agriculture		
Montana Historical Society Board of Trustees (Montana Historical Society)			
Ms. Jean Birch Great Falls	Governor	reappointed	7/1/1996 7/1/2001
Qualifications (if required):	public member		
Ms. Anne Hibbard Helena	Governor	reappointed	7/1/1996 7/1/2001
Qualifications (if required):	public member		
Ms. Virginia Lucht Bigfork	Governor	reappointed	7/1/1996 7/1/2001
Qualifications (if required):	public member		
Montana Mint Committee (Agriculture)			
Mr. John Ficken Kalispell	Governor	Schweitzer	7/1/1996 7/1/1999
Qualifications (if required):	mint grower		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1996

Appointee	Appointed by	Succeeds	Appointment/End Date
Petroleum Tank Release Compensation Board (Environmental Quality)			
Mr. Bruce Suenram	Governor	Levandowski	7/10/1996
Helena			6/30/1999
Qualifications (if required): representative of the state fire prevention and investigation program			
State Banking Board (Commerce)			
Mr. Robert T. Baxter	Governor	reappointed	7/1/1996
Thompson Falls			7/1/1999
Qualifications (if required): state bank officer			
Mr. Loren Tucker	Governor	reappointed	7/1/1996
Virginia City			7/1/1999
Qualifications (if required): public member			
State Library Commission (State Library)			
Ms. Dorothy Laird	Governor	Lundy	7/30/1996
Whitefish			5/22/1999
Qualifications (if required): public member			
Mr. Harold G. Stearns	Governor	Hauptman	7/30/1996
Helena			5/22/1999
Qualifications (if required): public member			
Teachers' Retirement Board (Administration)			
Mr. James E. Cowan	Governor	reappointed	7/10/1996
Seeley Lake			7/1/2000
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM JULY, 1996

Appointee	Appointed by	Succeeds	Appointment/End Date
Virginia City/Nevada City Preservation Task Force			
Rep. Francis Bardonoue	Governor	(Montana Historical Society)	7/16/1996
Harlem		not listed	11/30/1996
Qualifications (if required):	public member		
Mr. Jack Burke	Governor	not listed	7/16/1996
Butte			11/30/1996
Qualifications (if required):	public member		
Mr. Kelly Elser	Governor	not listed	7/16/1996
Sheridan			11/30/1996
Qualifications (if required):	public member		
Sen. Antoinette R. Hagener	Governor	not listed	7/16/1996
Havre			11/30/1996
Qualifications (if required):	public member		
Mr. Ed Henrich	Governor	not listed	7/16/1996
Anaconda			11/30/1996
Qualifications (if required):	public member		
Ms. Toni James	Governor	not listed	7/16/1996
Virginia City			11/30/1996
Qualifications (if required):	public member		
Ms. Edythe McCleary	Governor	not listed	7/16/1996
Hardin			11/30/1996
Qualifications (if required):	public member		
Rep. Jeanette S. McKee	Governor	not listed	7/16/1996
Hamilton			11/30/1996
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1996

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Virginia City/Nevada City Preservation Task Force		(Montana Historical Society) Cont.	
Ms. Judy McNally	Governor	not listed	7/16/1996
Billings			11/30/1996
Qualifications (if required):	public member		
Rep. Karl Ohs	Governor	not listed	7/16/1996
Harrison			11/30/1996
Qualifications (if required):	public member		
Mr. Ward Shanahan	Governor	not listed	7/16/1996
Helena			11/30/1996
Qualifications (if required):	public member		
Water Pollution Control Advisory Council (Environmental Quality)			
Mr. Mike Cobb	Governor	Burnham	7/16/1996
Augusta			11/4/1999
Qualifications (if required):	livestock feeder		
Ms. Denise Deluca	Governor	Richardson	7/16/1996
Missoula			11/4/1999
Qualifications (if required):	representative of industry concerned with disposal of organic waste		
Mr. Richard Parks	Governor	Lee	7/16/1996
Gardiner			11/4/1999
Qualifications (if required):	representative of organizations concerned with water recreation		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

Board/current position holder	Appointed by	Term end
9-1-1 Advisory Council (Administration)		
Mr. Bill Wade, Circle Qualifications (if required): none specified	Director	9/26/1996
Mr. Dave Mason, Helena Qualifications (if required): none specified	Director	9/26/1996
Sheriff Lee Edmisten, Virginia City Qualifications (if required): none specified	Director	9/26/1996
Mr. James Anderson, Helena Qualifications (if required): none specified	Director	9/26/1996
Dr. Drew Dawson, Helena Qualifications (if required): none specified	Director	9/26/1996
Mr. Dan Green, Helena Qualifications (if required): none specified	Director	9/26/1996
Ms. Judy Frazer, Kalispell Qualifications (if required): none specified	Director	9/26/1996
Mr. Marshall Kyle, Missoula Qualifications (if required): none specified	Director	9/26/1996
Major Irwin L. Garrick, Helena Qualifications (if required): none specified	Director	9/26/1996
Mr. Mike Sederholm, Lewistown Qualifications (if required): none specified	Director	9/26/1996
Mr. Tom Kelly, Columbus Qualifications (if required): none specified	Director	9/26/1996

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
9-1-1 Advisory Council (Administration) Cont. Ms. Kay McKenna, Helena Qualifications (if required): none specified	Director	9/26/1996
Mr. Art Bicsak, Great Falls Qualifications (if required): none specified	Director	9/26/1996
Mr. Al Brockway, Helena Qualifications (if required): none specified	Director	9/26/1996
Lieutenant Billi Heigh, Helena Qualifications (if required): none specified	Director	9/26/1996
Mr. Rick Newby, Miles City Qualifications (if required): none specified	Director	9/26/1996
Alternative Health Care Board (Commerce) Dr. Michael Bergkamp, Helena Qualifications (if required): naturopath	Governor	9/1/1996
Board of Education Joint Planning and Coordination Committee (Education) Mr. Wilbur Anderson, Dillon Qualifications (if required): member of the Board of Public Education	Governor	10/13/1996
Mr. Wayne Buchanan, Helena Qualifications (if required): Executive Secretary of the Board of Public Education	Governor	10/13/1996
Mr. Jim Kaze, Havre Qualifications (if required): member of the Board of Regents	Governor	10/13/1996
Ms. Nancy Keenan, Helena Qualifications (if required): Superintendent of Public Instruction	Governor	10/13/1996

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Education Joint Planning and Coordination Committee (Education) Cont.		
Dr. Jeff Baker, Helena	Governor	10/13/1996
Qualifications (if required): Commissioner of Higher Education		
Governor Marc Racicot, Helena		
Qualifications (if required): Governor	Governor	10/13/1996
Board of Medical Examiners (Commerce)		
Dr. Richard Beighle, Missoula	Governor	9/1/1996
Qualifications (if required): doctor of medicine		
Board of Outfitters (Commerce)		
Mr. Kurt Hughes, Miles City	Governor	10/1/1996
Qualifications (if required): representative of District 5		
Mr. Jerry Wells, Helena		
Qualifications (if required): represents Department of Fish, Wildlife, and Parks	Governor	10/1/1996
Ms. Rita Orr, Libby		
Qualifications (if required): public member	Governor	10/1/1996
Board of Psychologists (Commerce)		
Dr. Evan Lewis, Jefferson City	Governor	9/1/1996
Qualifications (if required): licensed psychologist		
Building Codes Advisory Council (Commerce)		
Mr. Don Cape, Belgrade	Director	9/30/1996
Qualifications (if required): mobile homes		
Ms. Mitzi Schwab, Helena		
Qualifications (if required): Department of Health and Environmental Sciences	Director	9/30/1996

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Building Codes Advisory Council (Commerce) Cont.		
Mr. Craig Kerzman, Kalispell	Director	9/30/1996
Qualifications (if required): municipal building official		
Mr. Richard Grover, Missoula	Director	9/30/1996
Qualifications (if required): Board of Plumbers		
Mr. Bruce Suenram, Helena	Director	9/30/1996
Qualifications (if required): state fire marshall		
Mr. Lee Ebeling, Great Falls	Director	9/30/1996
Qualifications (if required): engineers		
Mr. Stan Todd, Big Timber	Director	9/30/1996
Qualifications (if required): building contractors		
Mr. Robert Ross, Kalispell	Director	9/30/1996
Qualifications (if required): home builder		
Ms. Linda Cockhill, Helena	Director	9/30/1996
Qualifications (if required): public member		
Mr. John Allen, Helena	Director	9/30/1996
Qualifications (if required): State Electrical Board		
Mr. Jay Whitney, Helena	Director	9/30/1996
Qualifications (if required): architects		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

Board/current position holder	Appointed by	Term end
Family Support Services Advisory Council (Public Health and Human Services)		
Ms. Sue Forest, Missoula	Governor	9/9/1996
Qualifications (if required): personnel preparation representative		
Ms. Sharon Wagner, Helena	Governor	9/9/1996
Qualifications (if required): represents Department of Health and Environmental Sciences		
Ms. Colleen Thompson, Glasgow	Governor	9/9/1996
Qualifications (if required): Headstart representative		
Ms. Sylvia Danforth, Miles City	Governor	9/9/1996
Qualifications (if required): service provider representative		
Ms. Millie Kindle, Malta	Governor	9/9/1996
Qualifications (if required): parent representative		
Ms. Maria Pease, Lodge Grass	Governor	9/9/1996
Qualifications (if required): parent representative		
Mr. Pete Surdock, Helena	Governor	9/9/1996
Qualifications (if required): represents Department of Corrections and Human Services		
Mr. Dan McCarthy, Helena	Governor	9/9/1996
Qualifications (if required): represents Office of Public Instruction		
Ms. Jackie Jandt, Helena	Governor	9/9/1996
Qualifications (if required): represents Department of Social and Rehabilitation Services		
Ms. Linda Botten, Bozeman	Governor	9/9/1996
Qualifications (if required): service provider representative		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

Board/current position holder	Appointed by	Term end
Family Support Services Advisory Council (Public Health and Human Services) Cont.		
Mr. Phil Mattheis, Florence	Governor	9/9/1996
Qualifications (if required): medical/health care representative		
Rep. Matt McCann, Harlem	Governor	9/9/1996
Qualifications (if required): legislator		
Ms. Janice Lane, Forsyth	Governor	9/9/1996
Qualifications (if required): parent representative		
Ms. Kathy Cashell, Butte	Governor	9/9/1996
Qualifications (if required): parent representative		
Mr. Ted Maloney, Missoula	Governor	9/9/1996
Qualifications (if required): public member		
Ms. Georgia Rutherford, Browning	Governor	9/9/1996
Qualifications (if required): parent representative		
Ms. Sandi Marisdotter, Helena	Governor	9/9/1996
Qualifications (if required): service provider representative		
Ms. Chris Volinkaty, Missoula	Governor	9/9/1996
Qualifications (if required): service provider representative		
Ms. Barbara Stefanic, Laurel	Governor	9/9/1996
Qualifications (if required): preschool services representative		
Ms. Gwen Beyer, Polson	Governor	9/9/1996
Qualifications (if required): parent representative		
Mr. John Holbrook, Helena	Governor	9/9/1996
Qualifications (if required): state insurance governance representative		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

Board/current position holder	Appointed by	Term end
Family Support Services Advisory Council (Public Health and Human Services) Cont.		
Ms. Lynda Hart, Helena	Governor	9/9/1996
Qualifications (if required): represents Department of Family Services		
Ms. Beth Kenny, Helena	Governor	9/9/1996
Qualifications (if required): parent representative		
Ms. Christine Gutschenritter, Great Falls	Governor	9/9/1996
Qualifications (if required): Montana School for the Deaf and Blind		
Historic Preservation Review Board (Historical Society)		
Mr. Dennis L. Deppmeier, Billings	Governor	10/1/1996
Qualifications (if required): historical architect		
Mr. Kirk Michels, Livingston	Governor	10/1/1996
Qualifications (if required): architectural historian		
Historical Records Advisory Council (Historical Society)		
Mr. Brian Cockhill, Helena	Governor	10/6/1996
Qualifications (if required): represents Historical Society		
Mr. Timothy Bernardis, Crow Agency	Governor	10/6/1996
Qualifications (if required): public member		
Ms. Connie Erickson, Helena	Governor	10/6/1996
Qualifications (if required): public member		
Ms. Peggy Lamberson Bourne, Great Falls	Governor	10/6/1996
Qualifications (if required): public member		
Mr. Robert M. Clark, Helena	Governor	10/6/1996
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

Board/current position holder	Appointed by	Term end
Historical Records Advisory Council (Historical Society)		
Ms. Marie L. Torosian, St. Ignatius	Cont.	10/6/1996
Qualifications (if required): public member	Governor	
Ms. Kathryn Otto, Helena	Governor	10/6/1996
Qualifications (if required): state archivist		
Ms. Ellen Crain, Butte	Governor	10/6/1996
Qualifications (if required): public member		
Missouri River Basin Advisory Council (Natural Resources and Conservation)		
Ms. Diane Brandt, Glasgow	Governor	11/3/1996
Qualifications (if required): public member		
Montana Public Health Improvement Task Force (Public Health and Human Services)		
Ms. Lil Anderson, Billings	Governor	9/30/1996
Qualifications (if required): representing county health officers from large cities		
Mr. Peter Blouke, Helena	Governor	9/30/1996
Qualifications (if required): Director of the Department of Public Health and Human Services		
Dr. Terry Dennis, Billings	Governor	9/30/1996
Qualifications (if required): ex-officio		
Mr. Curt Chisholm, Helena	Governor	9/30/1996
Qualifications (if required): representing the Department of Environmental Quality		
Mr. Peter Frazier, Great Falls	Governor	9/30/1996
Qualifications (if required): representing a local health department from large cities		
Ms. Cindy Morgan, Thompson Falls	Governor	9/30/1996
Qualifications (if required): representing local boards from rural counties over 5000		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Public Health Improvement Task Force (Public Health and Human Services) Cont. Dr. Kermit Smith, Billings	Governor	9/30/1996
Qualifications (if required): representing the Indian Health Service or Indian tribes		
Ms. Ellen Leaby, Missoula	Governor	9/30/1996
Qualifications (if required): representing county health officers from large cities		
Mr. Kyle Hopstad, Lewistown	Governor	9/30/1996
Qualifications (if required): representing health care providers		
Ms. Cynthia Lewis, Helena	Governor	9/30/1996
Qualifications (if required): representing the Health Care Advisory Council		
Ms. Ruth Haugland, Dillon	Governor	9/30/1996
Qualifications (if required): representing local boards from rural counties over 5000		
Ms. Sandra Kinsey, Baker	Governor	9/30/1996
Qualifications (if required): public health representative from a county under 5000		
Rep. Bill Tash, Dillon	Governor	9/30/1996
Qualifications (if required): representing the House of Representatives		
Sen. Mignon Waterman, Helena	Governor	9/30/1996
Qualifications (if required): representing the Montana Senate		
Ms. Karen Hinick, Butte	Governor	9/30/1996
Qualifications (if required): representing a local health department from large cities		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

Board/current position holder	Appointed by	Term end
Noxious Weed Seed Free Advisory Council (Agriculture) Mr. Terry Turner, Havre Qualifications (if required): weed districts	Director	9/17/1996
Mr. LaMonte Schnur, Townsend Qualifications (if required): forage producer	Director	9/17/1996
Public Health Improvement Advisory Council (Public Health and Human Services) Ms. Jodi Martz, Butte Qualifications (if required): representing concerned citizens	Governor	9/30/1996
Mr. Dale Taliaferro, Helena Qualifications (if required): ex-officio member	Governor	9/30/1996
Ms. Kathleen Winters, Bozeman Qualifications (if required): ex-officio member	Governor	9/30/1996
Reserved Water Rights Compact Commission (Natural Resources and Conservation) Rep. David E. Wanzenried, Kalispell Qualifications (if required): none specified	Speaker	10/12/1996
Safety Employment Education and Training Advisory Committee (Labor and Industry) Mr. Dale Johnson, Belt Qualifications (if required): represents employers	Commissioner	11/1/1996
Mr. John Manzer, Great Falls Qualifications (if required): represents employees	Commissioner	11/1/1996
Mr. John Maloney, Helena Qualifications (if required): represents Department of Labor and Industry	Commissioner	11/1/1996
Ms. Elizabeth Wing-Spooner, Butte Qualifications (if required): represents employees	Commissioner	11/1/1996

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Safety Employment Education and Training Advisory Committee (Labor and Industry) Cont.		
Mr. Michael Rochio, Boulder	Commissioner	11/1/1996
Qualifications (if required): represents employers		
Mr. Bill Dahlgren, Missoula	Commissioner	11/1/1996
Qualifications (if required): represents employers		
Mr. John Monahan, Great Falls	Commissioner	11/1/1996
Qualifications (if required): represents employees		
Small Business Compliance Advisory Council (Public Health and Human Services)		
Ms. Juanita Stovall, Billings	Governor	10/1/1996
Qualifications (if required): public member		
Ms. Sandy Newton, Jefferson City	Governor	10/1/1996
Qualifications (if required): public member		
Water and Wastewater Operators Advisory Council (Health and Environmental Sciences)		
Mr. Michael Holzwarth, Colstrip	Governor	10/16/1996
Qualifications (if required): water treatment operator		
Whirling Disease Task Force (Fish, Wildlife, and Parks)		
Mr. Jim Ahrens, Helena	Governor	10/1/1996
Qualifications (if required): none specified		
Mr. Matt Cohn, Helena	Governor	10/1/1996
Qualifications (if required): none specified		
Mr. Thomas Anacker, Bozeman	Governor	10/1/1996
Qualifications (if required): none specified		
Mr. Mike Hayden, Alexandria, VA	Governor	10/1/1996
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Whirling Disease Task Force (Fish, Wildlife, and Parks) Cont. Dr. Roger Herman, Kearneysville, WV Qualifications (if required): none specified	Governor	10/1/1996
Mr. Karl Johnson, Bozeman Qualifications (if required): none specified	Governor	10/1/1996
Mr. Robin Cunningham, Gallatin Gateway Qualifications (if required): none specified	Governor	10/1/1996
Dr. Marshall Bloom, Hamilton Qualifications (if required): none specified	Governor	10/1/1996
Mr. Pat Graham, Helena Qualifications (if required): none specified	Governor	10/1/1996
Mr. Bob LeFever, Butte Qualifications (if required): none specified	Governor	10/1/1996
Mr. Bud Lilly, Bozeman Qualifications (if required): none specified	Governor	10/1/1996
Mr. Roger Nelson, Livingston Qualifications (if required): public member	Governor	10/1/1996
Mr. Dud Lutton, Helena Qualifications (if required): none specified	Governor	10/1/1996
Mr. Art Neill, Butte Qualifications (if required): none specified	Governor	10/1/1996
Ms. Chris Somers, Butte Qualifications (if required): none specified	Governor	10/1/1996

VACANCIES ON BOARDS AND COUNCILS -- September 1, 1996 through November 30, 1996

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Whirling Disease Task Force (Fish, Wildlife, and Parks) Cont. Ms. Marsha "Josh" Turner, Helena Qualifications (if required): none specified	Governor	10/1/1996
Mr. Bruce Whittenberg, Helena Qualifications (if required): none specified	Governor	10/1/1996
Mr. John Bailey, Livingston Qualifications (if required): none specified	Governor	10/1/1996
Mr. Kirby Alton, Thousand Oaks, CA Qualifications (if required): none specified	Governor	10/1/1996
Mr. Ed Williams, Ennis Qualifications (if required): none specified	Governor	10/1/1996