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# **MONTANA ADMINISTRATIVE REGISTER**

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1997 ISSUE NO. 16  
AUGUST 18, 1997  
PAGES 1413-1495



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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the proposed	)	NOTICE OF PROPOSED
adoption of new rule I	)	ADOPTION OF NEW RULE
establishing grading standards	)	PERTAINING TO MUSTARD
for mustard seed	)	SEED

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On September 17, 1997, the Department of Agriculture proposes to adopt a new rule relating to the grading standards for mustard seed.

2. The proposed new rule provides as follows:

RULE I STANDARDS FOR GRADING MUSTARD SEED (1) Mustard seed submitted to the Montana state grain laboratory will be graded according to the procedures and standards set out in the Montana Grain Inspection Handbook, Book 1, Chapter 3, Mustard Seed.

(2) Chapter 3 of the Handbook generally describes the standards and process which will be used to grade mustard seed considering such factors as odor, moisture, dockage, and other factors affecting grade.

(3) Chapter 3 of the Handbook may be viewed at, and a copy obtained from the Montana State Grain Laboratory, P.O. Box 1397, Great Falls, MT 59403-1397, phone (406) 452-9561.

AUTH: 80-4-704, MCA

IMP: 80-4-704 and 705, MCA

REASON: This rule is being adopted to establish grading standards for the Montana State Grain Laboratory to use in providing a grading service for mustard seed to Montana producers, and thereby facilitating the promotion and sale of this Montana specialty crop to domestic and foreign buyers.

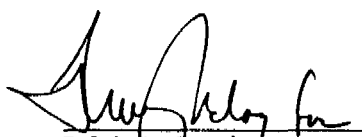
3. Interested persons may submit their written data, views, or arguments concerning the proposed action(s) to Will Kissinger, Administrator, Agricultural Development Division, Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201, Phone (406) 444-2402, FAX (406) 444-5409, or E-Mail: AGR@MT.GOV, no later than September 15, 1997.

4. If a party who is directly affected by the proposed action(s) wishes to express his/her data, views, and arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit this request along with any written comments he/she has to Will

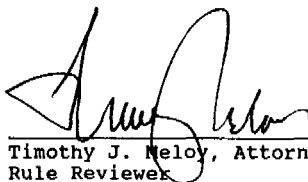
Kissinger, Administrator, Agricultural Development Division,  
Department of Agriculture, P.O. Box 200201, Helena, MT  
59620-0201, Phone (406) 444-2402, FAX (406) 444-5409, or E-  
Mail: AGR@MT.GOV no later than September 15, 1997.

5. If the department receives requests for a public hearing on the proposed action(s) from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action(s); from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not fewer than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be approximately 30 persons based on an estimate of the number of mustard seed growers and buyers in the Mustard Seed Trade.

6. As required by HB 389, 1997 Montana legislative session, this notice advises that the department maintains an interested person list for purposes of providing notice on rule making matters. Any person wishing to be on that list must provide to the department, in writing, their name, mailing address and a brief description of the subject matter in which they are interested.



Ralph Beck, Director  
DEPARTMENT OF AGRICULTURE



Timothy J. Meloy, Attorney  
Rule Reviewer

Certified to the Secretary of State August 4, 1997

BEFORE THE STATE AUDITOR  
OF THE STATE OF MONTANA

In the matter of the )  
adoption of new rules I ) NOTICE OF PUBLIC HEARING ON  
through VI concerning the ) PROPOSED ADOPTION OF NEW  
regulation of living trusts ) RULES  
)

TO: All Interested Persons

1. On Monday, September 8, 1997, at 10:00 a.m., a public hearing will be held in the conference room of the State Auditor's Office, Room 270, Mitchell Building, Helena, Montana, to consider the adoption of new rules I through VI.

2. The proposed new rules provide as follows:

RULE I APPLICABILITY OF SUB-CHAPTER (1) This sub-chapter applies to living trusts and to transactions involving living trusts, subject to the Montana Living Trust Act, Title 30, chapter 10, part 9, MCA.

AUTH: 30-10-905, MCA

IMP: 30-10-901 through 30-10-915, MCA

RULE II DEFINITIONS As used in this sub-chapter, unless the context indicates otherwise:

(1) The definitions in 30-10-903, MCA, apply.

(2) Except when in conflict with this rule, the definitions in 30-10-103, MCA, apply.

(3) "Living trust representative" means a person licensed to sell living trusts under 30-10-901 through 30-10-915, MCA.

AUTH: 30-10-905, MCA

IMP: 30-10-901 through 30-10-915, MCA

RULE III LICENSURE (1) Each application for a license to offer and sell living trusts in this state must be made on Form LT-1, available from the state auditor.

(2)(a) A license granted under 30-10-904, MCA, to an investment advisor entitles an investment advisor representative affiliated with the investment advisor and registered in this state to act under that license pursuant to (b).

(b) An investment advisor licensed under 30-10-904, MCA, shall provide the state auditor with the names of each investment advisor representative who will offer or sell living trusts in this state under that license by completing Schedule A to Form LT-1, and paying the fees required by 30-10-904, MCA.

(3) Each applicant shall notify the state auditor of any

change in the information in the applicant's application within 30 days after the change occurs by filing an amended Form LT-1 or Schedule A.

(4) A license issued between October 1, 1997, and December 31, 1997, is effective until December 31, 1998, unless the license is suspended or revoked.

AUTH: 30-10-905, MCA

IMP: 30-10-904, MCA

#### RULE IV LIVING TRUST REPRESENTATIVE BOOKS AND RECORDS

(1) Each living trust representative shall make and keep all books and records relating to the representative's offering and sales of living trusts, including, but not limited to, the following:

(a) each written agreement (or copy thereof) entered into by the living trust representative with a client;

(b) a complaint file containing each written customer or client complaint, the action taken by the living trust representative with respect to each complaint, and all documents related to the complaint;

(c) a litigation file documenting each criminal or civil action filed in a state or federal court against the living trust representative, and the disposition of any such action;

(d) a correspondence file containing all correspondence to or received from the public.

(2) The state auditor may copy records made, kept, or preserved pursuant to (1) or require a living trust representative to copy those records and provide the copies to the state auditor.

(3) A living trust representative may make and keep records required to be made and kept by (1) on a computer, microform, or other electronic data storage system if the records can be immediately produced in document form.

AUTH: 30-10-905, MCA

IMP: 30-10-905, MCA

#### RULE V SALES AND PROMOTIONAL MATERIAL

(1) Sales and promotional material used in connection with the offer or sale of living trusts to persons in this state must be filed with the state auditor at least ten days prior to use in this state.

(2) The state auditor may by order disallow the use of sales or promotional material filed pursuant to this rule if the state auditor finds that such an order is in the public interest or necessary to protect consumers in this state. Unless the state auditor disallows the use of material filed pursuant to this rule within ten business days from the day it is filed, the material may be used.

AUTH: 30-10-905, MCA

IMP: 30-10-909 and 30-10-913, MCA



RULE VI INTERNET (1) An offer of sale of living trusts made through the internet or similar proprietary or common carrier electronic system is exempt from 30-10-901 through 30-10-915, MCA, if the following conditions are met:

(a) the offer indicates that the offer is not being made to residents of Montana;

(b) the offer is not specifically directed to any person in Montana; and

(c) no sale of a living trust is made in Montana as a result of the offer until the person making the offer is licensed under 30-10-901 through 30-10-915, MCA.

AUTH: 30-10-905, MCA

IMP: 30-10-906, MCA

3. These rules are being proposed for adoption because 30-10-905, MCA, the Montana Living Trust Act (the Act), requires the state auditor to adopt forms and rules necessary to implement the Act. The principal reasons for these proposed rules are to clarify the process for licensure under the Act; further define record keeping requirements under the Act; provide for review of promotional materials; and clarify the Act as it relates to the use of the Internet. These rules are necessary to protect consumers and the public interest.

The Form LT-1 and attached Schedule A format required by proposed Rule III was chosen for its similarity to the existing registration system for securities Investment Advisors and Investment Advisor Representatives. The books and records required to be kept by proposed Rule IV are standard records, the inspection of which may be necessary to protect consumers and public interest. The review of promotional and sales materials required by proposed Rule V is necessary to ensure against fraud and misleading or false statements. The clarification of the use of the Internet in proposed Rule VI is necessary to clearly define the Act as it relates to making offers or sales of living trusts in this state.

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 Fred Sargeson, Montana State Auditor's Office, P.O. Box 4009, Helena, MT 59604 and must be received no later than September 15, 1997.


5. The State Auditor's Office will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you require an accommodation, contact the Department no later than 5:00 p.m., September 3, 1997, to advise us as to the nature of the accommodation needed. Please contact Fred Sargeson, Montana State Auditor's Office, P.O. Box 4009, Helena, MT 59604.

6. David Gallik has been designated to preside over and conduct the hearing.


7. The State Auditor's Office maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies whether the person wishes to receive notices regarding insurance rules, securities rules, or both. Such written request may be mailed or delivered to the State Auditor's Office, P.O. Box 4009, Helena, MT 59604, faxed to the office at 406-444-3497, or may be made by completing a request form at any rules hearing held by the State Auditor's Office.

MARK O'KEEFE, State Auditor

By:

  
Mark O'Keefe

By:

  
Gary L. Spaeth  
Rules Reviewer

Certified to the Secretary of State this 31st day of July, 1997.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE  
OF THE STATE OF MONTANA

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

TO: All Interested Persons.

1. On October 16, 1997, the Montana Classification Review Committee proposes to amend rule 6.6.8301 updating references to the NCCI Basic Manual for Workers Compensation and Employers Liability, 1996 edition.

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

6.6.8301 ESTABLISHMENT OF CLASSIFICATION FOR COMPENSATION PLAN NO. 2 (1) The committee hereby adopts and incorporates by reference the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 ed., as supplemented through ~~June 5, 1997~~ January 1, 1998, which establishes classifications with respect to employers electing to be bound by compensation plan No. 2 as provided in Title 39, chapter 71, part 22, MCA. A copy of the Basic Manual for Workers Compensation and Employers Liability Insurance is available for public inspection at the Office of the Commissioner of Insurance, Room 270, Sam W. Mitchell Building, 126 North Sanders, P.O. Box 4009, Helena, MT 59620-4009. Copies of the Basic Manual for Workers Compensation and Employers Liability Insurance may be obtained by writing to the Montana Classification Review Committee in care of the National Council on Compensation Insurance, Inc., 7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235. Persons obtaining a copy of the Basic Manual for Workers Compensation and Employers Liability Insurance must pay the committee's cost of providing such copies.

(2) Remains the same.

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

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

Item filing B-1345 Automobile Parts and Accessories Store Operation.

Purpose: To remove wholesale automobile parts operation from Code 8010 -- Store: Hardware and assign it to amended

Classification Code 8046 -- Store: Automobile Parts and Accessories NOC & Drivers.

Unnumbered item filed to allow counter employees of Hay, Grain and Feed dealers to be included in the store code of that operation.

Purpose: To separately classify store employees of businesses classified to Code 8215 - Hay, Grain or Feed Operations and to Code 8058 - Building Material Dealer: Store Employees.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Christy Weikart, Chairperson, Montana Classification Review Committee, c/o National Council on Compensation Insurance, Inc., 7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235, no later than September 15, 1997.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Christy Weikart, Chairperson, Montana Classification Review Committee, c/o National Council on Compensation Insurance, Inc., 7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235, no later than September 15, 1997.

6. If the classification review committee of the state of Montana receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the administrative code committee of the legislature; from a governmental agency or subdivision; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of the persons directly affected has been determined to be 25 based on 250 persons in the state for the new store classifications and 15 persons based on 150 persons for the sign manufacturing industry affected by the proposed amendment.

CLASSIFICATION REVIEW COMMITTEE

By: Christy Weikart  
Christy Weikart  
Chairperson

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

Certified to the Secretary of State on the 31st of July, 1997.

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

In the matter of the proposed	)	NOTICE OF PROPOSED
amendment of Rule 6.6.511	)	AMENDMENT OF RULES
pertaining to medicare supplement	)	
insurance.	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On September 17, 1997, the State Auditor and Commissioner of Insurance proposes to amend Rule 6.6.511 pertaining to medicare supplement insurance.

2. The proposed rule amendments are as follows (new material is underlined; material to be deleted is interlined):

6.6.511. SAMPLE FORMS OUTLINING COVERAGE (1) The following amounts, as published in the Federal Register, volume ~~60~~ 61, page ~~53625~~ 56690, ~~1995~~ 1996, for services furnished in calendar year ~~1996~~ 1997 under medicare's hospital insurance program (medicare part A), shall apply to the charts for plans A through J in (2)(b) through (2)(k). In each chart, the rule cited in brackets as ARM [6.6.511(1)(a)], [6.6.511(1)(b)], [6.6.511(1)(c)] or [6.6.511(1)(d)], represents the dollar amount specified in the cited rule subsection. The issuer must replace each bracket and rule cite with the correct dollar amount contained in the cited rule subsection when the issuer prints the charts:

- (a) Inpatient hospital deductible = ~~\$736.00~~ \$760.00;
  - (b) Daily coinsurance amount for the 61st through 90th days of hospitalization in a benefit period = ~~\$104.00~~ \$120.00;
  - (c) Daily coinsurance amount for lifetime reserve days = ~~\$360.00~~ \$380.00;
  - (d) Daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = ~~\$92.00~~ \$95.00.
- (2) remains the same.

AUTH: 33-1-313, 33-22-904, and 33-22-907, MCA  
IMP: 33-15-303 and 33-22-901 through 33-22-924, MCA

3. Rule 6.6.511 is being amended because the federal regulation establishing the dollar amounts has been amended. It is necessary to amend rule 6.6.511 in order to incorporate by reference the correct amended federal regulation and to specify the dollar amounts currently required by the federal regulation.

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

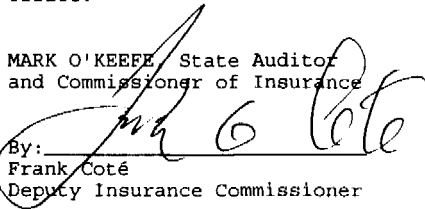
Dailey, Montana Insurance Department, P.O. Box 4009, Helena, Montana 59604, and must be received no later than September 15, 1997.

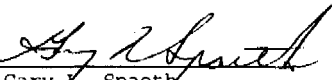
5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit this request along with any written comments he has to Clyde Dailey, Montana Insurance Department, P.O. Box 4009, Helena, Montana 59604. A written request for hearing must be received no later than September 15, 1997.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not 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 30 persons based on the 300 persons who have indicated interest in the rules of this agency and who the agency has determined could be directly affected by these rules.

7. The State Auditor's Office maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies whether the person wishes to receive notices regarding insurance rules, securities rules, or both. Such written request may be mailed or delivered to the State Auditor's Office, P.O. Box 4009, Helena, MT 59604, faxed to the office at 406-444-3497, or may be made by completing a request form at any rules hearing held by the State Auditor's Office.

MARK O'KEEFE, State Auditor  
and Commissioner of Insurance

By:   
Frank Coté  
Deputy Insurance Commissioner

By:   
Gary L. Spaeth  
Rules Reviewer

Certified to the Secretary of State this 4th day of August, 1997.

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING ON  
amendment of a rule pertaining ) THE AMENDMENT OF ARM  
to an application for ) 8.34.414A FOR THE APPLICATION  
licensure ) FOR LICENSURE

TO: All Interested Persons:

1. On September 29, 1997, at 10:00 a.m., a public hearing will be held at the Professional and Occupational Licensing Bureau, Downstairs Conference Room, 111 N. Jackson, Helena, Montana 59620, to consider the amendment of a rule pertaining to an application for licensure.

2. The Board is proposing to amend ARM 8.34.414A. This rule will read as follows: (new matter underlined, deleted matter interlined)

"8.34.414A APPLICATION FOR EXAMINATION LICENSURE (1) In addition to passing the examination referred to in ARM 8.34.414, an applicant must submit a completed application form. The minimum accumulative point-value required for admission to the examination shall be thirty-six hundred (3600) 1200 points.

(2) An application for examination shall be filed at least ~~45 days prior to the examination date~~ and must be accompanied by the required fee, which shall not be refunded.

(3) will remain the same.

(3) (a) ~~A maximum of five years of experience will be accepted for categories set out in subsections (14) through (vii) below. Designated points are given based upon 40 hours or more per week. Documented part-time employment will be prorated on a full-time employee (40 hours per week) status. Such experience must have been gained in the five years immediately preceding the date of application in order to qualify for credit under this section. An applicant seeking points for experience earned beyond the seven year period preceding the application date will not be awarded points unless the application is accompanied with documentation of such experience. Adequate documentation consists of a supervisor's letter, Internal Revenue Service W-4 form, or employment evaluations signed by a supervisor, or other official verification of employment.~~

~~(i) administration of health care facility(ies), when conducted in compliance with any applicable licensure requirements, where the individual has the ability to hire or fire, and has primary responsibility for the day to day operation of the facility, no more than 1200 points/year;~~

~~(ii) director of nursing in a health care facility, who is responsible for the administration of nursing services and management of the nursing department, no more than 1200 points/year;~~

~~(iii)(i) middle management in health care facility(ies) who delegate the authority to hire or fire within a department of a health care facility, and who supervises at least three staff persons of a health care facility within that experience with responsibility for a function or a department, but who also receives general supervision from the administration of the health care facility, no more than 400 points/year;~~

~~(iv)(ii) direct services experience in health care facility(ies), as a licensed or certified individual providing health care services with direct patient contact, no more than 200 150 points/year;~~

~~(v)(iii) support services (indirect experience) experience in health care facility(ies) with indirect patient contact, no more than 100 50 points/year;~~

~~(vi) non health care related administrative/management experience, where the individual supervises all employees of the business, who has the ability to hire or fire, and has primary responsibility for the day to day operation of the business, no more than 300 points/year; or~~

~~(vii) non health care related supervisory/business experience, where the individual supervises at least three staff persons of the business, but also receives general supervision from the business manager, no more than 100 points/year.~~

(b) Credit for educational training will be given as set forth in subsections (i) and (vii) below. In the case where multiple degrees have been attained, credit shall be given for one degree only, according to the degree designated for credit by the license applicant.

~~(i) Graduate/professional degrees-~~

~~(A) masters or beyond in health care administration equals 3600 points;~~

~~(B) masters or beyond in business administration equals 2700 points;~~

~~(C) masters or beyond in nursing equals 2700 points;~~

~~(D) masters or beyond in other health care related area equals 1800 points;~~

~~(E) masters or beyond in non health care related area equals 1800 points.~~

~~(ii) Baccalaureate degree-~~

~~(A) BS/BA in health care administration equals 3600 points;~~

~~(B) BS/BA in nursing (or 3-year diploma nurse) equals 1800 points;~~

~~(C) BS/BA in business administration equals 1800 points;~~

~~(D) BS/BA in other health care related area equals 1800 points; and~~

~~(E) BS/BA in non health care related area equals 800 points.~~

~~(iii) Associate degree-~~



~~(A)(i) associate degree in health care or business administration (including a minimum of 21 semester hours or 28 quarter hours of coursework directly in health care administration), equals 3000 1200 points;~~

~~(B) associate degree nurse equals 1500 points;~~

~~(C) associate degree in other health care related areas equals 1500 points; and~~

~~(D) associate degree in non health care related area equals 500 points.~~

~~(iv) Certificate/technical programs:~~

~~(A) recognized nurse practitioner equals 2000 points;~~

~~(B) certified physician assistant equals 1800 points;~~

~~(C) licensed practical nurse equals 500 points;~~

~~(D) other certified programs in the health care field equals 50 points.~~

~~(v)(ii) College/university coursework in a health or business related course (no degree earned), (completed with a grade of not less than "C") equals 20 points/credit hour. +~~

~~(A) courses in health care administration equal 150 points per semester hour credit;~~

~~(B) courses in business administration equal 75 points per semester hour credit;~~

~~(C) courses in other health care related area equal 75 points per semester hour credit; and~~

~~(D) courses not specifically health care related equal 15 points per semester hour credit with a maximum of 800 points allowed.~~

~~(c) Training requirements:~~

~~(i) seminars/workshop/short courses (limited to those attended in the past five (5) years) + in~~

~~(A) health care and business administration equals 10 one points per approved clock hour;~~

~~(B) business administration equals 5 points per approved clock hour;~~

~~(C) other health care content equals 5 points per approved clock hour; and~~

~~(D) non health care related equals 0 points.~~

~~(d) (iii) Administrator-in-training (AIT) programs:~~

~~(A) Contents of program can may be submitted of the hours of training with for 1 one point per clock hour credit for hours earned in the last 2 years. Verification of clock hours must be documented and signed by the licensed active nursing home administrator.~~

~~(4) The applicant must submit A a copy of all documents including transcript and diploma or degree, if applicable, to provide accumulation of a sufficient basis for the board to evaluate the points required earned by the applicant."~~

~~Auth: Sec. 37-1-131, 37-9-203, MCA; IMP, Sec. 37-9-203, 37-9-301, 37-9-304, MCA~~

**REASON:** The Board on a recommendation from the subcommittee appointed to review these rules determined that significant changes were necessary to comply with statutory mandate found in 37-9-301, MCA, pertaining to licensing requirements.

Particularly, the Board determined that the amended rule will provide greater recognition for experience and training gained outside of academic training in the Nursing Home Administration. This rule as amended will guarantee a candidate the ability to obtain a license through experience or training without requiring academic studies leading to a degree in Nursing Home Administration.

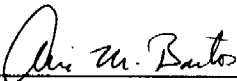
3. Interested persons may submit their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Nursing Home Administrators, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., September 29, 1997.

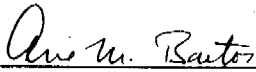
4. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., September 22, 1997, to advise us of the nature of the accommodation that you need. Please contact Lisa Casman, Board of Nursing Home Administrators, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3737, Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Lisa Casman.

5. R. Perry Eskridge, attorney, has been designated to preside over and conduct the hearing.

BOARD OF NURSING HOME ADMINISTRATORS  
DONNA KAY JENNINGS, CHAIRMAN

BY:

  
\_\_\_\_\_  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
\_\_\_\_\_  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 4, 1997.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of rules 11.14.101,	)	ON PROPOSED AMENDMENT AND
11.14.102, 11.14.601,	)	REPEAL
11.14.602, 11.14.604 and	)	
11.14.605 and the repeal of	)	
rules 46.10.404, 46.10.408,	)	
46.10.409, 46.10.410,	)	
46.18.214, 46.18.314,	)	
46.18.501, 46.18.502,	)	
46.18.505 and 46.18.506 and	)	
pertaining to state payment	)	
for day care services to	)	
eligible providers and	)	
parents	)	

TO: All Interested Persons

1. On September 9, 1997 at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of rules 11.14.101, 11.14.102, 11.14.601, 11.14.602, 11.14.604 and 11.14.605 and the repeal of rules 46.10.404, 46.10.408, 46.10.409, 46.10.410, 46.18.214, 46.18.314, 46.18.501, 46.18.502, 46.18.505, and 46.18.506 pertaining to state payment for day care services to eligible providers and parents.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the department no later than 5:00 p.m. on August 28, 1997, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406) 444-1970.

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

11.14.101 CHILD DAY CARE SERVICES, PURPOSES AND  
LICENSING (1) through (4) remain the same.

(5) The final authority for approval of child protective services (CPS) day care benefits in any particular case remains the responsibility of the appropriate community social worker supervisor working under the supervision of the regional administrator. Ultimate responsibility for the day care program rests with the protective Child & Family services division.

(6) ~~Child Protective Services (CPS)~~ day care may be

provided to a single or two parent family.

(6) (a) through (6) (c) remain the same.

~~(d) Payment for JOBS related day care benefits requires:~~

~~(i) The family is registered for JOBS.~~

~~(ii) If the certified registrant is placed in employment, but is no longer receiving an AFDC subsistence grant and meets the other day care eligibility requirements stated in this section, day care services will continue, if requested, for 30 days from the date of entry into employment.~~

~~(e) (d) Payment for special-need-related care CPS day care requires that; or extra meal day care requires that:~~

~~(i) the extra meal is not part of the full day care or full night care services;~~

~~(ii) the parents' situation is such as to require the provision of the extra meal (i.e., parent is employed from 7:00 a.m. to 5:30 p.m.). This must be documented in the case record;~~

~~(iii) (i) the day care facility is in agreement to provide the extra service;~~

~~(iv) (ii) the child's needs and best interest are being met through the service provided; and~~

~~(v) (iii) the rate has been approved in writing by the appropriate community social worker supervisor upon receiving a written evaluation for the need from either the social worker or the appropriate resource and referral agency.~~

~~(f) (e) Payment for special child or exceptional child day care requires:~~

~~(i) That the child be between the ages of 0 through 17 18 years of age and the case record contains written verification of the physical, handicaps or retardation emotional or mental disability from the appropriate authority.~~

~~(ii) That a written evaluation of the appropriateness of the day care being given the child in the facility has been submitted to and approved by the appropriate community social worker supervisor. The evaluation shall include:~~

~~(A) the long range goal for the family, particularly the child and how day care is incorporated into this plan;~~

~~(B) the positives as well as the negatives of this placement;~~

~~(C) the steps that would be taken to ensure appropriate adjustments of the parent and child to the placement; and~~

~~(D) the plan for follow-up evaluations of the placement.~~

AUTH: Sec. 53-4-503, 52-2-704 and 53-4-212, MCA

IMP: Sec. 53-4-502, 52-2-702, 52-2-713, 52-2-721,  
53-2-201, 53-4-211, 53-4-601, 53-4-611 and  
53-4-612, MCA

11.14.102 DEFINITIONS (1) through (12) remain the same.

(13) "Department" means the department of ~~family services~~  
public health and human services.

(14) and (15) remain the same.

(16) "Combination full/part day care" means care given to

a child in a day care for a continuous period beyond full day care. The hourly rate will be paid in addition to a full day rate, as defined in ARM 11.5.1002 up to 16 hours/day. Care in excess of 16 hours/day will be reimbursed at 2 full day care days in a 24 hour period.

(16) through (21) remain the same in text but are renumbered (17) through (22).

AUTH: Sec. 53-4-503, 52-2-704 and 53-4-212, MCA

IMP: Sec. 53-4-501, 53-4-504, 52-2-702, 52-2-703, 52-2-713, 52-2-731, 53-2-201, 53-4-211, 53-4-601, 53-4-611 and 53-4-612, MCA

11.14.601 PURPOSE AND GENERAL LIMITATIONS (1) This subchapter of rules pertains to payment for child day care services provided to parents eligible for benefits funded under section 5082 of the Omnibus Reconciliation Act of 1990, Public Law 101-508, entitled "Child Care and Development Block Grant Act of 1990," as amended in 1996, and the "Personal Responsibility and Work Opportunity Reconciliation Act," of 1996. These rules also pertain to subsequent refunding of this program. In addition, this subchapter's requirements for certification of legally unregistered providers under ARM 11.14.609 apply to all day care programs administered by the department where the department allows participation of legally unregistered providers.

(2) Eligibility of parents and the amount of benefits provided under this subchapter depends generally on income as set out in ARM 11.14.605.

~~(3) Parents may be required to apply for and be denied benefits funded by other child day care programs. For the purpose of this subsection, the phrase "other child day care programs" includes but is not limited to: AFPC training, income disregard child day care services, transitional day care, Pell grants, JTPA, educational/institutional resources or family resources, and tribal block grant or other tribal sponsored child day care programs.~~

(4) through (7) remain the same in text but are renumbered (3) through (6).

AUTH: Sec. 52-2-704 and 53-4-212, MCA

IMP: Sec. 52-2-702, 52-2-704, 52-2-713, 52-2-731, 53-2-201, 53-4-211, 53-4-601, 53-4-611 and 53-4-612, MCA

11.14.602 DEFINITIONS As used in this subchapter, the following definitions apply:

(1) "Child day care" means supplemental parental care as defined in ARM 11.14.102(6) provided by either a day care facility or by a legally unregistered provider, for a child:

(a) ~~from birth to the age of 13 years; through the month of the 13th birthday; or~~

(b) ~~under the age of 18 years and physically and mentally incapable of caring for themselves as documented by a physician or licensed or certified psychologist, or under court supervision, who has attained 18 years of age; or has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training) and who has a medical record with the appropriate written verification of an emotional, physical, or mental disability and who, because of the disability or cognitive delay, is not able to care for him or herself or his/her property without assistance.~~

(2) A legally unregistered provider certified under this subchapter, or under any day care program administered by the department allowing for participation of legally unregistered providers, may be a relative of the child, and may provide child day care in the home of the parents, notwithstanding the definition of supplemental parental care in ARM 11.14.102(5)(6).

(3) through (8) remain the same.

(9) "Parent" means the natural parent, guardian, or ~~any other person(s)~~ person acting in loco parentis who may be deemed to bear financial responsibility for procuring child day care for a particular child.

(10) through (13) remain the same.

AUTH: Sec. 52-2-704 and 53-4-212, MCA

IMP: Sec. 52-2-704, 52-2-713, 52-2-721, 52-2-722,  
52-2-723, 52-2-731, 53-2-201, 53-4-211, 53-4-601,  
53-4-611 and 53-4-612, MCA

11.14.604 ELIGIBILITY OF PARENTS FOR PAYMENT (1) In addition to other requirements, to be eligible for payments under this subchapter one parent (or other adult who is included in the calculation of family size) in the household must be working. ~~This work requirement does not apply to FAIM families, teen parent families attending high school or an equivalency program and working families experiencing short-term medical emergencies, at least 15 hours per week. The 15-hour work week requirement also applies to parents claiming payment under this subchapter for time spent at training, i.e., parents may receive Parents may receive benefits under this subchapter to cover child day care while at training only if a parent (or other adult who is included in the calculation of family size) in the household is employed a minimum of 15 hours per week. Hours worked under a work study grant shall be counted in meeting the 15-hour work week requirement if income is earned, or if the cash equivalent of benefits received is counted as income for purposes of computing the benefit amount under the sliding scale in ARM 11.14.605.~~

(2) remains the same.

(3) The parent(s) may apply for certification/recertification under this subchapter at the nearest district

resource and referral office, local county office of Human Services or Office of Public Welfare. District resource and referral offices are located in Billings, Bozeman, Butte, Glasgow, Great Falls, Helena, Kalispell, Miles City, Havre, Glendive, Lewistown and Missoula. Following completion and submission of all applicable forms, the resource and referral office, in cooperation with the department representative, will approve or deny the application. If approved, the parent(s) will be certified eligible for benefits under this subchapter according to the sliding scale in ARM 11.14.605. The parent(s) must obtain eligibility re-certification every three months.

(4) Families will be prioritized for services as follows:

(a) Families receiving services through the Temporary Assistance for Needy Families/Families Achieving Independence in Montana (TANF/FAIM) programs are guaranteed needed child care when participating in mandated activities.

(b) Other families must compete for child care depending on the availability of child care funds as follows:

(i) the highest priority for services, after TANF/FAIM families are full-time working families, teen parents attending high school or equivalency programs, and families experiencing short term (expected to last fewer than three months) medical emergencies who need the child care so they may return to work;

(ii) part-time working families have the next priority for services;

(iii) part-time working families who are also attending post-secondary education or training programs are last priority;

(iv) among working families, those with lower income are a higher priority than those with higher income; and

(v) the family whose application is received sooner than another family with equal priority will be a higher priority than a family whose application is received at a later date.

44(c) Payment may only be made for care provided during time both parents or, in single parent households, the parent, and any other adult included in calculating family size under this subchapter, is/are required to be out of the home to attend work or training or due to a short term medical emergency. Under no circumstances may payment be made for child day care provided by a parent or person acting in loco parentis of the child(ren), even if such parent does not reside in the child's household. In addition, no payment under this subchapter may be made for child day care provided by any person residing in the household, whether or not such person is included in calculating family size under this subchapter.

(5) and (6) remain the same.

(7) Parents receiving an AFDC grant are eligible for child day care under this subchapter only if all applicable requirements of this subchapter are met, and only after JOBS, self-initiated, or transitional day care benefits are found by the department to be unavailable. Any amount of an AFDC grant retained by the AFDC recipient eligible under this subchapter shall be counted as income in computing the benefits to be paid

under ARM 11.14.605. However, such income may be used to fulfill the copayment requirements imposed under ARM 11.14.605 public assistance are guaranteed child care pursuant to all applicable requirements including the sliding fee scale copayment requirements.

(8) remains the same.

AUTH: Sec. 52-2-704 and 53-4-212, MCA

IMP: Sec. 52-2-704, 52-2-713, 53-2-201, 53-4-211,  
53-4-601 and 53-4-611, MCA

11.14.605 INCOME ELIGIBILITY AND COPAYMENTS (1) remains the same.

(2) The sliding fee scale is based on federal poverty level (FPL) income guidelines and state median income (SMI) for the current federal fiscal year of 1995.

(3) Parents eligible for benefits under this subchapter are required to make a monthly copayment. The parent(s) will be charged a percentage of their gross monthly income which is rounded up to the next \$100 increment, for the applicable family size according to the chart. Households with income exceeding ~~133%~~ 85% of SMI or 185% of the FPL, appearing in the chart are ineligible for benefits. The department may establish other priorities for distributing available benefits.

(4) The department hereby adopts and incorporates by reference the sliding fee scale chart, revised ~~July 1, 1995~~ October 1, 1997, which appears within the appendix of the child care and development block grant plan of the state of Montana. The sliding fee scale chart is established pursuant to the requirements of 45 C.F.R. Section 98.16 (1991). The chart sets forth the copayments paid by parents receiving payment for day care services under this subchapter. A copy of the sliding fee scale chart may be obtained from the Department of Public Health and Human Services, ~~Protective Services Division, Research and Planning Bureau~~ Child & Family Services Division, Program Management Bureau, P.O. Box 8005, Helena, Montana 59604.

(5) remains the same.

(6) Each family eligible under this subchapter may receive benefits covering hours/days of child day care for all eligible children in the household. For purposes of calculating copayments only, a maximum of ~~two~~ one children ~~are is~~ counted as residing in the household.

(7) and (8) remain the same.

(9) Parents certified under this subchapter for benefits must report immediately any change in:

(a) income, employment, ~~or~~ training or medical status which may reasonably be expected to affect their eligibility under this subchapter;

(b) the identity of their provider and/or reduction in the amount of child day care for which payment may be made under this subchapter; and

(c) address or phone number.



(10) remains the same.

AUTH: Sec. 52-2-704 and 53-4-212, MCA  
IMP: Sec. 52-2-704, 52-2-713, 53-2-201, 53-4-211,  
53-4-601 and 53-4-611, MCA

3. The rules to be repealed are:

46.10.404 TITLE IV-A CHILD CARE, REQUIREMENTS AND PAYMENT RATES found on page 46-800 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212 and 53-4-503, MCA  
IMP: Sec. 53-4-211, 53-4-514 and 53-4-716, MCA

46.10.408 TRANSITIONAL CHILD CARE, REQUIREMENTS found on page 46-803 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212 and 53-4-719, MCA  
IMP: Sec. 53-4-701 and 53-4-716, MCA

46.10.409 SLIDING FEE SCALE FOR TRANSITIONAL CHILD CARE found on page 46-805 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212 and 53-4-719, MCA  
IMP: Sec. 53-4-701 and 53-4-716, MCA

46.10.410 AT-RISK CHILD CARE SERVICES found on page 46-807 of the Administrative Rules of Montana.

AUTH: Sec. 53-2-201 and 53-4-212, MCA  
IMP: Sec. 53-2-108, 53-2-201, 53-2-606, 53-4-212  
and 53-4-231, MCA

46.18.214 FAIM JOBS PROGRAM: JOBS CHILD CARE found on page 46-6557 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212, MCA  
IMP: Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA

46.18.314 FAIM EMPLOYMENT AND TRAINING: CHILD CARE found on page 46-6635 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212, MCA  
IMP: Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA

46.18.501 FAIM: EXTENDED CHILD CARE, REQUIREMENTS found on page 46-6801 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212, MCA  
IMP: Sec. 53-4-211, 53-4-601 and 53-4-612, MCA

46.18.502 FAIM: SLIDING FEE SCALE FOR EXTENDED CHILD CARE  
found on page 46-6802 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212 and 53-4-612, MCA  
IMP: Sec. 53-4-211, 53-4-601 and 53-4-612, MCA

46.18.505 FAIM PATHWAYS: CHILD CARE (PCC) found on page 46-6804 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212, MCA  
IMP: Sec. 53-2-211, 53-4-601 and 53-4-603, MCA

46.18.506 FAIM JOB SUPPLEMENT: CHILD CARE (JSP) found on page 46-6805 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-212, MCA  
IMP: Sec. 53-4-211, 53-4-601 and 53-4-603, MCA

4. The changes to the rules are reasonably necessary to create a more seamless system of state payment for day care benefits under the new more flexible federal requirements. Specifically, in 1996 Congress amended the "Child Care and Development Block Grant Act of 1990," and enacted the "Personal Responsibility and Work Opportunity Reconciliation Act," (hereinafter referred to as PRWORA). The amendments to the existing federal block grant legislation and the enactment of PRWORA created a new Child Care and Development Block Grant Fund which replaced the child care funding previously governed by Title IV-A of the Social Security Act. The rules as they currently exist are based on Title IV-A requirements.

In preparation for implementation of the new plan under the greater flexibility provided by PRWORA, and with the participation of the statewide Montana Child Care Advisory Council, the Department submitted to the Federal government a new state plan, with a planned effective date of October 1, 1997. The advisory council recommended many changes to take advantage of the new flexibility under federal law in providing day care benefits. Most of the following rule changes are related in one aspect or another to the changes that occurred as a result of the PRWORA and the new state plan for this type of public assistance. Other changes are proposed to correct outdated references to programs, officials or forms.

Rule 11.14.101: The change to this rule is proposed to clarify that the regional administrator has authority for approval of CPS child care only and to remove the outdated language regarding JOBS and AFDC. Additionally, the Department no longer provides payment for extra meals, and the reference to this program should be deleted.

Rule 11.14.102 is being changed to allow for payment to be made

for child care hours that extend beyond the normal work day. The new rate will aid in supporting parents working unusual work schedules. In particular, under the existing provisions, TANF/FAIM parents who are offered opportunities to work jobs with unusual shifts are unable to obtain appropriate reimbursement for extra hours of child care resulting from their unusual schedules. Additionally, the definition of Department is being changed to the Department of Public Health and Human Services. This change is reasonably necessary to implementing the flexibility under the new block grant.

Rule 11.14.601 is being changed to update the reference to the Omnibus Reconciliation Act of 1990 and to include the PRWORA act of 1996. In addition, the requirement that families apply for and be denied for other programs before applying for block grant is being removed because the types of child care provided under the listed programs are part of the seamless system proposed by the rules and the new state plan. Therefore, there is generally no need to require participants to apply for benefits under the programs to be deleted.

Rule 11.14.602 is being changed so that the definition of special needs child is consistent with the FAIM dependent child definition. A consistent definition is necessary to achieve the goal of seamless day care benefits for participating families. Additionally, the 15 hour work-week requirement is being removed and the definition of a parent is being expanded for child care purposes to include persons acting in loco parentis. In regard to the change to the work-week, it is reasonably necessary to the new program because the old requirement limited benefits to families who worked sporadically between weeks. The loss of benefits therefore discouraged parents who could only find sporadic employment. The definition of parent is being changed to more clearly reflect requirements under the definition of day care, § 52-2-703, MCA.

Rule 11.14.604 is being changed to reflect the new eligibility requirements and priorities for services under the block grant. The new flexibility under PRWORA for serving families under the block grant allows for additional categories in family-types that may receive state-paid day care services. Specifically, the new categories are teen parents attending high school or high school equivalency programs and working families with short-term medical emergencies. There is a need to serve these families that had not been fulfilled under the old program, and the amendments are necessary to provide them with the services.

Rule 11.14.605 is being changed to reflect the changes to the new sliding fee scale. Under the new flexibility in the child care block grant, and pursuant to directives incorporated into HB 2 of the 1997 Montana Legislative Session, it is necessary to change the sliding fee scale. The income eligibility for

families is increased from serving families up to 133% of the federal poverty level, up to 185% of poverty, except where this exceeds 85% of the state median income. The change is necessary to allow more families to be served under the program. The availability of payment for child care will assist state efforts designed to reduce welfare dependency. Additionally, a correction was made to the division and bureau names where the sliding fee scale could be obtained. The medical status of a parent was added to the events which could affect eligibility to make the provision consistent with the proposed amendment to 11.14.604.

Rules 46.10.404, 46.10.408, 46.10.409, 46.10.410, 46.18.501, 46.18.502, 46.18.505 and 46.18.506 are being repealed because of the changes to the Aid to Families with Dependent Children (AFDC) program, now known as Temporary Assistance to Needy Families (TANF), made by PRWORA. The PRWORA changes removed the requirement that states operate specific child care programs such as the Transitional Child Care program (for families losing AFDC eligibility due to increased income) in compliance with specific, and often differing, federal requirements.

The Department will still serve the families formerly served by the at-risk child care and transitional child care programs and JOBS child care assistance, but there will no longer be different programs with differing requirements. All child care assistance for TANF recipients will now be provided in accordance with the provisions of the Title 11 child care rules, which is consistent with the goal of having a seamless system of child care assistance for low income families. Thus, the administrative rules governing the at-risk and transitional child care programs and JOBS child care assistance are unnecessary and are being repealed.

5. The repeal of rules in this notice is also pursuant to Department efforts to reduce unnecessary administrative regulations. See, e.g., House Joint Resolution No. 5, 1995 Montana Legislature.

6. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Laura Harden, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951, no later than September 15, 1997.

7. The Department plans to implement the rule changes that have no adverse effect to providers and participants beginning on October 1, 1997, the beginning of the new federal fiscal year and the effective date of the new state plan pertaining to day care benefits.

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

*Dawn Elia*  
Rule Reviewer

*Wm. C. ...*  
Director, Public Health and  
Human Services

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF THE PROPOSED  
of ARM 42.20.140, 42.20.147, ) AMENDMENT  
42.20.148, 42.20.149, )  
42.20.157, and 42.20.159 )  
relating to Real Property ) No Public Hearing Contemplated

TO: All Interested Persons:

1. On October 7, 1997, the Department of Revenue proposes to amend ARM 42.20.140, 42.20.147, 42.20.148, 42.20.149, 42.20.157, and 42.20.159 relating to real property.

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

42.20.140 DEFINITION OF TERMS FOR PARCELS LESS THAN 20 ACRES (1) through (3) remain the same.

AUTH: Sec. 15-1-201, MCA; IMP, Secs. 15-7-201 through 15-7-216 MCA 15-7-203, 15-7-206 through 15-7-210, and 15-7-212, MCA.

42.20.147 CRITERIA FOR AGRICULTURAL LAND VALUATION FOR LAND TOTALLING LESS THAN 20 ACRES (1) through (8) remain the same.

AUTH: Sec. 15-1-201, MCA; IMP, Sec. 15-7-201 through 15-7-216 MCA 15-7-203, 15-7-206 through 15-7-210, and 15-7-212, MCA.

42.20.148 PRODUCTION FAILURES (1) through (2) remain the same.

AUTH: Sec 15-1-201, MCA; IMP, Sec. 15-7-201 through 15-7-216 MCA 15-7-203, 15-7-206 through 15-7-210, and 15-7-212, MCA.

42.20.149 MARKETING DELAY FOR ECONOMIC ADVANTAGE (1) remains the same.

AUTH: Sec. 15-1-201, MCA; IMP, Sec. 15-7-201 through 15-7-216 MCA 15-7-203, 15-7-206 through 15-7-210, and 15-7-212, MCA.

42.20.157 FILED AND PLATTED SUBDIVISIONS (1) through (4) remain the same.

AUTH: Sec. 15-1-201, MCA; IMP, Sec. 15-7-201 through 15-7-216, MCA 15-7-203, 15-7-206 through 15-7-210, and 15-7-212, MCA.

42.20.159 COMMERCIAL AND INDUSTRIAL USE (1) remains the same.

AUTH: Sec. 15-1-201, MCA; IMP, Sec. 15-7-201 through 15-7-216, MCA 15-7-203, 15-7-206 through 15-7-210, and 15-7-212, MCA.

3. The amendments to these histories are housekeeping. Sections 15-7-204, 15-7-205, 15-7-211, and 15-7-213 through 15-7-216, MCA were repealed before the rules were adopted. Therefore, referencing these statutes is not applicable.


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 22, 1997.

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 22, 1997.

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

  
MARY BRYSON  
Director of Revenue

Certified to Secretary of State August 4, 1997

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF ARM
amendment of ARM 2.21.122,	)	2.21.122, 2.21.123,
2.21.123, 2.21.133,	)	2.21.133, 2.21.138,
2.21.138, 2.21.141,	)	2.21.141, 2.21.143 AND
2.21.143 and 2.21.144	)	2.21.144 RELATED TO SICK
related to sick leave	)	LEAVE

TO: All Interested Persons.

1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.122, 2.21.123, 2.21.133, 2.21.138, 2.21.141, 2.21.143 and 2.21.144 related to sick leave at page 971 of the 1997 Montana Administrative Register, issue number 11.

2. The department has amended the rules as proposed, with the following changes:

2.21.133 ACCRUAL AND USE OF SICK LEAVE CREDITS (1) - (9)  
Same as proposed.

(10) ~~Persons~~ A person simultaneously employed in two or more positions in the same or in different agencies will accrue sick leave credits in each position according to the number of hours worked. Leave credits will be used only from the position in which the credits are earned and with approval of the supervisor or appropriate authority for that position.

(11) - (13) Same as proposed.

(14) When an employee who has been laid off ~~and has~~ elects to maintain sick leave credits, as provided in ARM 2.21.5007, the employee shall not take any accrued sick leave credits. The employee may take those sick leave credits if reinstated or reemployed by the ~~same~~ agency, or ~~if employed by~~ another state agency pursuant to the State Employee Protection Act, 2-18-1201, et seq., MCA. The employee may elect to be cashed out at any time at the salary rate the employee earned at the effective date of lay-off. However, the employee shall be cashed out when the employee's ~~eligibility for participation in the job registry ends~~ rights under the State Employee Protection Act end.

3. One comment was received.

COMMENT: Be consistent between the language in this policy and the language in the annual leave policy.

RESPONSE: We have made those changes.



BY:   
Dal Smilie  
Rule Reviewer

  
Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF ARM
amendment of ARM 2.21.216,	)	2.21.216, 2.21.217,
2.21.217, 2.21.221 through	)	2.21.221 THROUGH 2.21.224,
2.21.224, 2.21.228,	)	2.21.228, 2.21.230, AND
2.21.230, and 2.21.232	)	2.21.232 RELATED TO ANNUAL
related to annual vacation	)	VACATION LEAVE
leave	)	

TO: All Interested Persons.

1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.216, 2.21.217, 2.21.221 through 2.21.224, 2.21.228, 2.21.230, and 2.21.232 related to annual vacation leave at page 966 of the 1997 Montana Administrative Register, issue number 11.

2. The department has amended the rules as proposed, with the following changes:

2.21.221 ACCRUAL AND ELIGIBILITY TO USE VACATION LEAVE CREDITS (1) - (5) Same as proposed.

(6) A person simultaneously employed in two or more positions in the same or in different agencies will accrue vacation leave credits in each position according to the number of hours worked.

~~(7) When a person is simultaneously employed in different agencies as provided in this rule, v~~ Vacation leave credits will be used only from the position in which the credits are earned and with approval of the supervisor or appropriate authority for that position.

(8) - (11) Renumbered as (7) - (10) and are the same as proposed.

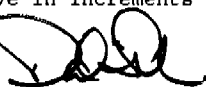
~~(12) (11) Where~~ When an employee who has been laid off and has elected to maintain annual leave credits, as provided in ARM 2.21.5007, the employee shall not take any accrued annual leave credits. The employee may take those annual leave credits if ~~reinstated or~~ reemployed by the same agency or another state agency as a permanent employee pursuant to the State Employee Protection Act, 2-18-1201, et seq., MCA. The employee may elect to be cashed out at any time, at the salary rate the employee earned at the effective date of lay-off. ~~However, t~~ The employee shall be cashed out when the employee's eligibility for participation in the job registry ends rights under the State Employee Protection Act end.

3. One comment was received.

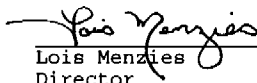
COMMENT: Be consistent between the language in this policy and the language in the sick leave policy. (12) is in conflict with the State Employee Protection Act because the employee can use accrued vacation leave to extend the employee's effective date of lay-off.

RESPONSE: The language has been made consistent. There is no conflict between the present language and the State Employee Protection Act, because the employee decides first whether to use some or all credits to extend the effective date of lay-off and then makes the election to bank any remaining annual leave credits. This policy ensures that employees cannot take annual leave in increments after making the decision to bank credits.

BY:



Dal Smilie  
Rule Reviewer

  
Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF ARM
amendment of ARM	)	2.21.619, 2.21.626,
2.21.619, 2.21.626,	)	2.21.627, AND 2.21.636
2.21.627, and 2.21.636	)	RELATED TO HOLIDAYS
related to holidays	)	

TO: All Interested Persons.

1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.619, 2.21.626, 2.21.627, and 2.21.636 related to holidays at page 962 of the 1997 Montana Administrative Register, issue number 11.

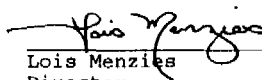
2. The department has amended the rules as proposed.

3. No comments or testimony were received.

BY:



Dal Smilie  
Rule Reviewer



Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE AMENDMENT OF ARM
amendment of ARM	)	2.21.3603, 2.21.3607
2.21.3603, 2.21.3607	)	THROUGH 2.21.3610,
through 2.21.3610,	)	2.21.3615 THROUGH
2.21.3615 through	)	2.21.3618 AND 2.21.3623
2.21.3618 and 2.21.3623	)	RELATED TO VETERANS'
related to veterans'	)	EMPLOYMENT PREFERENCE
employment preference	)	

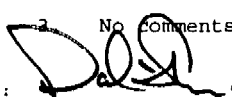
TO: All Interested Persons.

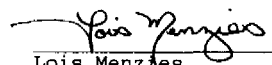
1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.3603, 2.21.3607 through 2.21.3610, 2.21.3615 through 2.21.3618 and 2.21.3623 related to veterans' employment preference at page 956 of the 1997 Montana Administrative Register, issue number 11.

2. The department has amended the rules as proposed.

3. No comments or testimony were received.

BY:

  
Dal Smilie  
Rule Reviewer

  
Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of ARM	)	ARM 2.21.3802, 2.21.3803,
2.21.3802, 2.21.3803,	)	2.21.3807, 2.21.3808 AND
2.21.3807, 2.21.3808 and	)	2.21.3811 RELATED TO
2.21.3811 related to	)	PROBATION
probation		

TO: All Interested Persons.

1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.3802, 2.21.3803, 2.21.3807, 2.21.3808 and 2.21.3811 related to probation at page 952 of the 1997 Montana Administrative Register, issue number 11.

2. The department has amended the rules as proposed, with the following change:

2.21.3807 PERMANENT STATUS (1) A permanent or seasonal employee attains permanent status after satisfactorily completing an appropriate probationary period. Laid-off employees retain permanent status when reinstated or reemployed, pursuant to the State Employee Protection Act, 2-18-1201, et seq., MCA.

(2) - (6) Same as proposed.

3. One comment was received.

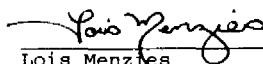
COMMENT: This policy should clarify whether or not a reduction in work force employee serves in a probationary period.

RESPONSE: Language has been added to this rule to make this clarification.

BY:



Dal Smilie  
Rule Reviewer



Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of ARM 2.21.5006	)	ARM 2.21.5006 AND 2.21.5007
and 2.21.5007 related to	)	RELATED TO REDUCTION IN
reduction in work force	)	WORK FORCE

TO: All Interested Persons

1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.5006 and 2.21.5007 related to reduction in work force at page 946 of the 1997 Montana Administrative Register, issue number 11.

2. The department has amended the rules as proposed, with the following change:

2.21.5007 POLICY (1) - (d) Same as proposed rule.

(e) retain, cash out or use accrued vacation leave credits to extend the employee's effective date of lay-off. Employees who have been laid off may choose to "bank" their credits with the agency that laid them off until they accept permanent employment in a state agency. However, the employee shall be cashed out when the employee's rights under the State Employee Protection Act end. The credits are not transferred if an employee accepts seasonal, temporary or short-term employment in a state agency;

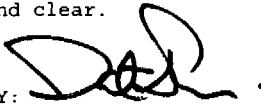
(f) - (12) Same as proposed rule.

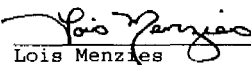
3. One comment was received.

COMMENT: Information should be included about duration of time an employee is able to bank leave credits. It should be consistent with amendments to sick leave policy.

RESPONSE: Language has been added to make this consistent and clear.

BY:

  
Dal Smilie  
Rule Reviewer

  
Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF ARM
amendment of ARM 2.21.8011	)	2.21.8011 THROUGH
through 2.21.8013,	)	2.21.8013, 2.21.8017 AND
2.21.8017 and 2.21.8018	)	2.21.8018 RELATED TO
related to grievances	)	GRIEVANCES

TO: All Interested Persons.

1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.8011 through 2.21.8013, 2.21.8017 and 2.21.8018 related to grievances at page 949 of the 1997 Montana Administrative Register, issue number 11.

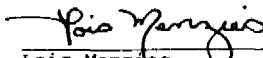
2. The department has amended the rules as proposed.

3. No comments or testimony were received.

BY:



Dal Smilie  
Rule Reviewer



Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.



BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF ARM
amendment of ARM 2.21.8107	)	2.21.8107 AND 2.21.8109
and 2.21.8109 related to	)	RELATED TO EQUAL
equal employment	)	EMPLOYMENT OPPORTUNITY
opportunity	)	


TO: All Interested Persons.

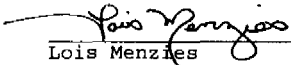
1. On June 2, 1997, the Department of Administration published notice of the proposed amendment of ARM 2.21.8107 and 2.21.8109 related to equal employment opportunity at page 964 of the 1997 Montana Administrative Register, issue number 11.

2. The department has amended the rules as proposed.

3. No comments or testimony were received.

BY:

  
Dal Smilie  
Rule Reviewer

  
Lois Menzies  
Director

Certified to the Secretary of State August 4, 1997.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 4.12.1508 pertaining )  
to the conditions governing )  
importation of mint and mint )  
rootstock )

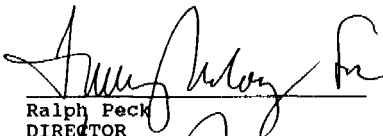
TO: All interested persons:

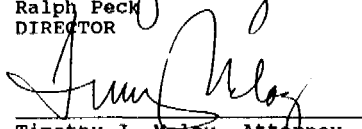
1. On June 23, 1997, the Department of Agriculture published a notice of proposed amendment to the above-stated ARM 4.12.1508 pertaining to the conditions governing importation of mint and mint rootstock. The notice was published at page 1005 of the 1997 Montana Administrative Register, issue number 12.

2. The department has adopted the text of ARM 4.12.1508 exactly as proposed. However, the authority was incorrectly stated in the proposal as 80-11-405, MCA; it should be 80-11-403, MCA.

3. No written comments were received.

DEPARTMENT OF AGRICULTURE

  
Ralph Peck  
DIRECTOR

  
Timothy J. Meiby, Attorney  
Rule Reviewer

Certified to the Secretary of State this 1st Day of August 1997.

BEFORE THE CHEMICAL DEPENDENCY  
COUNSELORS CERTIFICATION PROGRAM  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the adoption ) NOTICE OF ADOPTION OF  
of a rule pertaining to fees ) RULE I FEES

TO: All Interested Persons:

1. On June 23, 1997, the Chemical Dependency Counselors Certification Program, Department of Commerce, published a notice of proposed adoption of the above-stated rule at page 1008, 1997 Montana Administrative Register, issue number 12.

2. The Program and Department will adopt new rule I (8.11.101) exactly as proposed.

3. The Program and Department accepted written comment until July 21, 1997. The Program and Department have thoroughly considered all comments received. Those comments, and the Program and Department responses thereto, are as follows:

COMMENT NO. 1: One comment was received stating opposition to charging a renewal fee for CDC certificates, since the certificate holders were already charged a fee for examination and initial application. Charging a renewal fee would therefore be like charging the same people twice. The comment also stated that certificate holders are already paying hundreds of dollars each year for continuing education.

RESPONSE: The Program and the Department noted the renewal fee is necessary to cover the operating expense of the program. The program must support itself through all fees, including renewal fees, to cover expenses commensurate with the costs of running the program, as per 37-1-134, MCA. Applications, examinations and renewals all have different costs associated with them. Also, CE may be obtained at lower costs, if necessary, through home study, etc.

COMMENT NO. 2: Two comments were received stating the \$100 renewal fee should be for a four year renewal period, as the fee is too high for an annual renewal.

RESPONSE: The Program and Department noted that renewal fees must support the Program, and \$100 every four years will not raise sufficient revenue to accomplish this. Section 37-1-134, MCA, specifically mandates that each program must charge fees commensurate with costs. The program will consider a two year renewal for the future, instead of annual, but may have to adjust the fees as budget amounts expended and projected become clearer. Any renewal time period adjustment will be contained on future proposed rule notices.

COMMENT NO. 3: One comment was received in support of the rule.

RESPONSE: The program and Department acknowledge receipt of the comment in support.

COMMENT NO. 4: One comment was received stating the \$100 renewal fee is too high, as many certificate holders' salaries are not sufficient, and this would be too great an expense.

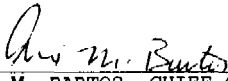
RESPONSE: See response to Comment No. 1 above.

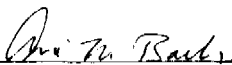
COMMENT NO. 5: One comment was received stating disagreement with the \$100 renewal fee, and stating this increase should have been acknowledged when reorganization and transfer to the Department of Commerce was being considered.

RESPONSE: The program and Department noted that reorganization and transfer did not affect the necessity of charging fees to support the program. In addition, all legislative committees were aware fees would be imposed, and no opposition was raised at any hearing, even though all certificate holders were notified of the proposed transfer. See response to Comment No. 1 above on the necessity of charging fees commensurate with costs.

CHEMICAL DEPENDENCY COUNSELORS  
CERTIFICATION PROGRAM

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 4, 1997.

BEFORE THE BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

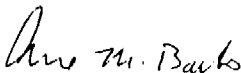
In the matter of the amendment ) NOTICE OF AMENDMENT OF  
of a rule pertaining to fees ) 8.62.413 FEES

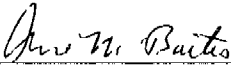
TO: All Interested Persons:

1. On June 23, 1997, the Board of Speech-Language Pathologists and Audiologists published a notice of proposed amendment of the above-stated rule at page 1012, 1997 Montana Administrative Register, issue number 12.
2. The Board has amended the rule exactly as proposed.
3. No comments or testimony were received.

BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS  
LYNN HARRIS, CHAIRMAN

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 4, 1997.

BEFORE THE BANKING AND FINANCIAL INSTITUTIONS DIVISION  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT OF ARM
and adoption of rules	)	8.87.204 AND 8.87.701 AND
pertaining to the application	)	ADOPTION OF NEW RULES I AND
procedures to establish a new	)	II FOR THE APPLICATION
branch bank and procedural	)	PROCEDURES TO ESTABLISH A
rules for a banking board	)	NEW BRANCH BANK AND
hearing	)	PROCEDURAL RULES FOR A
	)	BANKING BOARD HEARING

TO: All Interested Persons:

1. On June 23, 1997, the Division of Banking and Financial Institutions published a notice of public hearing on the proposed amendment and adoption of rules pertaining to the application procedures to establish a new branch bank and procedural rules for a banking board hearing at page 1014, 1997 Montana Administrative Register, issue number 12.

2. The Division has adopted New Rule II, ARM 8.87.703 exactly as proposed. The Division amended and adopted ARM 8.87.204, 8.87.701 and New Rule I, 8.87.702 as proposed, but with the following changes: (authority and implementing sections remain the same as proposed)

"8.87.204 PROCEDURAL RULES FOR DISCOVERY AND HEARING

(1) through (4) will remain the same as proposed.

(5) A written protest must be filed with the division no later than ~~ten working~~ 15 calendar days following the notice of the filing of an application for a certificate of authorization for a new bank. A written protest on all other applications must be filed no later than ~~10 working~~ 15 calendar days upon the filing of the application with the division.

(6) will remain the same as proposed.

(6)(a) ~~to the extent required by law~~, failure to inform and advise all ownership interests, including shareholders, of the determination to submit an application for the proposed decision;

(b) and (c) will remain the same as proposed;

(d) other reasons that may be considered by the board ~~that the proposed application would not be in the public interest.~~

"8.87.701 APPLICATION PROCEDURE FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK (1) through (3) will remain the same as proposed.

(4) All written comments concerning the application must be received by the division of banking and financial institutions no later than ~~30~~ 15 calendar days following the date of the last publication of the notice of intent. Comments received more than ~~30~~ 15 calendar days after the date of the last publication will not be considered in the decision to approve or deny the application. Oral comments will not be

considered, except for oral testimony that may be offered in the event of a public hearing.

(5) and (6) will remain the same as proposed."

"8.87.702 REVIEW PROCEDURE FOR APPLICATIONS FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK (1) through (2)(c) will remain the same as proposed.

(d) the convenience and needs of the community to be served at the proposed location of the new branch bank as evidenced by a brief statement provided by the applicant;

(e) and (f) will remain the same as proposed.

(3) through (3)(b) will remain the same as proposed.

(c) the 45-day deadline may be extended by the division when review of the complete application raises questions or concerns that require additional information from the applicant or any other entity or person. Once the additional information is received by the division, the 45-day deadline may be extended by no further than 14 calendar days.

(4) will remain the same as proposed.

~~(5) The division of banking and financial institutions may request a hearing before the state banking board to consider an application to establish a new branch bank if:~~

~~(a) persons or entities who have submitted written comment to the application have raised significant legal, public policy or competitive issues that cannot be properly deliberated by the division. Adverse comments that the board determines do not raise significant issues, are frivolous, are filed primarily as a means of delaying action on the application, or that raise concerns that have been satisfactorily resolved will not result in a hearing;~~

~~(b) the board determines that any other reasons require a hearing on the application;~~

(6) and (7) will remain the same as proposed, but will be renumbered (5) and (6).

(7) If a hearing is requested on an application, the time for the filing of a request for a hearing must occur within 14 calendar days following the division's decision."

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

COMMENT NO. 1: One written comment provided that ARM 8.87.204(4) contemplates mailing a notice of a hearing to banks within 100 miles of the proposed branch bank. The notice requirement by statute only applies to new bank charters and not to branch bank applications. The mailing of notices to all banks of a review hearing by the board is not required by statute nor does it appear appropriate and should therefore be deleted.

RESPONSE: The Division does not agree. The legal right of public participation in administrative hearings is required by statutory provisions and the Montana Constitution. In the event a hearing is required due to a protest filed by another

entity on an application or due to an adverse decision by the Division, a notice of hearing provides all interested persons with an opportunity to be informed of the date and time of the hearing.

COMMENT NO. 2: Comments during the hearing and in writing stated that proposed ARM 8.87.204(5) requires that a written protest be filed no later than 10 working days following the filing of the application with the Division. Proposed ARM 8.87.701(4) allows written comments for 30 calendar days following the publication of notice of intent to form a branch bank. The regulatory time frames are inconsistent as they set different times for making comments or filing a protest.

RESPONSE: The Division concurs. The Division amended the regulatory time frames so that the 15-calendar day period is provided for any comments or any written protest to be filed with the Division.

COMMENT NO. 3: One written comment was received that provided that two of the descriptions of a substantial basis included in proposed ARM 8.87.204(6) are inappropriate. ARM 8.87.204(6)(a) appears to impose an obligation of a bank to inform and advise all ownership interests, including shareholders of the decision to submit an application. Neither the Montana Bank Act or the Montana Model Business Corporation Act requires a bank to either inform or receive the consent of shareholders before submitting a branch bank application.

RESPONSE: The Division concurs. The Division amended the phrase to include: to the extent required by law.

COMMENT NO. 4: One comment was received regarding (6)(d) which provides for a general category for a substantial basis for things that the board may consider not to be in the public interest. The public interest standard for establishment of a branch bank existed under prior law, and was deleted by HB 262. Therefore, a subjective public interest should not be the basis for a substantial basis determined by the board.

RESPONSE: The Division concurs. The Division amended the provision to remove the public interest language.

COMMENT NO. 5: One written comment maintained that the Division is required to make a decision in all branch bank applications prior to any bank board review.

RESPONSE: The Division concurs. The rule was amended to be consistent with HB 262.

COMMENT NO. 6: A number of individuals testified at the hearing and two written comments were received regarding the convenience and needs of the criteria set forth in Rule I (2)(d). The comments maintained that the convenience and needs of the criteria for branch bank applications were specifically deleted from the section authorizing the public needs test indicating a clear legislative intent to eliminate the public need test for branch bank applications. Oral testimony also



provided that the public need test is too time consuming and expensive and will result in significant delays in the application process. A number of comments also provided that the convenience and needs test will be a competitive disadvantage to state banks since the federal process is more streamlined and it is possible that a federally chartered bank, credit union, or thrift could significantly impact a state branch bank application by more rapidly opening a branch bank in a targeted community or area. A written comment and testimony submitted during the hearing provided that previous to HB 262, banks in larger communities could have two detached facilities and banks in smaller communities could have one. The detached facility is no longer available, and the regulators need to streamline the approval process for new branch banks.

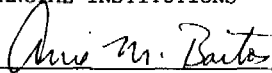
RESPONSE: The Division has thoroughly considered the comments and amended the convenience and needs factor so that the bank would only need to provide a brief statement as to the convenience and needs of the community. A demographic assessment study submitted with the application to the Division is not required. HB 262 provides the division with the authority to promulgate reasonable rules concerning application for and determinations on applications for the formation, relocation, closure and sale of branch banks, and applications for the formation, consolidation and merger of shell banks. To assure consistency with federal regulators and other state regulators in the era of intrastate and interstate branch bank applications, a review of the convenience and needs of the criteria is uniformly provided.

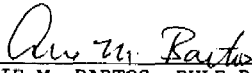
COMMENT NO. 7: A written comment was received regarding a time frame for a hearing if required on a branch bank application. The comment suggested that the administrative regulation should state a short period of time for the filing of a request for a hearing following the Division's decision.

RESPONSE: The Division concurs. The Division provides for a 14-calendar day time frame to file a request for a hearing before the State Banking Board.

DIVISION OF BANKING AND  
FINANCIAL INSTITUTIONS

BY:

  
ANNIE M. BARTOS, CHIEF COUNSEL  
DEPARTMENT OF COMMERCE

  
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, August 4, 1997.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of )	NOTICE OF
ARM 17.36.303 relating to the )	AMENDMENT OF RULE
authority of the department to )	
allow use of alternate water )	
systems in subdivisions. )	

(Subdivisions)

To: All Interested Persons

1. On February 24, 1997, the department published notice of proposed amendment of ARM 17.36.303, at page 375 of the Montana Administrative Register, Issue No. 4.

2. The department amended the rule as proposed, with no changes.

3. The department received the following comments and one request for a hearing, which was later withdrawn. A summary of the comments and the department's responses are as follows:

COMMENT 1: The department cannot guarantee dependability of a well because of the potential for drought or contamination in the future. The dependability requirement should therefore be dropped from the rules.

RESPONSE: Section 76-4-104(6)(b), MCA, requires the department to adopt rules that require the applicant for a subdivision approval to provide adequate evidence that "a water supply that is sufficient in terms of quality, quantity, and dependability, will be available to ensure an adequate supply of water for the type of subdivision proposed..." The department is therefore required to retain the dependability criterion in its rules.

COMMENT 2: The department does not have authority to prevent the use of wells and to require the use of cisterns in a subdivision. The rule should be amended to reflect this.

RESPONSE: Section 76-4-130, MCA, prohibits a person from construction or using a facility that deviates from the plans and specifications approved by the department. ARM 17.36.303(8) allows the applicant to propose and the department to approve an alternate water source when a well would not be feasible in terms of quality, quantity, or, with the proposed amendment, dependability. If the applicant submits plans and specifications for cisterns pursuant to ARM 17.36.303(8), and the department approves, domestic water within the subdivision must be supplied using cisterns and the department may enforce this requirement pursuant to 76-4-108, MCA.

COMMENT 3: The department should allow individuals within a

subdivision the right to choose whether to install a well or an alternate water system.

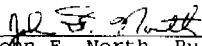
RESPONSE: Section 76-4-104(6)(b), MCA, requires the department to adopt rules to require adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability is available. Therefore, if wells would not be sufficient, the department cannot approve a plan that would allow installation of wells as the sole water supply. However, if the applicant proposes an adequate alternate water supply and wells, the department could, under the statute and the existing rule, allow installation and use of wells as long as the alternate water supply is constructed and available for use if the wells fail. The existing rule therefore allows the maximum flexibility allowable under the statute.

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

by

  
MARK A. SIMONICH, Director

Reviewed by

  
John F. North, Rule Reviewer

Certified to the Secretary of State August 4, 1997.

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

In the matter of the transfer ) NOTICE OF TRANSFER  
of rules 16.6.101 through )  
16.6.1601 and 16.32.501 through )  
16.32.504 pertaining to records )  
and statistics, with the )  
exception of any repealed rules )

TO: All Interested Persons

1. Pursuant to Chapter 546, Laws of Montana 1995, effective July 1, 1995, the records and statistics program is transferred from the Department of Health and Environmental Sciences to the Department of Public Health and Human Services. In order to implement that legislation, ARM 16.6.101 through 16.6.1601 and 16.32.501 through 16.32.504, inclusive, with the exception of any repealed rules, are transferred to the Department of Public Health and Human Services ARM 37.8.101 through 37.8.1808.

2. The Department of Public Health and Human Services has determined that the transferred rules will be numbered as follows:

<u>OLD</u>	<u>NEW</u>	
16.6.101	<u>37.8.101</u>	Registrars--General
16.6.103	<u>37.8.103</u>	Preservation of Copies of Record
16.6.104	<u>37.8.104</u>	Certificates Unfading, Permanent and Legible
16.6.105	<u>37.8.105</u>	Preservation of Old Records
16.6.106	<u>37.8.106</u>	Correction Affidavits
16.6.109	<u>37.8.109</u>	Monthly Statement of Returns
16.6.110	<u>37.8.110</u>	Payment of Fees to Local Registrars
16.6.116	<u>37.8.116</u>	Fees for Copies and Research
16.6.125	<u>37.8.126</u>	Access to Records
16.6.301	<u>37.8.301</u>	Certificate of Birth
16.6.302	<u>37.8.302</u>	Parent to Review Birth Certificate
16.6.303	<u>37.8.303</u>	Delayed Birth Records
16.6.309	<u>37.8.309</u>	Children Born out of Wedlock, Certificate for
16.6.310	<u>37.8.310</u>	Certificate of Adoption
16.6.601	<u>37.8.601</u>	Marriage Applications
16.6.602	<u>37.8.602</u>	Report of Dissolution or Invalidity of Marriage
16.6.901	<u>37.8.801</u>	Death Certificates
16.6.902	<u>37.8.802</u>	Fetal Death Certificates
16.6.903	<u>37.8.803</u>	Health Officers Notified by Registrar, When
16.6.904	<u>37.8.804</u>	Court Order Required, When
16.6.908	<u>37.8.808</u>	Dead Body Removal Authorization
16.6.909	<u>37.8.809</u>	Notification of Failure to File

16.6.916	<u>37.8.816</u>	Disinterment Permits
16.6.1601	<u>37.8.1601</u>	Information Recorded
16.32.501	<u>37.8.1801</u>	Reportable Tumors
16.32.502	<u>37.8.1802</u>	Required Records - Initial Admission and Treatment
16.32.503	<u>37.8.1803</u>	Required Records - Follow-up
16.32.504	<u>37.8.1808</u>	Required Records - Independent Clinical Laboratories

3. The transfer of rules is necessary because the Department of Health and Environmental Sciences was eliminated by Chapter 546, Laws of Montana 1995 and the records and statistics program functions exercised by that agency were assumed by the Department of Public Health and Human Services.

*Dawn G. ...*  
Rule Reviewer

*Lauri H. ...*  
Director, Public Health and  
Human Services

Certified to the Secretary of State August 4, 1997.

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

In the matter of the transfer     )     NOTICE OF TRANSFER  
of rules 16.30.901 through     )  
16.30.903 pertaining to living     )  
wills, with the exception of     )  
any repealed rules     )

TO: All Interested Persons

1. Pursuant to Chapter 546, Laws of Montana 1995, effective July 1, 1995, the emergency health services and systems program is transferred from the Department of Health and Environmental Sciences to the Department of Public Health and Human Services. In order to implement that legislation, ARM 16.30.901 through 16.30.903, inclusive, with the exception of any repealed rules, are transferred to the Department of Public Health and Human Services ARM 37.10.101 through 37.10.105.

2. The Department of Public Health and Human Services has determined that the transferred rules will be numbered as follows:

<u>OLD</u>	<u>NEW</u>	
16.30.901	<u>37.10.101</u>	Definitions
16.30.902	<u>37.10.104</u>	Living Will Protocol
16.30.903	<u>37.10.105</u>	Sources of Comfort One Identification

3. The transfer of rules 16.30.901 through 16.30.903 is necessary because the Department of Health and Environmental Sciences was eliminated by Chapter 546, Laws of Montana 1995 and the health services and systems program functions exercised by that agency were assumed by the Department of Public Health and Human Services.

Dawn Olson  
Rule Reviewer

Lauri Elmer  
Director, Public Health and  
Human Services

Certified to the Secretary of State August 4, 1997.

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<br>Subject<br>Matter          | 1. Consult ARM topical index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>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 June 30, 1997. This table includes those rules adopted during the period July 1, 1997 through September 30, 1997 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 1997, 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 1996 and 1997 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.

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- 38.3.706 Motor Carrier Insurance Endorsements (applicable to Large Motor Coaches), p. 624, 1062
- 38.5.1010 and other rules - Electric Safety Codes - Electric Service Standards - Pipeline Safety (including Drug and Alcohol Testing), p. 2777, 317
- 38.5.2204 Pipeline Safety Incident Reporting Requirements, p. 827, 1215

REVENUE. Department of. Title 42

- I Agricultural Improvements from Property Land Classification, p. 3112, 506
- I-XIII and other rules - Assessment of Property - Issuing Tax Notices, p. 1165
- I-XIII and other rules - Temporary - Assessment of Property - Issuing Tax Notices Under Senate Bill 195, p. 1153
- 42.20.166 and other rule - Forest Land Rules, p. 3208, 507

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- I-II Lobbying Activities - Reporting of Lobbying Payments by Principals, p. 829



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44.10.327 and other rule - Reporting of Contributions or  
Expenditures by Incidental Political Committees,  
p. 1354

## 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 1997, appear. Vacancies scheduled to appear from September 1, 1997, through November 30, 1997, 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, 1997.

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, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
AIDS Advisory Council (Public Health and Human Services)			
Dr. Raymond Geyer	Governor	Olberding	7/23/1997
Great Falls			11/26/1998
Qualifications (if required):	public member		
Ms. Kim Kovanda	Governor	James	7/23/1997
Columbus			11/26/1998
Qualifications (if required):	student representative		
Ms. Jeri Snell	Governor	Smith	7/23/1997
Miles City			11/26/1998
Qualifications (if required):	public member		
Advisory Council on Community Service (Governor)			
Ms. Nancy Coopersmith	Governor	reappointed	7/1/1997
Helena			7/1/2000
Qualifications (if required):	representing K-12 education		
Major Joel Cusker	Governor	reappointed	7/1/1997
Helena			7/1/2000
Qualifications (if required):	representing Department of Military Affairs		
Mr. George Dennison	Governor	reappointed	7/1/1997
Missoula			7/1/2000
Qualifications (if required):	representing higher education		
Ms. Gertrude Downey	Governor	reappointed	7/1/1997
Butte			7/1/2000
Qualifications (if required):	representing private citizens		
Mr. Joseph Lovelady	Governor	reappointed	7/1/1997
Helena			7/1/2000
Qualifications (if required):	representing volunteer organizations		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

Appointee	Appointed by	Succeeds	Appointment/End Date
Advisory Council on Community Service (Governor) Cont.			
Ms. Kathy Ramirez	Governor	reappointed	7/1/1997
Helena			7/1/2000
Qualifications (if required):	representing private citizens		
Aging Advisory Council (Public Health and Human Services)			
Ms. Eloise England	Governor	reappointed	7/18/1997
Dupuyer			7/18/2000
Qualifications (if required):	public member from Region VII		
Ms. Roberta Feller	Governor	reappointed	7/18/1997
Stockett			7/18/2000
Qualifications (if required):	public member from Region X		
Mr. Dwight MacKay	Governor	reappointed	7/18/1997
Billings			7/18/2000
Qualifications (if required):	public member from Region II		
Board of Athletics (Commerce)			
Ms. Anita Vandolah	Governor	Vandolah	7/1/1997
Conrad			4/25/2000
Qualifications (if required):	public member		
Board of Barbers (Commerce)			
Ms. Rebecca Buckmaster	Governor	Isakson	7/1/1997
East Helena			7/1/2000
Qualifications (if required):	practicing barber		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Cosmetology (Commerce)			
Ms. Darlene Battaioia	Governor	Sorenson	7/1/1997
Butte			7/1/2001
Qualifications (if required):	affiliated with a school of cosmetology		
Ms. Verna Dupuis	Governor	reappointed	7/1/1997
Bozeman			7/1/2001
Qualifications (if required):	affiliated with a school of cosmetology		
Ms. Pam Lemieux	Governor	Campbell	7/1/1997
Helena			7/1/2001
Qualifications (if required):	cosmetologist		
Ms. Mary Lou Nelson	Governor	Markle	7/1/1997
Plentywood			7/1/2001
Qualifications (if required):	public member		
Ms. Karen Underwood	Governor	reappointed	7/1/1997
Billings			7/1/2001
Qualifications (if required):	cosmetologist		
Board of Directors of the State Compensation Mutual Fund (State Compensation Insurance Fund)			
Mr. Brian Donahue	Governor	not listed	7/1/1997
Billings			4/28/2001
Qualifications (if required):	licensed insurance producer		
Ms. Lorretta Lynde	Governor	not listed	7/1/1997
Helena			4/28/1999
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Funeral Services (Commerce)			
Mr. Niles Nelson	Governor	Stevenson	7/1/1997
Libby			7/1/2002
Qualifications (if required):	licensed mortician		
Ms. Jean Ruppert	Governor	Anderson	7/1/1997
Butte			7/1/2002
Qualifications (if required):	public member		
Board of Hearing Aid Dispensers (Commerce)			
Mr. Dudley Anderson	Governor	reappointed	7/1/1997
Missoula			7/1/2000
Qualifications (if required):	licensed hearing aid dispenser		
Dr. Scott Pargot	Governor	Butler	7/1/1997
Clancy			7/1/2000
Qualifications (if required):	board certified otolaryngologist		
Board of Landscape Architects (Commerce)			
Ms. Shelly Engler	Governor	reappointed	7/15/1997
Bozeman			7/1/2001
Qualifications (if required):	licensed landscape architect		
Ms. Janet Thomas	Governor	O'Reilly	7/15/1997
Hobson			7/1/2001
Qualifications (if required):	public member		
Board of Nursing (Commerce)			
Ms. Kim Powell	Governor	Messmore	7/8/1997
Missoula			7/1/2001
Qualifications (if required):	registered professional nurse		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997			
<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Nursing Home Administrators (Commerce)</b>			
Mr. Michael Billing	Governor	Hoffman	7/23/1997
Cut Bank			5/28/1998
Qualifications (if required): nursing home administrator			
<b>Board of Pharmacy (Commerce)</b>			
Ms. Jeannette Ori	Governor	Coldwell	7/1/1997
Dillon			7/1/2002
Qualifications (if required): public member			
<b>Board of Physical Therapy Examiners (Commerce)</b>			
Ms. Beverly Hancock	Governor	Fannon	7/22/1997
Billings			7/1/2000
Qualifications (if required): licensed physical therapist			
<b>Board of Private Security Patrol Officers and Investigators (Commerce)</b>			
Mr. Stephen W. Blackwell	Governor	Patterson	7/24/1997
Missoula			8/1/2000
Qualifications (if required): licensed private investigator			
<b>Mr. Gary Dent</b>			
Conrad	Governor	Ward	7/24/1997
Qualifications (if required): representing a city police department			
<b>Mr. Gary Racine</b>			
Cut Bank	Governor	Edmisten	7/24/1997
Qualifications (if required): representing a county sheriff's department			
<b>Board of Professional Engineers and Land Surveyors (Commerce)</b>			
Mr. Warren P. Scarrah	Governor	Gibson	7/21/1997
Bozeman			7/1/1999
Qualifications (if required): engineering instructor			

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Public Accountants (Commerce)			
Ms. Irma Paul	Governor	Hallowell	7/1/1997
Helena			7/1/2002
Qualifications (if required): public member			
Board of Radiologic Technologists (Governor)			
Ms. Jane Christman	Governor	reappointed	7/1/1997
Dutton			7/1/2000
Qualifications (if required): radiologic technologist			
Board of Sanitarians (Commerce)			
Ms. Denise Moldroski	Governor	reappointed	7/1/1997
Superior			7/1/2000
Qualifications (if required): registered sanitarian			
Board of Veterinary Medicine (Commerce)			
Dr. Robert Lee	Governor	Holmes	7/31/1997
Choteau			7/31/2002
Qualifications (if required): licensed veterinarian			
Committee on Telecommunications Access Services for Disabled (Public Health and Human Services)			
Ms. Sheri Devlin	Governor	reappointed	7/15/1997
Billings			7/1/2000
Qualifications (if required): representing the Department of Public Health and Human Services			
Mr. Eric Eck	Governor	reappointed	7/15/1997
Helena			7/1/2000
Qualifications (if required): representing the Montana Public Service Commission			



BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Committee on Telecommunications Access Services for Disabled (Public Health and Human Services) Cont.			
Mr. Norman Eck	Governor	reappointed	7/15/1997
Helena			7/1/2000
Qualifications (if required):	representing senior citizens and is not handicapped		
Ms. Darla Gilder	Governor	not listed	7/15/1997
Helena			7/1/2000
Qualifications (if required):	licensed audiologist		
Ms. Barbara Ranf	Governor	reappointed	7/15/1997
Helena			7/1/2000
Qualifications (if required):	representing the largest exchange carrier in Montana		
Community Services Advisory Council (Governor)			
Mr. Bill Cain	Governor	Callaghan	7/8/1997
Butte			7/1/1998
Qualifications (if required):	representing business		
Electric Utility Industry Restructuring Advisory Committee (Legislative Services)			
Ms. Kathy Hadley	Governor	not listed	7/9/1997
Butte			12/31/1999
Qualifications (if required):	represents community comprising environmental and conservation interests		
Mr. Stephen E. Bradley	Governor	not listed	7/2/1997
Crow Agency			12/31/1999
Qualifications (if required):	representing Montana's Indian tribes		
Mr. Stan Dupree	Governor	not listed	7/2/1997
Butte			12/31/1999
Qualifications (if required):	representing organized labor		

# BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

Appointee	Appointed by	Succeeds	Appointment/End Date
Electric Utility Industry Restructuring Advisory Committee (Legislative Services) Cont.			
Ms. Judi Johansen Portland, OR	Governor	not listed	7/2/1997
Qualifications (if required):	representing the electric power market industry		12/31/1999
Mr. Gene Leuwer Helena	Governor	not listed	7/2/1997
Qualifications (if required):	representing a low-income program provider		12/31/1999
Mr. Donald Quander Billings	Governor	not listed	7/2/1997
Qualifications (if required):	representing the industrial community		12/31/1999
Ms. Roma Taylor Bigfork	Governor	not listed	7/2/1997
Qualifications (if required):	representing the nonindustrial retail electric consumer section		12/31/1999
Electrical Board (Commerce)			
Ms. Louise Glimm Conrad	Governor	reappointed	7/1/1997
Qualifications (if required):	public member		7/1/2002
Game Farm Advisory Council (Livestock and Fish, Wildlife and Parks)			
Mr. Duane Braaten Kalispell	Governor	Espy	7/19/1997
Qualifications (if required):	representing the Board of Livestock		7/19/1999
Dr. Anne Johnson Malta	Governor	reappointed	7/19/1997
Qualifications (if required):	veterinarian		7/19/1999

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

Appointee	Appointed by	Succeeds	Appointment/End Date
Game Farm Advisory Council (Livestock and Fish, Wildlife and Parks)	Governor	reappointed	Cont.
Mr. Chris Marchion			7/19/1997
Anaconda			7/19/1999
Qualifications (if required):	representing sportspersons of Montana		
Mr. Bill Nyby	Governor	reappointed	7/19/1997
Antelope			7/19/1999
Qualifications (if required):	representing the game farm industry		
Mr. David Simpson	Governor	reappointed	7/19/1997
Hardin			7/19/1999
Qualifications (if required):	representing the Department of Fish, Wildlife and Parks		
Interagency Coordinating Council/State Prevention Programs (Public Health and Human Services)	Governor	Chakos	7/1/1997
Ms. Trudy Miller			7/1/1999
Helena			
Qualifications (if required):	representing prevention programs and services		
Ms. DeAnn Thomas	Governor	Morris	7/1/1997
Kaispell			7/1/1999
Qualifications (if required):	representing prevention programs and services		
Judicial Standards Commission (Justice)	Governor	reappointed	7/1/1997
Ms. Barbara Evans			7/1/2001
Missoula			
Qualifications (if required):	public member		
Mr. Victor F. Valgenti	Supreme Court	reappointed	7/1/1997
Missoula			6/30/2001
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Judicial Standards Commission (Justice) Cont. Judge John Warner Havre Qualifications (if required): none specified	Supreme Court	not listed	7/1/1997 6/30/2001
Montana Historical Board of Trustees (Historical Society) Mr. Don Wetzel Billings Qualifications (if required): Native American	Governor	Eder	7/8/1997 7/1/2002
Mr. Steve Browning Helena Qualifications (if required): public member	Governor	Shanahan	7/8/1997 7/1/2002
Ms. Mary Murphy Bozeman Qualifications (if required): historian	Governor	Settle	7/8/1997 7/1/2002
Montana Mint Committee (Agriculture) Mr. Philip Clarke Columbia Falls Qualifications (if required): mint grower	Governor	reappointed	7/1/1997 7/1/2000
Mr. Bruce Tutvedt Kalispell Qualifications (if required): mint grower	Governor	reappointed	7/1/1997 7/1/2000
Motorcycle Safety Advisory Committee (Office of Public Instruction) Mr. Gerald Cockrell Stevensville Qualifications (if required): representing motorcycle riding groups	Governor	Lindeborg	7/23/1997 7/1/2001

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Motorcycle Safety Advisory Committee (Office of Public Instruction)	Governor	not listed	Cont.
Mr. Ken Radovich			7/1/1997
Great Falls			6/30/2001
Qualifications (if required):	certified motorcycle instructor		
Noxious Weed Seed Free Forage (Agriculture)			
Mr. Robert Carlson	Director	not listed	7/24/1997
Butte			7/24/1999
Qualifications (if required):	weed districts		
Mr. Dennis Cash	Director	not listed	7/24/1997
Bozeman			7/24/1999
Qualifications (if required):	extension service/ex officio		
Mr. Ray Ditterline	Director	not listed	7/24/1997
Bozeman			7/24/1999
Qualifications (if required):	agricultural experiment station/ex officio		
Mr. Con Donovan	Director	not listed	7/24/1997
Sidney			7/24/1999
Qualifications (if required):	weed districts		
Mr. Kerry Kovanda	Director	not listed	7/24/1997
Columbus			7/24/1999
Qualifications (if required):	forage producer		
Mr. Bob McNeill	Director	not listed	7/24/1997
Dillon			7/24/1999
Qualifications (if required):	outfitters/guides		
Mr. W. Ralph Peck	Director	not listed	7/24/1997
Helena			7/24/1999
Qualifications (if required):	director of the Department of Agriculture		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage (Agriculture) Cont.			
Mr. Dennis Perry	Director	not listed	7/24/1997
Choteau			7/24/1999
Qualifications (if required):	feed pellets/cubes products		
Mr. LaMonte Schnur	Director	not listed	7/24/1997
Townsend			7/24/1999
Qualifications (if required):	forage producer		
Ms. Marjorie Schuler	Director	not listed	7/24/1997
Carter			7/24/1999
Qualifications (if required):	livestock/agriculture		
Mr. Don Walker	Director	not listed	7/24/1997
Glendive			7/24/1999
Qualifications (if required):	forage producer		
Mr. Harry Woll	Director	not listed	7/24/1997
Kalispell			7/24/1999
Qualifications (if required):	forage producer		
State Banking Board (Commerce)			
Mr. James Drummond	Governor	Wiedebush	7/8/1997
Bozeman			7/1/2000
Qualifications (if required):	officer of a state bank and representing large size banks		
Ms. Barbara Skelton	Governor	Ryan	7/8/1997
Butte			7/1/2000
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Emergency Response Commission (Military Affairs)			
Mr. Donald Skaar	Governor	Galda	7/24/1997
Helena			8/10/1999
Qualifications (if required):	Department of Fish, Wildlife and Parks representative		
SummitNet Executive Council (Administration)			
Ms. Mary Bryson	Governor	not listed	7/1/1997
Helena			7/1/1999
Qualifications (if required):	Information Technology Advisory Council representative		
Mr. Scott Buswell	Governor	not listed	7/1/1997
Helena			7/1/1999
Qualifications (if required):	representative of the Office of Public Instruction		
Dr. Richard A. Crofts	Governor	not listed	7/1/1997
Helena			7/1/1999
Qualifications (if required):	Commissioner of Higher Education		
Ms. Janet Kelly	Governor	not listed	7/1/1997
Miles City			7/1/1999
Qualifications (if required):	local government representative		
Ms. Lois A. Menzies	Governor	not listed	7/1/1997
Helena			7/1/1999
Qualifications (if required):	director of the Department of Administration		
Mr. Bob Person	Governor	not listed	7/1/1997
Helena			7/1/1999
Qualifications (if required):	Information Technology Advisory Council representative		
Mr. Dennis M. Taylor	Governor	not listed	7/1/1997
Helena			7/1/1999
Qualifications (if required):	Information Technology Advisory Council representative		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

Appointee	Appointed by	Succeeds	Appointment/End Date
Tourism Advisory Council (Commerce)			
Mr. Robert Dempier	Governor	Henrich	7/8/1997
Great Falls			7/1/1998
Qualifications (if required):	representing the Montana Innkeepers Association		
Mr. Ed Henrich	Governor	Leuprecht	7/8/1997
Anaconda			7/1/2000
Qualifications (if required):	representing Gold West Country		
Ms. Donna Madson	Governor	reappointed	7/8/1997
West Yellowstone			7/1/2000
Qualifications (if required):	representing Yellowstone Country		
Mr. Tim Prather	Governor	Abelin	7/8/1997
Red Lodge			7/1/2000
Qualifications (if required):	representing Yellowstone Country		
Mr. Craig Smith	Governor	reappointed	7/8/1997
Wolf Point			7/1/2000
Qualifications (if required):	representing Missouri Country and Native Americans		
Mr. Clark Whitehead	Governor	reappointed	7/8/1997
Lewistown			7/1/2000
Qualifications (if required):	representing a federal agency and Russell Country		
Workers' Compensation Regulation Advisory Council (Labor and Industry)			
Mr. Jim Adams	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	labor representative		
Mr. Mark Barry	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	workers' compensation insurer		



BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Workers' Compensation Regulation Advisory Council (Labor and Industry) Cont.			
Ms. Ann Bartel	Governor	not listed	7/24/1997
Great Falls			12/31/1998
Qualifications (if required):	labor representative		
Sen. Bob Brown	Governor	not listed	7/24/1997
Whitefish			12/31/1998
Qualifications (if required):	public member		
Rep. Vicki Cocchiarella	Governor	not listed	7/24/1997
Missoula			12/31/1998
Qualifications (if required):	member of the Montana House of Representatives		
Ms. Pam Egan	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	labor representative		
Ms. Michele Fairclough	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	insured employer		
Ms. Pat Hailey	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	representative of the Department of Labor and Industry		
Mr. Gordon Hage	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	public member		
Rep. Chase Hibbard	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required):	member of the Montana House of Representatives		

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Workers' Compensation Regulation Advisory Council (Labor and Industry) Cont.			
Mr. Tom Kiely	Governor	not listed	7/24/1997
Butte			12/31/1998
Qualifications (if required): self-insured employer			
Ms. Jacqueline Lenmark	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required): insured employer			
Mr. Ray Linder	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required): employee representative			
Mr. Bob Olson	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required): representative of the Montana Hospital Association			
Mr. David Owen	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required): employer			
Reverend Gayle Sandholm	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required): public member			
Sen. Debbie Shea	Governor	not listed	7/24/1997
Butte			12/31/1998
Qualifications (if required): member of the Montana Senate			
Mr. Dave Slovak	Governor	not listed	7/24/1997
Great Falls			12/31/1998
Qualifications (if required): employee representative			

BOARD AND COUNCIL APPOINTEES FROM JULY, 1997

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Workers' Compensation Regulation Advisory Council (Labor and Industry) Cont.			
Sen. Fred Thomas	Governor	not listed	7/24/1997
Stevensville			12/31/1998
Qualifications (if required): member of the Montana Senate			
Mr. Brian Zins	Governor	not listed	7/24/1997
Helena			12/31/1998
Qualifications (if required): representative of the Montana Medical Association			

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 1997 through NOVEMBER 30, 1997

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alternative Health Care Board (Commerce)		
Ms. Ollie Hamilton, Great Falls	Governor	9/1/1997
Qualifications (if required): direct entry midwife		
Dr. Nancy Dunne, Missoula	Governor	9/1/1997
Qualifications (if required): naturopath		
Ms. Dolly Browder, Missoula	Governor	9/1/1997
Qualifications (if required): direct entry midwife		
Board of Medical Examiners (Commerce)		
Dr. Catherine Anne MacLean, Bozeman	Governor	9/1/1997
Qualifications (if required): public member		
Mr. Randy L. Spear, Worden	Governor	9/1/1997
Qualifications (if required): licensed and certified physician assistant		
Ms. Linda Melick, Lewistown	Governor	9/1/1997
Qualifications (if required): licensed nutritionist		
Ms. Debby Barrett, Dillon	Governor	9/1/1997
Qualifications (if required): public member		
Dr. Daniel Charles Brooke, Miles City	Governor	9/1/1997
Qualifications (if required): doctor of medicine		
Board of Outfitters (Commerce)		
Mr. Robin Cunningham, Gallatin Gateway	Governor	10/1/1997
Qualifications (if required): representative of District 2		
Mr. Paul Roos, Helena	Governor	10/1/1997
Qualifications (if required): representative of District 1		

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 1997 through NOVEMBER 30, 1997

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Psychologists (Commerce) Pastor Jeff Olsgaard, Rudyard Qualifications (if required): public member	Governor	9/1/1997
Concealed Weapon Advisory Council (Justice) Ms. Kim Christopher, Polson Qualifications (if required): law enforcement official	Governor	11/13/1997
Rep. Bob Clark, Ryegate Qualifications (if required): law enforcement official	Governor	11/13/1997
Sheriff Bill Slaughter, Bozeman Qualifications (if required): law enforcement official	Governor	11/13/1997
Rep. Rick Jore, Ronan Qualifications (if required): legislator	Governor	11/13/1997
Mr. Gary Marbut, Missoula Qualifications (if required): gun owner	Governor	11/13/1997
Chief Robert Jones, Great Falls Qualifications (if required): law enforcement official	Governor	11/13/1997
Ms. Melissa Tuemmler, Ulm Qualifications (if required): gun owner	Governor	11/13/1997
Flathead Basin Commission (Governor) Ms. Elna Darrow, Bigfork Qualifications (if required): public member	Governor	10/1/1997
Mr. Larry Wilson, Columbia Falls Qualifications (if required): public member	Governor	10/1/1997

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 1997 through NOVEMBER 30, 1997

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historic Preservation Review Board (Historical Society)		
Dr. Arnold Olsen, Helena	Governor	10/1/1997
Qualifications (if required): represents federal land and water conservation interests		
Ms. Gloria J. Weisgerber, Missoula	Governor	10/1/1997
Qualifications (if required): public member		
Water and Wastewater Operators Advisory Council (Health and Environmental Sciences)		
Mr. Robert Cottom, Dillon	Governor	10/16/1997
Qualifications (if required): water treatment operator		
Workforce Preparation Coordinating Council (Labor and Industry)		
Ms. Jane DeLong, Helena	Governor	9/7/1997
Qualifications (if required): representing business		
Mr. David Owen, Helena	Governor	9/7/1997
Qualifications (if required): representing business		
Ms. Carol Murray, Browning	Governor	9/7/1997
Qualifications (if required): representing local education		
Ms. Barbara Campbell, Deer Lodge	Governor	9/7/1997
Qualifications (if required): representing business		
Ms. JoEllen Estenson, Columbia Falls	Governor	9/7/1997
Qualifications (if required): representing local education		
Rep. Bob Gilbert, Sidney	Governor	9/7/1997
Qualifications (if required): public member		
Ms. Diane R. Ruff, Billings	Governor	9/7/1997
Qualifications (if required): representing business		

VACANCIES ON BOARDS AND COUNCILS -- SEPTEMBER 1, 1997 through NOVEMBER 30, 1997

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Workforce Preparation Coordinating Council (Labor and Industry) Cont.		
Mr. Don Judge, Helena	Governor	9/7/1997
Qualifications (if required): representing organized labor		
Superintendent Nancy Keenan, Helena	Governor	9/7/1997
Qualifications (if required): representing state government		
Ms. Helen Kellicut, Deer Lodge	Governor	9/7/1997
Qualifications (if required): representing business		
Mr. Jim Hollenback, West Superior	Governor	9/7/1997
Qualifications (if required): representing community based organizations		
Mr. Dennis Lerum, Missoula	Governor	9/7/1997
Qualifications (if required): representing local education		
Mr. Bob Marks, Clancy	Governor	9/7/1997
Qualifications (if required): representing business		
Mr. Jon Oldenburg, Lewistown	Governor	9/7/1997
Qualifications (if required): representing business		
Ms. Felicity McFerrin, Helena	Governor	9/7/1997
Qualifications (if required): representing organized labor		
Mr. Gordon Morris, Helena	Governor	9/7/1997
Qualifications (if required): representing local government		
Sen. Mignon Waterman, Helena	Governor	9/7/1997
Qualifications (if required): public member		