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MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 10

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Administrative Rules Bureau at (406) 444-2055.

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

In the matter of the proposed) NOTICE OF PROPOSED ADOPTION
adoption of a rule pertaining) OF NEW RULE I UNPROFESSIONAL
to unprofessional conduct) CONDUCT

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 27, 1998, the Chemical Dependency Counselor Certification Program of the Department of Commerce proposes to adopt the above-stated rule.

2. The new rule will read as follows:

"I UNPROFESSIONAL CONDUCT The chemical dependency counselor certification program defines unprofessional conduct as follows:

(1) having sexual relations with a client, a client's family member, a client's household member, or other persons with whom a client has had a significant relationship within two years after termination of services to that client;

(2) soliciting sexual relations, committing an act of sexual misconduct, or committing a sexual offense with a client or former client;

(3) soliciting or undertaking sexual relations with the client of another counselor employed in the same program;

(4) recklessly or carelessly causing physical or emotional harm to a client;

(5) providing unnecessary or unneeded services, or providing services for longer than necessary, or abandoning a client;

(6) providing professional counseling services to members of the counselor's own family, household members, friends or close associates, or any person with whom the counselor has had a previous sexual relationship;

(7) interfering with or encouraging termination of any legitimate personal relationship of a client, or interfering with a therapeutic relationship of another counseling professional;

(8) recommending a client discontinue prescribed medication, or failure to provide a supportive environment for a client who is receiving prescribed medication;

(9) failing to make an appropriate referral of a client to another professional when requested to do so by the client, or when the problem of the client is beyond the training, experience or competence of the counselor;

(10) failing to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fees will be computed;

(11) failing to keep the client informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided;

(12) accepting gifts or gratuities of significant monetary value or borrowing money from a client or former client within two years after termination of services;

(13) misrepresenting the types or status of certification by performing or holding oneself out as able to perform professional services beyond the counselor's field of competence, or outside the scope of the certificate, or delegating professional responsibilities to a person not appropriately qualified to provide such services;

(14) committing any dishonest, corrupt or fraudulent act which is substantially related to the qualifications, functions or duties of the certificate or any act that exploits a client;

(15) discriminating against or refusing professional services to anyone on the basis of race, color, gender, religion, national origin, disability, sexual orientation, or any basis prohibited by law;

(16) conviction of any felony;

(17) conviction of driving while under the influence of alcohol or drugs (DUI), or criminal possession of dangerous drugs at any time after issuance of a certificate, and within the two years preceding an application for certificate;

(18) failing to comply with federal rules and regulations regarding client's rights of confidentiality, throughout the course of treatment and following termination of services;

(19) using mood altering chemicals in a manner adversely affecting work performance, effectiveness, credibility or professional integrity;

(20) committing a fraudulent act or providing false information in billing insurance companies or other third party payers, or the exchange of compensation for referral of clients;

(21) providing false or misleading information or documentation in the certification application, or in submission of continuing education information."

Auth: Sec. 37-1-319, 37-35-103, MCA; IME, Sec. 37-1-316, 37-1-319, MCA

REASON: The proposed rule will define acts of unprofessional conduct that constitute a threat to public health, safety or welfare and that are inappropriate to the practice of the profession or occupation. The rule will allow certificate holders to be informed of the types of actions which may lead to disciplinary sanctions being imposed.

3. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to the Chemical Dependency Counselor Certification Program, 111 N. 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., June 25, 1998.


4. If a person who is directly affected by the proposed adoption wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Chemical Dependency Counselor Certification Program, 111 N. 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., June 25, 1998.

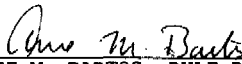
5. If the Board receives requests for a public hearing on the proposed adoption from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed adoption, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 52 based on the 520 licensees in Montana.

6. Persons who wish to be informed of all Chemical Dependency Counselor Certification Program administrative rulemaking proceedings, or other administrative proceedings, may be placed on a list of interested persons by advising the Program in writing at 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4923.

CHEMICAL DEPENDENCY COUNSELOR
CERTIFICATION PROGRAM
DEPARTMENT OF COMMERCE

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 18, 1998.

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining) THE PROPOSED AMENDMENT OF
to application for recognition) 8.32.306 APPLICATION FOR
) RECOGNITION

1. On June 25, 1998, at 9:00 a.m., a public hearing will be held in the Division of Professional and Occupational Licensing Conference room, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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

"8.32.306 APPLICATION FOR RECOGNITION (1) Upon application a person licensed under the provisions of 37-8-406 ~~or 37-8-407~~, MCA, and meeting the requirements set forth under the educational requirements and other qualifications applicable to advanced practice registered nursing shall be granted recognition and shall have his/her registered nurse renewal certificate also designate his/her area of advanced practice.

(2) The following must be submitted with the appropriate advanced practice registered nurse application:

(a) completed application for recognition form provided
by the board;

(b) an official transcript of the advanced practice registered nurse program;

(c) certificate of program completion:

(d) evidence of preceptorship (if not shown on transcript):

(e) copy of current national certification in advanced practice registered nurse specialty;

(f) current RN licensure in Montana; and

(g) payment of non-refundable statutory fee.

(3) Renewal of advanced practice registered nurse is concurrent with registered nurse licensure renewal."

Auth: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-134,
37-8-202, 37-8-431, MCA

REASON: The Board is amending the rule to provide a clear statement setting forth the required application materials. This rule will allow applicants to begin compiling these materials in advance of receipt of an application and, therefore, expedite the application process.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., June 15, 1998, to advise us of the nature of the accommodation that you need. Please contact the Board of Nursing, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-4279; 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 the Board office.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Nursing, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., June 25, 1998.

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

6. Persons who wish to be informed of all Board of Nursing administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Nursing, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-4279.

BOARD OF NURSING
RITA HARDING, RN, MN, CHAIRMAN

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 18, 1998.

BEFORE THE BUILDING CODES BUREAU DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment, repeal and adoption) THE PROPOSED AMENDMENT,
of rules pertaining to the) REPEAL AND ADOPTION OF RULES
Building Codes Division) PERTAINING TO THE BUILDING
CODES DIVISION)

TO: All Interested Persons:

1. On July 1, 1998, at 10:00 a.m., a public hearing will be held in the Downstairs Conference Room at the Department of Commerce, 1424 9th Avenue, Helena, Montana, to consider the proposed amendment, repeal and adoption of rules pertaining to the Building Codes Division.

2. The proposed amendments to ARM 8.70.101, 8.70.102, 8.70.103, 8.70.104, 8.70.105, 8.70.108, 8.70.110, 8.70.202, 8.70.208, 8.70.302, 8.70.303, 8.70.407, 8.70.409, 8.70.566, 8.70.568, 8.70.569, 8.70.601, 8.70.604, 8.70.612, 8.70.1503, and 8.70.1504 will read as follows: (new matter underlined, deleted matter interlined)

"8.70.101 INCORPORATION BY REFERENCE OF UNIFORM BUILDING CODE (1) ~~The building codes bureau of the~~ department of commerce, ~~by and through the building codes division,~~ adopts and incorporates by reference herein the Uniform Building Code, 1994~~7~~ Edition, ~~referred to as the Uniform Building Code, unless another edition is specifically stated, together with the~~ Appendix Chapter 4 (Division II - Aviation Control Towers, Division III - Regulations Governing Fallout Shelters), Appendix Chapter 3 (Division I - Detention and Correctional Facilities, Division II - Agricultural Buildings, Division III - Requirements for Group R, Division 3 Occupancies), Appendix Chapter 16 (Division I - Snow Load Design, Division III - Earthquake Regulations for Seismic Isolated Structures), Appendix Chapter 21 (Prescriptive Masonry Construction in High Wind Areas), Appendix Chapter 23 (Conventional Light Frame Construction in High Wind Areas), Appendix Chapter 18 (Waterproofing and Damp Proofing Foundations), Appendix Chapter 11 (Division I - Site Accessibility, Division II - Accessibility for Existing Buildings), Appendix Chapter 15 (Reroofing), Appendix Chapter 31 (Division I - Flood Resistant Construction, Division II - Membrane Structures, Division III - Patio Covers) and Appendix Chapter 13 (Energy Conservation in New Building Construction), ~~as amended by ARM 8.70.104,~~ together with the following appendix chapters and amendments thereto:

(a) Appendix Chapter 3: Division I (Detention and Correctional Facilities), Division II (Agricultural Buildings), Division III (Requirements for Group R, Division 3 Occupancies) as amended by 8.70.101(24);

(b) Appendix Chapter 4: Division II (Aviation Control Towers):

(c) Appendix Chapter 11 (Accessibility):

(d) Appendix Chapter 13 (Energy Conservation in New Building Construction), as amended by 8-70.101(20):

(e) Appendix Chapter 15 (Reroofing):

(f) Appendix Chapter 16: Division I (Snow Load Design), Division IV (Earthquake Regulations for Seismic-Isolated Structures):

(g) Appendix Chapter 18 (Waterproofing and Dampproofing Foundations):

(h) Appendix Chapter 21 (Prescriptive Masonry Construction in High-Wind Areas):

(i) Appendix Chapter 23 (Conventional Light-Frame Construction in High-Wind Areas):

(j) Appendix Chapter 31: Division I (Flood-Resistant Construction), Division II (Membrane Structures), Division III (Patio Covers):

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

~~(b)(1)~~ Section 105 of the ~~code~~ Uniform Building Code will be left as is for use by local governments (i.e., municipalities and counties), who by 50-60-303, MCA, must provide an appeal procedure. The bureau division and state of Montana, however, will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal in lieu of section 105-i.

~~(b)(m)~~ Section 103 of the ~~code~~ Uniform Building Code will be left as is for use by local governments (i.e., municipalities and counties). The bureau division and the state of Montana will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution in lieu of section 103. When a person fails to submit required plans, obtain a permit, correct plans or comply with an order of the bureau division, the bureau division, as authorized by 50-60-109, MCA, will bring civil action to enjoin him from constructing or using the building-i.

~~(d)(n)~~ Subsections 107.2 and 107.3 of section 107 of the Uniform Building Code, ~~1994 Edition~~, are amended to read as follows:

(i) Subsection 107.2 Permit fees. The fee for each permit shall be 75% of the fee as set forth in Table No. 31-A of the Uniform Building Code, ~~1991 Edition~~.

(ii) Subsection 107.3 Plan review fees. When submittal documents are required by section 106.3.2, a plan review fee shall be paid. Said plan review fee shall be 25% of the building permit fee as set forth in Table No. 31-A of the Building Code, ~~1991 Edition~~ as amended above. When only plan review services are provided, the plan review fee shall be 65% of the building permit fee as set forth in Table No. 31-A of the Uniform Building Code, ~~1991 Edition~~.

(o) The determination of value or valuation under any of the provisions of this code shall be made by the building official. The value to be used in computing the building permit and building plan review fees shall be the total value

of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. Whenever the building official is the state of Montana, acting through the department of commerce, building codes bureau division, the value or valuation of a building or structure under any of the provisions of ~~this code~~ the Uniform Building Code will be determined using the cost per square foot method of valuation and the cost per square foot figures for the type and quality of construction listed in the most current "Building Valuation Data" table published by "International Conference of Building Officials Building Standards" magazine, the trade magazine published by the international conference of building officials, as modified by the regional modifiers set forth in said "Building Valuation Data" table. When in unusual circumstances the valuation calculated by the use of the "Building Valuation Data" table is considered unreasonably low as compared to either the estimated project cost, firm bids or contract amounts, the building codes division reserves the right to base the building permit fee and plan review fee on the estimated project cost, firm bids or contract amounts. The building codes bureau division may, for public buildings or projects that exceed \$25,000 in building value, use firm bids for establishing the building valuation as an alternative to using "Building Valuation Data" table when such bids include all construction work associated with the building as described earlier in this ~~section~~ rule and the bidding process is determined as having been open and competitive. Valuation of projects may also be based on firm total project contract amounts if the entire project is contracted and such contracts cover all construction work associated with the building as described earlier in this ~~section~~ rule, provided this contracted valuation is less than 75% of the valuation as determined by use of "Building Valuation Data" table. Valuation of remodel and/or addition projects, where use of "Building Valuation Data" table is not appropriate, will be based on use of typical and reasonable construction costs. When only plan review fees are charged, the building valuation for determining fees will be based on the design professional's preliminary cost estimate, if such estimate is available or "Building Valuation Data" table, if such estimate is not available. For purposes of calculation of fees, the building valuation shall be rounded off to the nearest \$1,000 and any calculated building and plan review fees shall be rounded off to the nearest \$1. As provided in ARM 8.70.208, local governments certified to enforce the state building code may establish their own permit fees. Local governments may also establish their own method of building valuation. ~~During the period ending on June 30, 1998, the building permit fee above shall be reduced to a sum equal to 85% of the sum calculated above and no plan review fee shall be applied, except where plan review services only are provided, the plan review fee shall remain 65% of the building permit fee as set forth in~~

~~Table No. 3-A of the Uniform Building Code, 1991 Edition.~~

(e)(p) Subsection ~~1005.8-1~~ ~~1004.3.4.3.2.1~~ Doors. The requirements of the Uniform Building Code of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities as defined in 50-5-101, MCA. Section 50-5-101, MCA, defines "health care facility" as any building used to provide health services, medical treatment, nursing, rehabilitative or preventive care to persons. The term does not include offices of private physicians or dentists. The term includes, but is not limited to, ambulatory surgical facilities, health maintenance organizations, home health agencies, hospitals, infirmaries, kidney treatment centers, long-term care facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities and adult day-care centers.

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

(2) As specified in 50-60-102, MCA, the building codes ~~bureau division~~ may not enforce the state building codes on residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building and any private garage or private storage structure used only for the owner's own use, or mines and buildings on mine property regulated under Title 82, chapter 4, MCA, and subject to inspection under the Federal Mine Safety and Health Act. Local governments that have made the state building codes applicable to the aforementioned buildings, except for mines and buildings on mine property regulated under Title 82, chapter 4, MCA, may enforce within their jurisdictional areas the state building code as adopted by the respective local government.

(3) will remain the same.

(4) Subsection ~~1605.4~~ ~~1614~~ of the Uniform Building Code, ~~1994 Edition~~, requires that snow loads be determined by the building official. In areas of the state outside of certified local government jurisdictions, the design snow load shall be based on the ground snow loads developed in "Snow Loads for Structural Design in Montana", authored by F.F. Videon and J.P. Schilke/Civil & Agricultural Engineering/Montana State University August 1989. The minimum design roof snow load after allowed reductions shall be 30 psf. Figure No. A-16-1 of Appendix Chapter 16 is hereby amended to provide that the building official is to establish the ground snow load for the entire state of Montana. For purposes of plan review, a snow exposure coefficient (Ce) of 0.9 and an occupancy importance factor (I) of 1.0 (1.15 for essential facilities and A-1, 2 and 2.1 occupancies) will be used unless other coefficients and factors can be justified by a Montana licensed design professional to the satisfaction of the building official.

(5) Subsection 1806.1 of the Uniform Building Code, ~~1994 Edition~~, requires that footings and foundations shall extend below the frost line. In all areas of the state outside of certified local government jurisdictions, the minimum depth from finished grade to the bottom of footings shall be 3.0 ft. for single story wood and metal frame buildings and 4.0 ft. for multi-story and masonry buildings. Buildings located on highly

expansive or unstable soils may need engineered footings and foundation walls that extend below the minimum depths indicated above. At the discretion of the building official, the above minimum depths may not be required for properly designed so-called monolithic slabs for single story storage and similar use buildings. At its sole discretion, the building official may require monolithic slabs to be designed and stamped or certified by a Montana registered engineer who practices structural design. The design and stamp of a Montana licensed architect may be accepted in lieu of an engineer's stamp when the monolithic slab design is an incidental part of an architectural building design, as allowed by 37-67-103, MCA.

(6) Subsections 108.2 and 108.5 of the Uniform Building Code, ~~1994 Edition~~, are deleted for the bureau division, but left unamended for use by local governments.

(7) Subsection 108.4 of the Uniform Building Code, ~~1994 Edition~~, is amended for the bureau division by deletion of the first paragraph. The section is left unamended for use by local governments.

(8) Subsection 109.3 of the Uniform Building Code, ~~1994 Edition~~, is amended for the bureau division to read: "109.3 Certificate issued. After the building official or his agent inspects the building or structure and finds substantial compliance with the intent of ~~this code~~ the Uniform Building Code, the building official may issue a certificate of occupancy which shall contain the following:

(8) 1. through 4. will remain the same.

5. A statement that the described portion of the building has been inspected for substantial compliance with ~~this code~~ the Uniform Building Code for the group and division of occupancy and the use for which the proposed occupancy is classified.

6. will remain the same.

(a) Since the bureau division has insufficient staff to conduct all of the key inspections identified in subsection 108.5 of ~~this code~~ the Uniform Building Code at the proper times, the issued certificate of occupancy is not a certification or guarantee of total compliance with ~~this code~~ the Uniform Building Code.

(b) will remain the same.

(9) Subsection 106.3.2 of the Uniform Building Code, ~~1994 Edition~~, is amended for the bureau division by the addition of the following: "Plans, computations and specifications for buildings or structures with a calculated valuation of \$100,000 or more, or when located in seismic zones 3 or 4, with a calculated valuation of \$50,000 or more, shall be stamped and designed by an engineer or architect licensed to practice in the state of Montana."

(10) The bureau division requires submittal of two complete sets of plans and specifications for all projects covered by ARM 8.70.101(9).

(11) The first sentence of the second paragraph of subsection 106.4.1 of the Uniform Building Code, ~~1994 Edition~~, is deleted and replaced with the following sentence: "When the

building official issues the permit where plans are required, the building official shall approve the plans and specifications, with corrections as required, or with adequate written resolution of deficiencies noted in plan review comments."

(12) The bureau division, in its sole discretion, may waive minor building code violations that do not constitute an imminent threat to property or to the health, safety or welfare of any person.

(13) Section 50-60-102(1)(a), MCA, exempts certain buildings from application of the state building codes. Provisions of the Uniform Building Code shall not be applied in determining whether a building or structure is exempt from the state building codes. For example, area separation walls as described in subsection 504.6-1 of the Uniform Building Code, ~~1994 Edition~~, shall not be used to separate buildings otherwise covered by the state building codes into smaller buildings that would, if alone, be exempted by 50-60-102(1)(a), MCA.

(14) will remain same.

(15) An owner seeking to do work that the owner believes is not subject to a building code requirement shall provide the bureau division, if in the state's jurisdiction, with any documentation or information that it may require so that the bureau division may determine whether the work is subject to the building code requirement. The documentation or information provided must be in the form of an affidavit or affirmation.

(16) and (17) will remain the same.

(18) Exception 56 of subsection ~~1003-1~~ 1004.2.3.2 of the Uniform Building Code, ~~1994 Edition~~, is amended by addition of the following sentence: "Basements exceeding 500 square feet in area are considered to be used for more than only service of the building and must be provided with a minimum of two exits unless specifically approved by the building official on an individual case basis."

(a) will remain the same.

(19) Subsection 904.2.56.2 of the Uniform Building Code, ~~1994 Edition~~, is amended for the bureau division by addition of the following sentence: "Group H, Division 4. Occupancies having more than 3,000 square feet but less than 5,100 square feet need not be required to install an automatic fire-extinguishing system, provided the building is one-hour fire resistive construction throughout, has yards of 40 feet or more in width on three sides and provides a minimum of three exits, all properly signed and illuminated.

(20) In subsection 13012.2, Appendix Chapter 13, of the Uniform Building Code, change wording of the first paragraph is amended as follows: "In order to comply with the purpose of this appendix, buildings shall be designed to comply with the requirements of the Model Energy Code promulgated jointly by the international conference of building officials (ICBO), the southern building code congress international (SBCCI), the building officials and code administrators international (BOCA) and the national conference of states on building codes and

standards (NCSBCS), latest edition adopted by the bureau division in ARM 8.70.104."

(21) The purpose of ~~this code~~ the Uniform Building Code is to provide minimum standards to safeguard life or limb, health, property and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures and certain equipment specifically regulated therein.

(22) The Uniform Building Code, ~~1994 Edition~~, adopted by reference in (1) of this rule, is a nationally recognized model code setting forth minimum standards and requirements for building construction. A copy of the Uniform Building Code, ~~1994 Edition~~, may be obtained from the Department of Commerce, Building Codes Bureau Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(23) The "International Conference of Building Officials Building Standards" magazine mentioned in (1)~~(d)~~(g) of this rule is the trade magazine for building officials published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. A copy of the most current "Building Valuation Data" table mentioned in (1)~~(d)~~(g) of this rule may be obtained free of charge from the Department of Commerce, Building Codes Bureau Division, Capitol Station, Helena, Montana 59620.

(24) In section 332, of the Uniform Building Code, Appendix Chapter 3, Division III, ~~change wording of the first paragraph is amended as follows:~~ "Buildings regulated by this division shall be designed and constructed to comply with the requirements of the One and Two Family Dwelling Code, latest edition adopted by the bureau division in ARM 8.70.108, promulgated jointly by the international conference of building officials, the building officials and code administrators international, inc., and the southern building code congress international, inc."

(25) Section 50-60-102(1), MCA, exempts any private garage or private storage structure used only for the owner's own use from application of the state building codes. A private garage is a building or a portion of a building, ~~not more than 1,000 square feet in area,~~ in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept. A building in which vehicles are repaired or stored as part of commercial enterprise or business, even if on the premises of a dwelling, is not a private garage. A private storage structure used only for the owner's own use is a building used for storage of personal effects of the owner and not used for storage of equipment, vehicles, materials, supplies or products used in a commercial enterprise or business.

(26) Section 904.1 (Installation Requirements) is amended for the bureau by addition of the following:

*This subsection shall apply to buildings which are required by the Uniform Building Code to be provided with an automatic sprinkler system, but have an inadequate water supply.

In accordance with ~~UBC~~ Uniform Building Code Standard 9-1, Section 9.101 and ~~UBC~~ Uniform Building Code Standard 9-3, Section 9.302, the building official shall be the designated authority responsible for administering and enforcing NFPA-13 and NFPA-13R. When the available water supply does not meet NFPA-13 and NFPA-13R requirements, it may be modified by the building official.

The modified water supply shall include sufficient storage on site to operate a minimum of four sprinkler heads for the response time of the local fire department. Response time is the time from alarm to the time the fire department can apply water to the fire. Response time shall be established by the use of the formula $T = 0.65 + 1.7D$, where T is response time, in minutes, and D is distance, in miles, from the fire station to the building, but shall not be less than 20 minutes.

Water supply requirements shall be established by using the area/density method. A 50% reduction in design area, to not less than four heads, is allowed. Density is not modified.

When a modified water supply is allowed, the sprinkler system must utilize quick response heads, be equipped with a flow alarm, automatic dialer and a fire department connection.

(27) will remain the same.

(28) Subsection ~~1005-0-1~~ 1004.3.4.2.1 of the Uniform Building Code, ~~1994 Edition~~, is amended for the bureau division by addition of subsection 3407.3 of Appendix Chapter 34, Division I for application to upgrading of corridors in existing E occupancies.

(29) Section 312.1 of the Uniform Building Code, ~~1994 Edition~~, is amended for the bureau division by addition of the following sentences to the exception to Division I: Riding arenas limited to occupant loads of 200 or less and used for boarding, breeding and training of horses, horse shows and competitions, clinics and rider instruction and open riding are considered agricultural buildings subject to the provisions of Appendix Chapter 3, Division II, as amended. Uses such as rodeos, barn dances, craft and other nonlivestock shows, conventions and similar events which result in large numbers of spectators or occupants are not allowed in riding arenas classified as agricultural buildings.

(30) Appendix Chapter 3, Section 326 of the Uniform Building Code is amended by addition of 5. Riding arenas as defined in amended section 312.1.

(31) Appendix Chapter 3, Section 330 of the Uniform Building Code is amended for the bureau division by addition of the following sentences to exception 2: The portion of riding arena buildings where riding will occur or where spectators may be present or seating is provided shall be provided with a minimum of four exits directly to the outside, with the exits located in a manner acceptable to the bureau division that enhances exit from spectator areas. Exits from this portion of

the building shall not be provided with a latch or lock unless it is panic hardware.

(32) Appendix Chapter 3, Section 330 of the Uniform Building Code is amended for the bureau division by addition of the following sentence to exception 3: Exit openings for riding arenas shall not be less than 3 feet by 6 feet 8 inches.

(33) through (39) will remain the same.

(40) Appendix Chapter 34 (Division I—Life Safety Requirements for Existing Buildings other than High-rise Buildings), Appendix Chapter 34 (Division II—Life Safety Requirements for Existing High-rise Buildings), Appendix Chapter 3 (Division IV—Requirements for Group R Division 4 Occupancies), Appendix Chapter 16 (Division II—Earthquake Recording Instrumentation), Appendix Chapter 19 (Protection of Residential Concrete Exposed to Freezing and Thawing), Appendix Chapter 12 (Division II—Sound Transmission Control), Appendix Chapter 9 (Basement Pipe Inlets), Appendix Chapter 33 (Excavation and Grading) are adopted for use by local governments specifically adopting them. However, the department will not be enforcing them. The following appendix chapters of the Uniform Building Code will not be enforced by the division, but are adopted for use by a local government in part or in whole, if the local government has specifically provided for their adoption:

(a) Appendix Chapter 3; Division IV (Requirements for Group R Division 4 Occupancies);

(b) Appendix Chapter 9 (Basement Pipe Inlets);

(c) Appendix Chapter 12; Division II (Sound Transmission Control);

(d) Appendix Chapter 16; Division II (Earthquake Recording Instrumentation);

(e) Appendix Chapter 19 (Protection of Residential Concrete Exposed to Freezing and Thawing);

(f) Appendix Chapter 33 (Excavation and Grading); and

(g) Appendix Chapter 34 (Existing Structures).

(41) Footnote 5, Table 3-F of the Uniform Building Code is amended with the addition of the following sentence:

(a) A magazine which is regulated by the United States bureau of alcohol, tobacco and firearms, may be considered as in compliance with the Uniform Building Code distance provisions if distances are determined by utilizing either Table 3-F of the Uniform Building Code or Table A-VI-E-5 of the Uniform Fire Code, 1994 Edition or the equivalent Table A-VI-F-5 of the Uniform Fire Code, 1997 Edition, when the 1997 Edition is adopted by the Department of Justice, at the discretion of the building official.

(42) The term "farm or ranch building" as used in 50-60-102, MCA, is defined as a building located on and used in conjunction with, or in support of an agricultural use of a parcel of land, that either totals 160 or more contiguous acres under one ownership or is classified as agricultural pursuant to Title 15, chapter 7, part 2, MCA. The term "farm and ranch building" does not include buildings which are classified as either Group F or Group M Occupancies by the Uniform Building

Code.

(43) Subsection 106.1 of the Uniform Building Code is amended with the addition of the following sentence:

(a) At the discretion of the building official, a single annual permit may be issued for multiple buildings owned by a single entity, located in a single geographic location, which require similar and repetitive repair, restoration and maintenance work."

Auth: Sec. 50-60-104, 50-60-203, MCA; IMP, Sec. 50-60-103, 50-60-104, 50-60-108, 50-60-109, 50-60-201, 50-60-203, MCA

REASON: The Department is proposing these changes to ARM 8.70.101 for the following reasons (referred to by subsection number):

(1): The Department is proposing to adopt the 1997 Edition of the Uniform Building Code, the most current version. Most uniform codes are updated every three years. Updating the Uniform Building Code serves to keep the Montana construction industry current with technological advances in building practices and consistent with other states. The purpose for the editorial changes are to make the rule easier to read and follow, to correct cross references to section number changes in 1997 Edition. The 1997 Edition also drops regulations regarding fallout shelters, which were previously adopted by the Division.

(1) (g): Updates the "Building Valuation Data" tables used by the Division to calculate fees from the version found in the 1991 Edition of the Uniform Building Code to the current 1997 version of the Uniform Building Code. Deletes the reference to the discounted fee which expires June 30, 1998. This represents a 19% increase in fees which is necessary to cover the additional administrative costs associated with exterior handicapped accessibility which is necessary to review and inspect by Ch. 331, L. 1997.

(1) (a) through (j), (4), (5), (13), (19) through (24), (26), (29) through (32): Editorial changes making the rule easier to read due to the removal of reference to 1994 Edition of the Uniform Building Code.

(1) (n), (1) (p), (4), (13), (18), (19), (20), (28) and (30): Corrects cross references of the changed section numbers in the 1997 Edition of the Uniform Building Code.

(25): The reference to a 1000 square foot limit for a garage is deleted as it was superseded by a statutory change to 50-60-102, MCA, by Ch. 488, L. 1997, which provided a private garage or storage structure could be of any size.

(40): Editorial changes making the rule easier to read and follow.

(41): Adopts the distance standards of the Uniform Fire Code as an acceptable alternative method of determining safe distances around explosive magazines regulated by the United States Bureau of Alcohol, Tobacco and Firearms (BATF) as recommended in the Handbook to the Uniform Building Code. This proposed amendment modifies the calculation of the buffer zone around magazines from distances to property lines to distances

to inhabited buildings and public roads regardless of property lines. BATF regulations would adjust the amount of explosives stored or terminate the BATF storage license altogether if inhabited buildings or roads encroach upon the buffer zone.

(42): The term "farm or ranch building" as used in 50-60-102, MCA, lacks any definition in the statute. The lack of a written definition has resulted in confusion and inconsistency. The purpose of providing the definition is to clarify the term and establish a consistent application of the term. The proposed definition utilizes the agricultural classification established for tax purposes to define what constitutes a farm or ranch for building code purposes. The exclusion of Group F (Factory and Industrial) and Group M (Mercantile) Occupancies clarifies that uses such as agricultural product packing plants or agricultural product stores, uses which typically involve numerous employees and/or the public, even if located on a farm or ranch, are not exempt from building codes.

(43): The Uniform Building Code requires separate permits for each building. This is more of an administrative requirement rather than health, safety or security. This requirement for separate permits can create undue hardship for locations such as Virginia City or Nevada City in which groups of buildings owned by the State of Montana require similar and recurring maintenance, restoration and repair work, the contracts and project organization for which are not on a building by building basis. The public health, safety and security can be equally protected and the administrative burden significantly reduced by issuing permits on a project basis rather than a building basis as long as the proposed work is sufficiently identified, so as to allow for the necessary review and inspections. More significant individually identifiable construction projects would still require individual building permits.

"8.70.102 INCORPORATION BY REFERENCE OF UNIFORM HOUSING CODE (1) The building codes bureau of the department of commerce, by and through the building codes division, adopts and incorporates by reference herein the Uniform Housing Code, 1994 Edition, referred to as the Uniform Housing Code, unless another edition is specifically stated, together with the following amendments thereto:

(a) Section 203 of the code Uniform Housing Code will be left in as is for use by local governments (i.e., municipalities and counties), who by 50-60-303, MCA, must provide an appeal procedure. Local governments may use the board of appeals created in accordance with section 105 of the Uniform Building Code, 1994 Edition to serve as the housing advisory and appeals board. The bureau division and state of Montana, however, will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal in lieu of section 203.

(b) Section 204 of the code Uniform Housing Code will be left in as is for use by local governments (i.e., municipalities and counties). The bureau division and state of

Montana will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution in lieu of section 204. When a person fails to submit plans, obtain a permit, correct plans or comply with an order of the ~~bureau division~~, the ~~bureau division~~ will apply 50-60-109, MCA, and thereby enjoin the person from constructing or using the building.

(c) Subsection 1001.2, item 9 of the Uniform Housing Code, shall have the following sentence added to it: "At the sole discretion of the building official, minimum room heights in habitable space of less than 7 feet 6 inches may be considered adequate on a case-by-case basis provided the space has been lawfully used as a residential occupancy."

(2) The purpose of ~~this code~~ the Uniform Housing Code is to provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of residential buildings.

(3) The Uniform Housing Code, ~~1994 Edition~~, is a nationally recognized model code setting forth minimum standards and requirements for maintenance of residential buildings. A copy of the Uniform Housing Code, ~~1994 Edition~~, may be obtained from the Department of Commerce, Building Codes Bureau Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing to the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601."

Auth: Sec. ~~50-60-203~~, MCA; IMP, Sec. ~~50-60-203~~, MCA

REASON: The Department is proposing these changes to ARM 8.70.102 for the following reasons (referred by subsection number):

(1): Adopts the 1997 Edition of the Uniform Housing Code, the most current version. Uniform codes are typically updated every three years. Updating the Uniform Housing Code serves to keep the Montana construction industry current with technological advances in building practices and consistent with other states. All other changes are editorial to make the rule more clear and easier to read.

(1), (2) and (3): Removes reference to the 1994 version of the Uniform Housing Code and clarifies references to the term code.

"8.70.103 INCORPORATION BY REFERENCE OF UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS (1) The building codes bureau of the department of commerce, by and through the building codes division, adopts and incorporates by reference herein the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, referred to as the Uniform Code for the Abatement of Dangerous Buildings, unless another edition is specifically stated, together with the following amendments thereto:

(a) Section 203 of the ~~code~~ Uniform Code for the Abatement of Dangerous Buildings will be left as is for use by local governments (i.e., municipalities and counties). The bureau division and state of Montana will use 50-60-109 and 50-

60-110, MCA, in cases requiring prosecution in lieu of section 203. When a person fails to submit plans, obtain a permit, correct plans, or comply with an order of the division, the bureau division will apply 50-60-109, MCA, and thereby enjoin the person from constructing or using the building.

(b) Section 205 of the ~~code~~ Uniform Code for the Abatement of Dangerous Buildings will be left in as is for use by local governments (i.e., municipalities and counties) who by 50-60-303, MCA, must provide an appeal procedure. Local governments may use the board of appeals created in accordance with section 105 of the Uniform Building Code, ~~1994 Edition~~, to serve as the board of appeals. The bureau division and state of Montana, however, will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal in lieu of section 205.

(2) The purpose of ~~this code~~ the Uniform Code for the Abatement of Dangerous Buildings is to provide a just, equitable, and practicable method, to be cumulative with and in addition to, any other remedy provided by the Uniform Building Code or Uniform Housing Code, or otherwise available by law, whereby buildings or structures which, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished.

(3) The Uniform Code for the Abatement of Dangerous Buildings, ~~1994 Edition~~, is a nationally recognized model code setting forth minimum standards and requirements for dangerous buildings. A copy of the Uniform Code for the Abatement of Dangerous Buildings, ~~1994 Edition~~, may be obtained from the Department of Commerce, Building Codes Bureau Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing to the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601."

Auth: Sec. 50-60-203, MCA; IMP, Sec. 50-60-203, MCA

REASON: The Department is proposing these changes to ARM 8.70.103 for the following reasons (referred by subsection number):

(1): Adopts the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, the most current version. Uniform codes are typically updated every three years. Updating the Uniform Code for the Abatement of Dangerous Buildings serves to keep the Montana construction industry current with technological advances in building practices and consistent with other states. All other changes are editorial to make the rule more clear and easier to read.

(1), (2) and (3): Removes reference to the 1994 version of the Uniform Code for the Abatement of Dangerous Buildings and clarifies the use of the term code.

"8.70.104 INCORPORATION BY REFERENCE OF THE MODEL ENERGY CODE (1) ~~The building codes bureau of the~~ The department of commerce, by and through the building codes division, adopts

and incorporates by reference herein the Model Energy Code, 1993 Edition, referred to as the Model Energy Code, unless another edition is specifically stated, together with the following amendments thereto:

- (a) will remain the same.
- (b) Section 105.2 is deleted in its entirety when the code is used by the building codes ~~bureau~~ division of the department of commerce. It remains undeleted and available for use for certified local governments using the code.
- (c) Section 502.1.1, is amended to read as follows: "The stated U_o , U or R value of an assembly may be increased or the stated U_o , U or R value of an assembly may be decreased provided the total heat gain or loss for the entire building does not exceed the total resulting from conformance to the values specified in Tables Nos. 502.2.1 and 502.3.1. For Group R buildings regulated by section 502.2, Figure No. 7 of Chapter 8 may be used to determine a lower U_o value for the roof-ceiling assembly when the U_o value of the wall does not conform to the U_o value specified in table No. 502.2.1." The following building component R values represent minimum levels of insulation to be provided in Group R buildings in Montana.

Component	Equivalent Path	Prescriptive Path*
ceiling	R-38	R-42
walls**	R-19***	R-21**
floors over unheated space	R-19	R-19
basement walls***	R-10	R-11
foundation	R-19	R-19
door	R-2	R-5
windows****	U-0.4****	U-0.5****

*Example alternative prescriptive paths are available from the bureau.

**Lesser R value may be allowed for log building walls.

***Basement wall insulation below uninsulated floors, except for rim joists and perimeter cripple walls, may be delayed until such time as the basement is actually finished for occupancy.

****U values as defined by (d)(iii).

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

(2) The purpose of ~~this code~~ the Model Energy Code is to provide minimum requirements for the design of new buildings and structures and additions to existing buildings, regulating their exterior envelopes and selection of their heating, ventilating, air conditioning, service water heating, electrical distribution and illuminating systems and equipment for effective use of energy.

(3) The Model Energy Code, ~~1993 Edition~~, is a nationally recognized model code for energy efficient construction of buildings. A copy of the Model Energy Code, ~~1993 Edition~~ may be obtained from the Building Codes ~~Bureau~~ Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing to CABO, 5203 Leesburg Pike, Falls Church, Virginia 22041."

Auth: Sec. 50-60-201, 50-60-203, 50-60-803, MCA; IMP,
Sec. 50-60-201, 50-60-203, 50-60-803, MCA

REASON: The Department is proposing these changes to ARM 8.70.104 for the following reasons (referred by subsection number):

- (1): Editorial change making the rule easier to read.
- (1)(c): Editorial change which makes the rule easier to follow.
- (1)(c)(iii): Modifies the requirement that basement walls be insulated at the time of initial construction. By delaying the time when the basement walls need to be insulated it allows the home builder the option of leaving basement totally unfinished allowing for maximum flexibility in planning how and when the basement should be finished thereby reducing the initial cost of completing a house. This amendment was suggested by the Montana Board of Housing-Montana Building Industry Association Affordable Housing Task Force as the number one suggestion for a code modification that would reduce the cost of housing.

"8.70.105 INCORPORATION BY REFERENCE OF UNIFORM MECHANICAL CODE (1) The building codes bureau of the department of commerce, by and through the building codes division, adopts and incorporates by reference herein the international conference of building officials' Uniform Mechanical Code, 19947 Edition, as amended, published by the international conference of building officials, referred to as the Uniform Mechanical Code, unless another edition is specifically stated, together with the following amendments thereto:

(a) The fees contained in section 115 and Table 1-A shall be deleted and replaced with the following:

- requested inspection fee - ~~\$3045~~, provided that such service is not in excess of ~~1~~ one hour in duration, and then ~~\$1525~~ for each 30 minutes or fractional part thereof in excess of ~~1~~ one hour. Travel and per diem will be charged as per the state of Montana's existing rates for these items.

MECHANICAL PERMIT FEES

The mechanical cost shall be the cost to the owner of all labor charges and all mechanical materials and equipment installed as part of the mechanical system. The cost of the plumbing system, which is covered by the Uniform Plumbing Code, is not to be included.

Cost of Mechanical System	Mechanical Permit Fee
0 - \$1,000	\$30
\$1,000 - \$10,000	\$350 for first \$1,000 plus \$105 for each additional \$1,000 or fraction thereof,

to and including \$10,000

\$10,001 - \$50,000

\$12085 for first \$10,000 plus
\$57 for each additional \$1,000
or fraction thereof, to and
including \$50,000

\$50,001

\$320465 for first \$50,000
plus \$34 for each additional
\$1,000 or fraction thereof.

(b) Section 110 of the ~~code~~ Uniform Mechanical Code will be left as is for use by local governments (i.e., municipalities and counties), who by 50-60-303, MCA, must provide an appeal procedure. Local governments may use the board of appeals created in accordance with section 105 of the Uniform Building Code, 1994 Edition, to serve as the board of appeals. The ~~bureau division~~ and state of Montana, however, will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal, in lieu of section 110.

(c) Section 111 of the ~~code~~ Uniform Mechanical Code will be left as is for use by local governments (i.e., municipalities and counties). The ~~bureau division~~ and state of Montana will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution, in lieu of section 111. When a person fails to submit required plans, obtain a permit, correct plans or comply with an order of the ~~bureau division~~, the ~~bureau division~~ will, as authorized by 50-60-109, MCA, enjoin him from constructing or using the building.

(d) ~~Section 304.6 Liquefied Petroleum Gas Appliances.~~
~~Delete Section 304.5 (Prohibited Locations) delete the second paragraph, which prohibits the installation of below grade LPG equipment, in its entirety.~~

(e) Chapter 10, Appendix B, titled "Steam and Hot water Boilers," ~~shall be adopted as part of the Uniform Mechanical Code except (Boilers/Water Heaters) is amended~~ as follows:

(i) In section 10026 change the wording of the entire section to read: "The requirements of this chapter apply to the construction and installation, as required by 50-74-101, MCA, except as provided for in the ASME publications referenced and incorporated in ARM 8.70.902.

(ii) Delete sections 10236, 10247, 10258 and 10269 of the Uniform Mechanical Code entirely.

(f) Chapter 13, Appendix B, titled "Fuel-Gas Piping" ~~shall be adopted as part of the Uniform Mechanical Code except is amended~~ as follows:

(i) ~~1312.1 General. Amend to read as follows: "Pipe used for the installation, extension, alteration or repair of gas piping shall be standard weight wrought iron or steel (galvanized or black), yellow brass containing not more than 75 percent copper, or internally tinned or equivalently treated copper of iron pipe size. Corrugated stainless steel tubing may be permitted provided that it is part of a system listed by an approved testing agency as complying with ANSI/AGA LC1-1991.~~

~~Approved PE pipe may be used in exterior buried piping systems.~~

~~(ii)(i)~~ Section 13154(5). Amend line one by deleting the wording "in a pit or basement."

~~(iii)(ii)~~ Section 13154.1(6). Delete.

(g) will remain the same.

(2) The building codes bureau division may not enforce the Uniform Mechanical Code on those buildings exempted from state building codes by 50-60-102, MCA. Local governments that have made the state building codes applicable to the exempted buildings, except for mines and buildings on mine property regulated under Title 82, chapter 4, MCA, may enforce within their jurisdictional areas the Uniform Mechanical Code as adopted by the respective local government.

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

(5) No mechanical permit shall be issued for a building or structure, under the jurisdiction of the bureau division, until the building permit has been issued for said building or structure.

(6) will remain the same.

(7) The Uniform Mechanical Code, ~~1994 Edition~~, adopted by reference in (1) of this rule, is a nationally recognized model code setting forth minimum standards and requirements for certain mechanical installations. A copy of the Uniform Mechanical Code, ~~1994 Edition~~, may be obtained from the Department of Commerce, Building Codes Bureau Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing to the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601."

Auth: Sec. 50-60-104, 50-60-201, 50-60-203, 50-60-508, MCA; IMP, Sec. 50-60-103, 50-60-104, 50-60-201, 50-60-203, MCA

REASON: The Department is proposing these changes to ARM 8.70.105 for the following reasons (referred to by subsection number):

(1): The Department is proposing to adopt the 1997 Edition of the Uniform Mechanical Code, the most current version. Most uniform codes are updated every three years. Updating the Uniform Mechanical Code serves to keep the Montana construction industry current with technological advances in building practices and consistent with other states. The purpose for the editorial changes are to make the rule easier to read and follow, to correct cross references to section number changes in 1997 edition and update reference from Building Codes Bureau to Building Codes Division.

(1)(a): This amendment increases fee collections an estimated 59%, the first fee increase in 12 years. The purpose of the fee increase is to cover increased costs of administration and inspection.

(1)(b): Clarifies the term code, deletes reference to 1994 Edition.

(1)(e)(i) and (ii): Corrects cross reference to section number in new edition of Uniform Mechanical Code.

(1)(f)(i): Deletes language as new edition of Uniform

Mechanical Code provides for referenced pipe.

(1)(f)(ii) and (iii): Corrects cross reference to section numbers in new edition of the Uniform Mechanical Code.

(1)(g): Deletes reference to appendix as new edition of Uniform Mechanical Code contains referenced appendix as a main part of code.

(7): Deletes reference to 1994 Edition.

"8.70.108 INCORPORATION BY REFERENCE OF CABO ONE & TWO FAMILY DWELLING CODE (1) The building codes bureau of the department of commerce, by and through the building codes division, adopts and incorporates by reference herein the CABO One & Two Family Dwelling Code, 1995 Edition, referred to as the CABO One & Two Family Dwelling Code, unless another edition is specifically stated, together with the following amendments thereto:

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

(3) Section 113.1.4 (Lath and/or wallboard inspection) is deleted.

(4) Section 113.1.5 (Other inspections) is amended with the addition of the following language: When fire resistive construction is required between dwelling units due to location on property, the building official shall require an inspection of such construction after all lathing and gypsum board is in place, but before any plaster is applied, or before gypsum board joints and fasteners are taped and finished.

(5) Section 303.4 (Stairway illumination) is amended to read as follows:

(a) All interior and exterior stairways shall be provided with a means to illuminate the stair, including the landings and the treads.

(b) Interior stairs shall be provided with an artificial light source located in the immediate vicinity of each landing at the top and bottom of the stair.

(c) Exterior stairs shall be provided with an artificial light source located in the vicinity of the top landing of the stair.

(d) Exception: An artificial light source is not required at the top and bottom landing, provided an artificial light source is located directly over each stair section.

(6) Section 309.1 (Opening protection) is amended to read as follows:

(a) Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

(b) Other openings between the garage and residence shall be equipped with either solid wood doors not less than 1 3/8 inches (35mm) in thickness, 20 minute fire-rated doors or metal insulated exterior doors.

(3) and (4) will remain the same, but will be renumbered (7) and (8).

(9) Section 315.2 (Handrail grip size) is amended to read as follows:

(a) Handrails shall have either circular cross section with a diameter of 1 1/4 inches (32mm) to 2 inches (51mm), or a

non circular cross section with a perimeter dimension of at least 4 inches (102mm) but not more than 6 1/4 inches (159mm) and a largest cross section dimension not exceeding 2 1/4 inches (28.6mm), or provide equivalent grasp ability. Edges shall have a minimum radius of 1/8 inch (3.2mm).

(10) Appendices must be specifically adopted by the state to be enforced.

(45)(11) The CABO One & Two Family Dwelling Code, 1995 Edition, adopted by reference in (1) of this rule, is a nationally recognized model code setting forth minimum standards and requirements for the construction, prefabrication, alteration, repair, use, occupancy and maintenance of detached one or two family dwellings not more than three stories in height, and their accessory structures. A copy of the CABO One & Two Family Dwelling Code, 1995 Edition, may be obtained from the Building Codes Bureau Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may be also obtained by writing the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601."

Auth: Sec. 50-60-203, 50-60-401, MCA; IMP, Sec. 50-60-103, 50-60-201, 50-60-402, MCA

REASON: The Department is proposing these changes to ARM 8.70.108 for the following reasons (referred to by subsection number):

(1): Editorial change to make the rule easier to read.
(3) and (4): A required inspection of lath and/or wallboard is unnecessary unless the wall is part of required fire resistive construction. Such unnecessary inspections add to delays in construction. This amendment was proposed by the Montana Board of Housing-Montana Building Industry Affordable Housing Task Force as a code modification that would reduce the cost of housing. This change is proposed for inclusion in the 1988 version of the One and Two Family Dwelling Code.

(5): The current illumination standards appear to be excessive and difficult to quantify. This amendment was proposed by the Montana Board of Housing-Montana Building Industry Affordable Housing Task Force as a code modification that would reduce the cost of housing. This change is proposed for inclusion in the 1988 version of the One & Two Family Dwelling Code.

(6): The current standards do not allow for equivalent non-rated metal doors in the same way the current standards allow for non-rated wood doors. The use of equivalent, but non-rated metal doors, is a cost saving matter. This amendment was proposed by the Montana Board of Housing-Montana Building Industry Affordable Housing Task Force as a code modification that would reduce the cost of housing. This change is proposed for inclusion in the 1988 version of the One and Two Family Dwelling Code.

(7) and (8): Editorial changes making the rule easier to read.

(9): The current code requirement appears to be overly restrictive and does not provide for some of the most commonly used handrail materials. The amendment gives the building

official the discretion to approve equivalent materials. This amendment was proposed by the Montana Board of Housing-Montana Building Industry Affordable Housing Task Force as a code modification that would reduce the cost of housing. This change is proposed for inclusion in the 1988 version of the One and Two Family Dwelling Code.

(10) Clarifies that appendices to the CABO One and Two Family Dwelling Code must be specifically adopted before they can be enforced as part of the CABO One and Two Family Dwelling Code.

"8.70.110 INCORPORATION BY REFERENCE OF THE UNIFORM CODE FOR BUILDING CONSERVATION (1) ~~The building codes bureau of~~ The department of commerce, ~~by and through the building codes division,~~ adopts and incorporates by reference herein the Uniform Code for Building Conservation, 1994~~7~~ Edition, ~~referred to in this rule as the Uniform Code for Building Conservation, unless another edition is specifically stated,~~ together with the following amendments thereto:

(a) will remain the same.

(b) Section 207 of the ~~code~~ Uniform Code for Building Conservation will be left in for use by local governments (i.e., municipalities and counties) who by 50-60-303, MCA, must provide an appeal procedure. Local governments may use the board of appeals created in accordance with section 105 of the Uniform Building Code, ~~1994 Edition~~, to serve as the board of appeals. The ~~bureau division~~ and state of Montana, however, will use all applicable provisions of the Montana Administrative Procedure Act in all cases of appeal in lieu of section 207.

(2) The purpose of ~~this code~~ the Uniform Code for Building Conservation is to encourage the continued use or reuse of legally existing historic buildings and structures.

(3) The Uniform Code for Building Conservation, ~~1994 Edition~~, is a nationally recognized model code setting forth minimum standards and requirements for conservation of existing buildings. A copy of the Uniform Code for Building Conservation, ~~1994 Edition~~, may be obtained from the Building Codes Bureau Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601."

Auth: Sec. ~~50-60-203~~, 50-60-301, MCA; IMP, Sec. ~~50-60-203~~, 50-60-301, MCA

REASON: The Department is proposing these changes to ARM 8.70.110 for the following reasons (referred by subsection number):

(1): Adopts the 1997 Edition of the Uniform Code for Buildings Conservation, the most current version. Uniform codes are typically updated every three years. Updating the Uniform Code for Building Conservation serves to keep the Montana construction industry current with technological advances in building practices and consistent with other states. All other changes are editorial to make the rule more clear and easier to

read.

(1)(b), (2) and (3): Removes reference to the 1994 version of the Uniform Code for Buildings Conservation and clarifies the use of the term code.

"8.70.202 EXTENT OF LOCAL PROGRAMS (1) will remain the same.

(2) Exceptions to permit requirements listed in ~~sections~~ 50-60-506(2) and 50-60-506(4), MCA, apply only to state plumbing permits, and certified local governments may issue plumbing permits for such work in accordance with section ~~20-4103~~ of the uniform plumbing code as amended.

(3) When a local government is approved to enforce building, mechanical, electrical or plumbing codes for limited types of buildings, the department of commerce, building codes division retains authority to enforce building, mechanical, electrical and plumbing codes for all other buildings not covered by the local government and which are not exempt from department regulation.

(4) In addition to compliance with all other rules and regulations a local government code enforcement program must require applications for all buildings and installations, review plans for all new buildings and major remodeling projects, except as may otherwise not be required by the Uniform Building Code, and issue permits and inspect all buildings and installations over which it has jurisdiction to enforce codes as established by the department."

Auth: Sec. 50-60-203, 50-60-302, 50-60-504, 50-60-603, MCA; IMP, Sec. 50-60-202, 50-60-203, 50-60-301, 50-60-302, 50-60-504, 50-60-603, MCA

REASON: The Department is proposing these changes to ARM 8.70.202 for the following reasons (referred to by the subsection number):

(2): Corrects cross reference to the section in the 1997 ed. of Uniform Plumbing Code.

(3): Clarifies the Building Codes Division will enforce building, electrical and plumbing codes within the boundaries of a certified jurisdiction, if the local government code enforcement program is limited to certain types of buildings as contemplated by amended rule ARM 8.70.206.

(4): Clarifies that local codes enforcement programs are required to not only issue permits and collect fees but also require applications, review plans and inspect buildings and installations utilizing the correct code. This provision was previously addressed in 8.70.212(1), which is proposed to be repealed.

"8.70.208 FUNDING OF CODE ENFORCEMENT PROGRAM (1) The establishment of permit fees shall be left to local governments. A list of current permit fees must be submitted to the bureau division.

(2) Permit fees must only be used for those costs related to building code enforcement activities, with building codes

being only those codes adopted by the bureau division in subchapters 1, 3 and 4 of Title 8, chapter 70, Administrative Rules of Montana. It is not intended that permit fees be used to support fire departments, planning, zoning or other activities, except to the extent that employees in those programs provide direct plan review, inspection or other building code enforcement services for the building code enforcement program.

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

(b) a proportionate share of the local government's indirect costs, which are those costs incurred for common or joint purposes that benefit more than one program or activity. These include, but are not necessarily limited to, legislative services, executive services, administrative services, financial services, data processing services, purchasing services, personnel services, legal services and facilities administration. A maximum of 30% of direct building code enforcement costs may be claimed as indirect costs in lieu of using actual indirect costs. If indirect costs are waived for any local government proprietary fund, those indirect costs must also be waived for the code enforcement program. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government.

(4) and (5) will remain the same."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, Sec. 50-60-106, 50-60-302, MCA

REASON: This amendment modifies the existing rule to conform with the new provision of the statute for treatment of indirect costs in the accounting of the code enforcement program.

"8.70.302 INCORPORATION BY REFERENCE OF UNIFORM PLUMBING CODE (1) The building codes bureau division of the department of commerce adopts and incorporates by reference herein the Uniform Plumbing Code, 1991~~7~~ Edition, as amended by this rule, referred to as the Uniform Plumbing Code, unless another edition is specifically stated, together with the following appendix chapters and amendments: The Uniform Plumbing Code, 1991 Edition, is a nationally recognized model code setting forth minimum standards and requirements for plumbing installations. A copy of the Uniform Plumbing Code, 1991 Edition, may be obtained from the Department of Commerce, Building Codes Bureau, Capitol Station, Helena, Montana 59620 at cost plus postage and handling. A copy may also be obtained by writing to the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789. The Uniform Plumbing Code, 1991 Edition, adopted herein by reference, is amended as follows:

(a) The following amendments are listed according to the section of the Uniform Plumbing Code: Appendix A. Recommended Rules for Sizing the Water Supply System is adopted.

(b) Appendix B. Explanatory Notes on Combination Waste and Vent Systems is adopted.

(c) Appendix C, Additional Referenced Standards is adopted.

(d) Appendix D, Sizing Stormwater Drainage Systems is adopted.

(e) Appendix H, Recommended Procedures for Design, Construction and Installation of Commercial Kitchen Grease Interceptors is adopted.

(f) Subsection 103.1.3 is deleted.

(i)(g) Delete sections 20.3, 30.1, 30.2, 30.3, 30.4, 30.5 and 30.6. Subsections 102.3, 103.1, 103.2, 103.3, 103.4, 103.5 and 103.6 will be left as is for use by local governments (i.e., municipalities and counties) but will not be used by the division and the state of Montana. For the purposes of enforcement by the division, these subsections are replaced with provisions of Title 50, chapter 60, part 5, MCA.

(i) "No permit is required for any minor replacement or repair work, the performance of which does not have a significant potential for creating a condition hazardous to public health and safety.

(ii) No permit is required where the installation is exempt under the provisions of 50-60-503 or 50-60-506, MCA.

(iii) The provisions of this act requirements for permits do not apply to regularly employed maintenance personnel doing maintenance work on the business premises of their employer unless work is subject to the permit provisions of this part these rules.

(iv) Factory-built buildings covered by an insignia issued by the bureau division need not have a plumbing permit for the construction of the unit; however, a permit will still be required for on-site work, as provided in these rules."

(i)(h) Delete Table No. 3-A1.1 - PLUMBING PERMIT FEES and replace with the following schedule:

--for issuing each permit	\$ 125*
--for each plumbing fixture	68
--water service - domestic or commercial	68
--for each building sewer and each trailer park sewer	102
--storm drains and storm drainage	68
--for each water heater	68
--for each industrial water pre-treatment interceptor, including its tray and vent, excepting kitchen type grease interceptors functioning as fixture traps	78
--for installation, alteration, or repair of water piping and/or water treatment equipment	68
--for repair or alteration of drainage or vent piping	68
--for each lawn sprinkler system and fire protection system or any one meter, including backflow protection devices therefore	68
--for vacuum breakers or backflow protective devices on tanks, vats, etc., or for installation on unprotected plumbing	

fixtures, including necessary water piping--
 one to four 68
 --five or more, each 2
 --requested plumbing inspection fee 45
 provided that such service is not in excess
 of one hour in duration, and then \$25 for
 each 30 minutes or fractional part thereof in
 excess of one hour. Travel and per diem will
 be charged as per the state of Montana's
 existing rate for these items.
 -reinspection (provided the \$30 does not
 exceed the original permit fee, in which
 case the original fee will be charged) 30
 *except for replacement of water heaters,
 (iii) ~~Sec. 203 (a), Use of Copper Tubing. Delete "DWV"~~
~~and substitute "L".~~
 (iv) ~~Sec. 203 (d), Use of Copper Tubing. Delete "or~~
~~underground outside of structures." ending the sentence with~~
~~"building."~~
 (v) ~~Sec. 406 (a), Cleanouts. Line 4 shall be changed~~
~~to read as follows: ". . . shall be provided with a cleanout~~
~~for each 50 feet . . . , rather than ". . . 100 feet . . ."~~
~~Also add: "Lines six inches in size and larger shall be~~
~~provided with a cleanout for each 100 feet, or fraction~~
~~thereof, in length of such piping."~~
 (vi) ~~Sec. 407, Grade of Horizontal Drainage Piping.~~
~~Change "four (4) inch" to "two (2) inch," and delete "When~~
~~first approved by the Administrative Authority."~~
 (vii) ~~Sec. 409 (a), Drainage of Fixtures Located Below~~
~~the Next Upstream and Manhole or Below the Main Sewer Level.~~
~~Lines 3 4, amend to read as follows: "the public sewer serving~~
~~such drainage piping may be protected from backflow."~~
 (viii) ~~Sec. 506 (a) and (c), Vent Termination. Change~~
~~"six (6) inches" to "twelve (12) inches."~~
 (ix) ~~Sec. 506 (f), Frost or Snow Closure. Change~~
~~diameter from "two (2) inches" to "three (3) inches" and change~~
~~termination height from "ten (10) inches" to "twelve (12)~~
~~inches."~~
 (x) ~~Sec. 613, Vertical Wet Venting. Delete the word~~
~~"vertical" from the section title and from line 1 in~~
~~subsections (a) and (b).r~~
 (xi) ~~Sec. 1003, Cross Connection Control General~~
~~Requirements. Delete subsection (b).r~~
 (xii) ~~Add the following to Sec. 1003 (k): "Heat~~
~~exchangers, in single family dwellings on their own private~~
~~well, which utilize a nontoxic transfer fluid, may be of single~~
~~wall constructionr~~
 (xiii) ~~Add the following to Sec. 1003 (g): "Boiler feed~~
~~lines, in single family dwellings on their own private well,~~
~~may be protected with a dual check valve with intermediate~~
~~atmospheric vent when a nontoxic transfer fluid is utilized in~~
~~the boiler."~~
 (xiv) ~~Sec. 1004 (a), Materials, amend to read as~~
~~follows: "Sec. 1004 Materials (a) Water pipe and fittings~~

shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, or other approved materials. Asbestos cement, PB, CPVC, PE, PEX, AL-PEX or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building; provided however, that this same material may extend to a point immediately inside the building when a sleeve for all pipe passing through or under concrete construction and valve are provided at the point of entrance. PB, CPVC, PEX or PEX-AL PEX water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the Administrative Authority."

~~(xv)~~ Sec. 1008, Installation, Inspection and Testing, after subsection (e) add the following new subsection (f): "(f) Disinfection. (1) When required by the administrative authority having jurisdiction, potable water systems or any part thereof installed or repaired shall be disinfected in accordance with one of the following methods:

~~by filling the system or any part thereof with a solution containing 50 parts per million of available chlorine and allowing it to stand for a minimum period of 6 hours before flushing.~~

~~by filling the system or any part thereof with a solution containing 100 parts per million of available chlorine and allowing it to stand for a minimum period of 2 hours before flushing.~~

~~In the case of a potable water storage tank where it is not possible to disinfect by one of the above methods, the entire interior of the tank shall be swabbed with a solution containing 200 parts per million of available chlorine and allowing to stand 2 hours before flushing.~~

~~In the case of potable water filters or similar equipment, the mixture shall be determined by the administrative authority having jurisdiction."~~

~~(xvi)~~ Sec. 1009 (h), Size of Potable Water Piping. Amend the second paragraph to read: "No building supply pipe shall be less than 3/4 inch in inside diameter."

~~(xvii)~~ Sec. 1106, Grade, Support and Protection of Building Sewers. Amend line 7 to read: "pipe or piping three (3) inches (76.2mm) or larger may have a slope of".

~~(xviii)~~ Chapter 12, Fuel Gas Piping, is deleted and replaced with Appendix B, Chapter 13, 1994 Uniform Mechanical Code (ICBO version), Fuel Gas Piping.

~~(xix)~~ Appendix B, Mobile Home Parks. Delete.

~~(xx)~~ Appendix C, Minimum Plumbing Facilities.

Delete. ARM 8-70.303 will be used in lieu of Appendix C.

~~(xxi)~~ Appendix I, Private Sewage Disposal Systems. Delete.

(i) Table 4-1, Minimum Plumbing Facilities is deleted and replaced with 8.70.303, Minimum Required Plumbing Fixtures.

(i) Delete subsection 603.3.2.

(k) Subsection 603.4.4.1, is amended with the addition of the following language: Heat exchangers, in single family dwellings on their own private well, may be protected with a dual check valve with intermediate atmospheric vent when a nontoxic transfer fluid is utilized in the boiler.

(l) Subsection 603.4.11, is amended with the addition of the following language: Boiler feed lines, in single family dwellings on their own private well, may be protected with a dual check valve with intermediate atmospheric vent when a nontoxic transfer fluid is utilized in the boiler.

(m) Subsection 604.1, Materials, is amended to read as follows:

(i) Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel or other approved materials.

(ii) Cast iron fittings used for water need not be galvanized if over 2 inches (51mm) in size.

(iii) Asbestos-cement, PB, CPVC, PE, PEX, PEX-AL-PEX or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. These approved outside cold water piping materials may extend to a point within the foundation perimeter of the building provided that the piping is buried a minimum of 12 inches, the piping is contained within a protective sleeve where it passes through concrete construction and the piping does not extend for more than 24 inches out of the ground at such point where it connects to approved interior cold water piping material.

(iv) PB, CPVC, PEX or PEX-AL-PEX water pipe and tubing may be used for hot and cold water distribution systems within a building.

(v) All materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the administrative authority.

(n) Subsection 604.2, the exception is amended to read as follows: Exception: Type M copper tubing may be used for water piping when piping is above ground in, or on, a building.

(o) Subsection 610.8, second paragraph, is amended to read as follows: No building supply pipe shall be less than 3/4 inch (19.1mm) in inside diameter.

(p) Subsection 701.1.4, is amended to read as follows: Copper tube for underground drainage and vent piping shall have a weight of not less than that of copper tube type L.

(q) Subsection 707.4, first paragraph, is amended to read as follows: Each horizontal drainage pipe shall be provided with a cleanout at its upper terminal and each run of piping, which is more the 50 feet in total developed length, shall be provided with a cleanout for each 50 feet, or fraction thereof, in length of such piping.

(r) Section 708.0, Grade of Horizontal Drainage Piping, is amended to read as follows: Horizontal drainage piping shall be run in practical alignment and a uniform slope of not less than 1/4 of an inch per foot or 2% toward the point of disposal provided that, where it is impractical due to the

depth of the street sewer or to the structural features or to the arrangement of any building or structure to obtain a slope of 1/4 of an inch per foot or 2 $\frac{1}{2}$, any such pipe or piping 2 inches or larger in diameter may have a slope of not less than 1/8 of an inch per foot or 1 $\frac{1}{2}$.

(s) Subsection 710.1, is amended to read as follows: Drainage piping serving fixtures which have flood level rims located below the elevation of the next upstream manhole cover of the public or private sewer serving such drainage piping may be protected from the backflow of sewage by installing an approved type backwater valve. Fixtures above such elevations shall not discharge through the backwater valve.

(t) Subsection 718.1, the exception is amended to read as follows: Exception: Where it is impractical, due to the depth of the street sewer or to the structural features or to the arrangement of any building or structure, to obtain a slope of 1/4 of an inch per foot, any pipe or piping 3 inches or larger in diameter may have a slope of 1/8 of an inch per foot and any such pipe or piping 8 inches in diameter or larger may have a slope of 1/16 of an inch per foot.

(u) Subsection 906.1, is amended to read as follows: Each vent pipe or stack shall extend through its flashing and shall terminate vertically not less than 12 inches above the roof nor less than 1 foot from any vertical surface.

(v) Subsection 906.3, is amended to read as follows: Vent pipes shall be extended separately or combined, of full required size, not less than 12 inches above the roof or fire wall.

(w) Subsection 906.7, is amended to read as follows: Frost and Snow Closure: Where frost or snow closure is likely to occur in locations having a minimum design temperature below zero degrees fahrenheit vent terminals shall be a minimum of 3 inches in diameter, but in no event smaller than the required vent pipe. The change in diameter shall be made inside the building at least 1 foot below the roof and terminate not less than 12 inches above the roof, or as required by the administrative authority.

(x) Section 908.0, is amended to read as follows: Wet venting.

(y) Subsection 908.1, is amended to read as follows:

(i) Wet venting is limited to drainage piping receiving the discharge from the trap arm of one and two fixture unit fixtures that also serves as a vent for not to exceed four fixtures.

(ii) All wet vented fixtures shall be within the same story; provided, further, that fixtures with a continuous vent discharging into a wet vent shall be within the same story as the wet vented fixtures.

(z) Subsection 908.2, is amended to read as follows: The piping between any two consecutive inlet levels shall be considered a wet vented section. Each wet vented section shall be a minimum of one pipe size larger than the required minimum waste pipe size of the upper fixture or shall be one pipe size larger than the required minimum pipe size for the sum of the

fixture units served by such wet vented section, whichever is larger, but in no case less than 2 inches.

(aa) Chapter 12, Fuel Piping, is deleted and replaced with Chapter 13, Uniform Mechanical Code (ICBO version), Fuel-Gas Piping.

(ab) Chapter 13, Medical Gas Systems, is deleted.

(2) The purpose of this code is to provide minimum requirements and standards for plumbing installations for the protection of the public health, safety and welfare. The Uniform Plumbing Code is a nationally recognized model code setting forth minimum standards and requirements for plumbing installations. A copy of the Uniform Plumbing Code may be obtained from the Department of Commerce, Building Codes Division, Capitol Station, Helena, Montana 59620, at cost plus postage and handling. A copy may also be obtained by writing to the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789."

Auth: Sec. 50-60-201, 50-60-203, 50-60-504, 50-60-508, MCA; IMP, Sec. 50-60-203, 50-60-504, 50-60-508, MCA

REASON: The Department is proposing these changes to ARM 8.70.302 for the following reasons (referred to by subsection number):

(1) The Department is proposing to adopt the 1997 Edition of the Uniform Plumbing Code, the most current version. Updating and amending the Uniform Plumbing Code serves to keep the Montana construction industry current with technological advances and consistent with other states. Certain editorial changes are made to make the rule easier to read and consistent with the format used in other rules.

(a), (b), (c), (d) and (e): The new format of the 1997 Edition requires the appendix chapters to be specifically referenced if they are to be adopted. The reference to these appendix chapters establishes the equivalent provisions of the 1991 Edition, which did not have to be specifically referenced to be adopted.

(f) This subsection is new to the 1997 Edition and refers to licensing provisions which are not applicable to the Montana statutes which separate licensing from permit functions.

(g) Updates the references of section numbers in the previous 1991 Edition to renumbered sections as found in the 1997 Edition. The proposed rules clarify that certain administrative provisions are applicable to local governments enforcing the plumbing code but are superseded by statutory provisions when enforced by the Division.

(h) This amendment provides for a fee increase, the first in 12 years, necessary to adequately support the plumbing inspection program and to make up the difference in loss of funding due to the appropriation to the Apprenticeship and Training Program operated by the Department of Labor, as provided by Ch. 357, L. 1997. The fee increase is estimated to be 38% for an additional \$73,000 per year.

(i) through (l) These amendments update the references of section numbers from the previous 1991 Edition to the renumbered sections as found in the 1997 Edition. Editorial changes restate the entire subsection rather than just the modified words, making the rules easier to read. There are no substantive changes from the current rules.

(m) This amendment redefines the point where exterior cold water supply pipes can extend into the perimeter of the foundation to be consistent with accepted current standards adopted in neighboring states. This amendment also updates the reference of the section number as found in the 1991 Edition to the renumbered section number found in the 1997 Edition.

(n) through (z) These amendments update the references of section numbers from the previous 1991 Edition to the renumbered sections as found in the 1997 Edition. Editorial changes restate the entire subsection rather than just the modified words, making the rules easier to read. There are no substantive changes from the current rules.

(aa) This amendment updates the reference of the section number found in the previous 1994 Edition of the Uniform Mechanical Code to the renumbered section found in the 1997 Edition of the Uniform Mechanical Code.

(ab) This amendment deletes the provision pertaining to medical gas systems, a new provision found in the 1997 Edition and not found in the 1991 Edition, as medical gas systems are not plumbing installations as defined by Montana law.

(2) Transferred language previously found in subsection (1). The purpose of the transfer is to make the format more consistent with other code adoption rules and easier to read and follow.

"8.70.303 MINIMUM REQUIRED PLUMBING FIXTURES (1) The following table will be used to determine the minimum number of plumbing fixtures to be installed in new buildings:

MINIMUM NUMBER OF PLUMBING FACILITIES^{a, n, d}

Fixtures (Number of fixtures per number of occupants)

Occupancy		Water Closets (Urinals - see footnotes g & m)		Lavatories	Bathtubs/ Showers	Drinking Fountains ^f
		Male	Female			
A S S E M B L Y	Theaters	1 per 125	1 per 65	USE SECTION 2902, UBC		1 per 1,000
	Nightclubs ^{h, i, j}	1 per 40	1 per 40			
	Restaurants ^{k, l, p}	1 per 75	1 per 75			
	Halls, museums, coliseums, Arenas ^q , stadiums, pools, etc.	1 per 125	1 per 75			1 per 1,000
	Churches ^o	1 per 150	1 per 75			1 per 1,000
	Business ^{u, v, w}	1 per 25	1 per 25			
Educational		SEE SECTION 2902.4 UBC				
Factory and industrial		1 per 100	1 per 100	1 per 100		1 per 400
High hazard		1 per 100	1 per 100	1 per 100		1 per 1,000
I N S T I T U T I O N A L	Residential care	1 per 10	1 per 10	1 per 10	1 per 8	
	Hospitals, ambulatory nursing home patients ^a	1 per room		1 per room ^c	1 per 15	1 per 100
	Day nurseries ^b , sanitariums Nonambulatory nursing home patients, etc. ^c	1 per 15	1 per 15	1 per 15	1 per 15 ^f	1 per 100
	Employees, other than residential care ^e	1 per 25	1 per 25	1 per 35		1 per 100
	Visitors, other than residential care	1 per 75	1 per 75	1 per 100		1 per 500
	Prisons ^g	1 per cell		1 per cell	1 per 15	1 per 100
	Asylums, reformatories, etc. ^h	1 per 15	1 per 15	1 per 15	1 per 15	1 per 100
	Mercantile ^j	1 per 500	1 per 500	1 per 750		
R E S I D E N T I A L	Hotels, motels	1 per guestroom		1 per guestroom	1 per guestroom	
	Lodges	1 per 10	1 per 10	1 per 10	1 per 8	
	Multiple family	1 per dwelling unit		1 per dwelling unit	1 per dwelling unit	
	Dormitories	1 per 10	1 per 10	1 per 10	1 per 8	1 per 100
	One and two-family dwelling ^d	1 per dwelling unit		1 per dwelling unit	1 per dwelling unit	

- (1) a. through n. will remain the same.
- o. Riding arenas as defined in ARM 8.70.101(29) are required to provide separate male and female accessible restrooms which contain a minimum of one water closet and one lavatory.
- p. will remain the same.
- q. If a specific occupancy is not shown in the table, the building official shall determine on an individual case-by-case basis the requirements for that occupancy.
- r. On an individual case-by-case basis the building official may approve an alternative source of potable drinking water, such as, but not limited to, a bottled water cooler, in lieu of a drinking fountain."
- Auth: Sec. 50-60-203, 50-60-504, MCA; IMP, Sec. 50-60-203, 50-60-504, MCA

REASON: The Department is proposing these changes to ARM 8.70.303 for the following reason (referred to by subsection number):

- i: The addition of footnote i to Mercantile Occupancy corrects an oversight. The division did not intend to treat mercantile occupancies any different than business occupancies.
- q: Clarification as to how to interpret Plumbing Fixture Table.
- r: Allows building official the discretion to allow practical alternative to drinking fountains.
- Table Modification: Clarifies required number of water closets.

"8.70.407 ELECTRICAL INSPECTIONS FEES (1) (a) and (b) will remain the same.

- | | | |
|-------------|---|------------------|
| (i) | 100 to 300 amp service | \$1350* |
| (ii) | 301 or more amp service | \$2300* |
| | *Fee includes maximum of three inspections. | |
| | Additional inspections charged at requested electrical inspection rates. | |
| (c) | private property accessory buildings (garages, barns, sheds, etc.) | |
| (i) | up to 200 amp panel | \$ 460 |
| (ii) | 201 to 300 amp panel | \$ 1020 |
| (iii) | 301 or more amp panel | \$ 1350 |
| (d) | multi-family dwellings (duplex through 12 units) | \$1020 per bldg* |
| | *Plus \$460 per unit, up to and including 12 units. *For buildings containing more than 12 units, use the commercial schedule that follows. | |
| (e) | multi-family dwellings (duplex through 12 units) - rewire or remodel only - per dwelling unit | \$ 480 |
| (f) | interior rewire only or new addition to a home | \$ 480 |
| (g) and (h) | will remain the same. | |
| (i) | mobile home installation (outside a court) | \$ 460* |

- *Fee includes only one inspection.
Reinspections require new permit.
- (j) modular homes
 - (i) no basement \$ 460
 - (ii) with a basement and/or garage \$ 65100
 - (k) will remain the same.
 - (l) new service only (livestock well, irrigation well, etc.) \$ 460
 - (m) will remain the same.
 - (i) per unit (one pump and/or one pivot) \$ 3560
 - (n) and (o) will remain the same.
 - (p) all other installations (commercial, industrial, institutional, or for public use):

Cost of Electrical
Installation

Fee

\$ 0 - \$ 500	\$30
\$ 501 - \$1,000	\$350 for 1st \$500 plus 6.0% of balance of construction cost
\$ 1,001 - \$10,000	\$680 for 1st \$1,000 plus 2.0% of balance of construction cost
\$10,001 - \$50,000	\$2460 for 1st \$10,000 plus .5% of balance of construction cost
\$50,001 or more	\$4460 for 1st \$50,000 plus .3% of balance of construction cost

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

(3) The fee for a requested electrical inspection is \$405, provided that such service is not in excess of one hour in duration, and then \$205 for each 30 minutes or fractional part thereof in excess of one hour. Travel and per diem will also be charged at the rates established under Title 2, chapter 18, part 5, MCA."

Auth: Sec. 50-60-104, 50-60-203, 50-60-603, 50-60-604, MCA; IMP, Sec. 50-60-104, 50-60-203, 50-60-603, 50-60-604, 50-60-607, MCA

REASON: This amendment increases electrical permit fees an estimated 47%, the first fee increase in 12 years. The increase fees are necessary to cover increased administrative costs of inspection and to make up the difference in funding due to the appropriation to the Apprenticeship Training program operated by the Department of Labor, as provided by Ch. 357, L. 1997.

"8.70.409 CARNIVALS, FAIRS, OUTDOOR CONCERTS AND SIMILAR

AMUSEMENT ESTABLISHMENTS, AND OTHER PUBLIC ASSEMBLIES OF A TEMPORARY NATURE (1) will remain the same.

(2) The electrical inspection fee for each temporary installation shall be \$405 for the entirety of the temporary installation, provided that such inspection can be completed within one hour. If additional inspection time is required, it will be charged at the rate of \$205 for each additional 30 minutes or fractional parts thereof.

(3) and (4) will remain the same."

Auth: Sec. 50-60-203, 50-60-603, 50-60-604, MCA; IMP, Sec. 50-60-203, 50-60-603, 50-60-604, MCA

REASON: This amendment increases the hourly inspection rate fee by 12%, the first increase in 12 years. The increased rate is consistent with the hourly inspection rate found in ARM 8.70.407 and is necessary to cover increased administrative costs of inspection and to make up the difference in funding due to the appropriation to the Apprenticeship Training Program operated by the Department of Labor, as provided by Ch. 357, L. 1997.

"8.70.566 IN-STATE PLAN AND SYSTEM REVIEW FEES FOR FACTORY-BUILT BUILDINGS (1) The following are the plan and system review fees to be charged by the bureau division:

- (1)(a) Original plan filing fee—: \$1530 per unit—
- (2)(b) Structural fee for units with up to two parts—
\$200 for each set of plans and specifications describing the structural system for a model group. For units with more than two parts the standard plan review fee listed in the Uniform Building Code will be charged. Quality control manual: 25
- (3)(c) Plumbing fee—\$15 for each set of plans and specifications. Units with one or two parts:
 - (i) structural review 350
 - (ii) plumbing review 40
 - (iii) electrical review 40
 - (iv) mechanical review 40
- (4)(d) Electrical fee—\$15 for each set of plans and specifications. Units with three or four parts:
 - (i) structural review 500
 - (ii) plumbing review 60
 - (iii) electrical review 60
 - (iv) mechanical review 60
- (5)(e) Mechanical fee—\$10 for each set of plans and specifications. Units with five or more parts:
 - (i) structural review 700
 - (ii) plumbing review 80
 - (iii) electrical review 80
 - (iv) mechanical review 80
- (6)(f) Plan resubmission fee or revision—\$20—:
 - (i) structural review 100
 - (ii) plumbing review 20
 - (iii) electrical review 20
 - (iv) mechanical review 20
- (7)(g) Plan supplement fee—: \$ 20 per unit—

~~(8)(h)~~ Plan renewal fee—:

~~(i)~~ \$2075 for each set of documents describing a unit which is to be utilized during the next approved plan period. Obsolete plans or specifications are to be removed at the time of plan renewal by written notification at no additional cost.

~~(9) Quality control manual filing fee \$10."~~

Auth: Sec. 50-60-203, 50-60-401, MCA; IMP, Sec. 50-60-203, 50-60-401, MCA

REASON: The Department is proposing these changes to ARM 8.70.566 for the following reasons

Restructures fee schedule and raises fees for the first time in 9 years. The fee increase is necessary to cover actual administrative and plan review costs. Fee increase represents an 81% increase.

"8.70.568 INSIGNIA FEES (1) The following are the insignia fees to be charged by the bureau division:

(a) Factory-built buildings - \$640 per unit up to two parts. This insignia fee covers the building construction, plumbing, and electrical and mechanical.

~~(b) Multiple unit (more than two parts) factory built buildings \$60 per part, or if a building permit, electrical permit and plumbing permit are obtained for the total building, no insignia fee will be charged.~~

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

Auth: Sec. 50-60-203, 50-60-401, MCA; IMP, Sec. 50-60-203, 50-60-401, MCA

REASON: This rule is amended to reduce the fees to more accurately reflect the cost of the service and to clarify what the insignia fee covers.

"8.70.569 MISCELLANEOUS FEES ~~(1) Inspection fee \$30, provided that such inspection of unit(s) is not in excess of one hour in duration. Fifteen dollars for each 30 minutes or fractional part thereof in excess of one hour. On lot inspection fee for unapproved units (units from unapproved plants in nonreciprocal states) \$300 minimum plus above rates for inspections in excess of one hour in duration.~~

~~(2)(1) Field technical service fees - \$3045, provided that such service is not in excess of one hour in duration. Fifteen Twenty-five dollars for every 30 minutes or fractional part thereof in excess of one hour.~~

~~(3) Alternate review fees \$25 for each application.~~
(4) will remain the same, but will be renumbered (2).

~~(5)(3) Manufacturers in nonreciprocal states Out-of-state manufacturers~~ may be subject to at least one on-site review per year. They shall pay the following on-site review fee which shall be the same as those to be paid by manufacturers who request inspections:

(a) will remain the same."

Auth: Sec. 50-60-203, 50-60-401, MCA; IMP, Sec. 50-60-203, 50-60-401, MCA

REASON: This rule is amended to clarify there are no reciprocal agreement states and to increase fees as part of the overall fee restructuring to cover actual costs.

"8.70.601 INCORPORATION BY REFERENCE OF SAFETY CODE FOR ELEVATORS AND ESCALATORS, ASME A17.1 - 1993, ASME A17.1a - 1994 ADDENDA, AND A17.1b - 1995 ADDENDA (1) ~~The building codes bureau of the~~ department of commerce, ~~by and through the building codes division,~~ adopts and incorporates by reference herein the Safety Code for Elevators and Escalators, ASME A17.1 - 1993 and A17.1a - 1997 Addenda, ~~referred to as the Safety Code for Elevators and Escalators or elevator code, unless another edition is specifically stated ASME A17.1a - 1994 Addenda, and A17.1b - 1995 Addenda.~~ A copy of the Safety Code for Elevators and Escalators ~~ASME A17.1 - 1993, ASME A17.1a - 1994 Addenda, and A17.1b - 1995 Addenda can~~ may be obtained from The American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

(2) The purpose of ~~this code the elevator code~~ is to provide safety standards for the design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of elevators, dumbwaiters, escalators, private residence elevators and inclined lifts, moving walks and their hoistways.

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

Auth: Sec. 50-60-203, 50-60-701, 50-60-702, MCA; IMP, Sec. 50-60-203, 50-60-701, 50-60-702, MCA

REASON: The Department is proposing changes to ARM 8.70.601 for the following reasons (referred to by subsection number):

(1) and (2): The Department proposes to adopt the 1996 ASME standard and 1997 Addenda for elevators. Updating the elevator code serves to keep the Montana elevator industry current with technological advances and consistent with other states. Editorial changes make the rule easier to read.

"8.70.604 CERTIFICATES OF INSPECTION (1) After the annual inspection by the bureau division reveals a unit complies with the requirements of the code and the annual certificate of inspection fee has been paid, a final certificate will be issued.

(2) After the annual inspection by the bureau division reveals a unit has minor deficiencies that do not offer imminent hazard to life and safety but that should be corrected before the next annual inspection, a conditional certificate will be issued after the certificate of inspection fee has been paid.

(3) ~~Prior to issuance of a final certificate where location of a new elevator is such that a final inspection cannot be performed within a reasonable time, a temporary certificate may be issued upon payment of the annual~~

certificate inspection fee New or upgraded elevators shall not be placed in operation prior to an inspection by the building codes division and the issuance of a temporary certificate of inspection. A temporary certificate may be withdrawn at any time, for cause, by the building codes bureau division.

(4) After the annual inspection by the bureau division reveals a unit has deficiencies rendering it an imminent hazard to life and safety, the unit shall be sealed from operation by the bureau division and an unsafe certificate shall be placed on the unit. The annual certificate fee will be charged even though the unit is not certified for operation, and at such time as the deficiencies are corrected, a reinspection fee will be charged.

(5) and (6) will remain the same.

(a) Fees when inspections are made by the bureau division, for each elevator, escalator, and moving walk (also applies to follow-up inspections done after certified inspector's inspection) - \$100.00.

(b) Fees when inspections are made by certified inspectors and no follow-up is required by the bureau division, for each elevator, escalator, and moving walk - \$10.00; and

(c) Fees when inspections are made by the division, for each lift (also applies to follow-up inspections done after certified inspector's inspection) - \$70.

(7) When an inspection reveals an unsafe condition, the inspector shall immediately file with the owner and the bureau division a full and true report of such inspection and such unsafe condition. If the bureau division finds that the unsafe condition endangers human life, it shall cause such elevator, escalator or moving walk to be posted with a notice, in a conspicuous place, stating that such conveyance is unsafe. The owner shall see to it that such notice is legibly maintained where placed by the bureau division. The bureau division shall also issue an order in writing to the owner requiring the repairs or alterations to be made to such conveyance which are necessary to render it safe and may order the operation thereof discontinued until the repairs or alterations are made or the unsafe conditions are removed. A posted notice of unsafe conditions shall be removed only by the bureau division when they are satisfied that the unsafe conditions have been corrected.

(8) It shall be unlawful to operate any elevator, escalator or moving walk without a current certificate of inspection issued by the bureau division. Such certificate shall be issued annually upon payment of prescribed fees and the presentation of a valid inspection report indicating that the conveyance is safe and that the inspection was made within the previous six months. Certificates shall not be issued when the conveyance is posted as unsafe pursuant to ~~number~~ (7) above. Obtaining a certificate of inspection shall be the responsibility of the owner of the conveyance."

Auth: Sec. 50-60-203, 50-60-702, MCA; IMP, Sec. 50-60-203, 50-60-701, 50-60-702, MCA

REASON: The Department is proposing changes to ARM 8.70.604 for the following reasons (referred to by subsection number):

(3): This amendment clarifies the requirement for temporary certificates of inspection before a new or upgraded elevator can be used.

(6)(c): This new inspection fee represents a reduction from \$100 to \$70 to be applied specifically to lift inspections, which were previously charged the same inspection fee as elevators, but which require less time to inspect than elevators.

"8.70.612 INSPECTIONS BY CERTIFIED MAINTENANCE OR INSURANCE COMPANIES (1) The bureau division may accept inspections of elevators, escalators, and moving walks in public places reported by certified inspectors, subject to the following condition:

(a) will remain the same.

(b) A detailed report of each unit inspected shall be filed with the bureau division within 14 days after inspection on a printed form approved by the bureau division. Such report shall show all respects in which the installation fails to comply with the code requirements of UBC Chapter 5-130 of the Uniform Building Code, and Appendix Chapter 51, as well as the ASME A17-1 1990 and ASME A17-1a 1991 Addenda the elevator code.

(c) A certificate of inspection shall be issued by the bureau division upon receipt of the report of the insurance or maintenance company that the unit is in an acceptable state of repair for receiving certification.

(d) The insurance or maintenance company shall attempt to secure compliance with the bureau division's rules. If unsuccessful, it shall so report to the bureau. If it then becomes necessary for the bureau division to make an inspection, the fee for each unit inspected will be charged as per other inspections made by the bureau division, as listed in ARM 8.70.101.

(e) The bureau division may inspect any installation which is also inspected by a certified inspector employed by an insurance or maintenance company. Whenever the bureau division inspection confirms that the insurance or maintenance company inspection report is substantially and materially incomplete, invalid, or unacceptable, the bureau division will assess the insurance or maintenance company the fee for inspection by the bureau division, as listed in ARM 8.70.101.

(f) will remain the same."

Auth: Sec. 50-60-203, 50-60-701, 50-60-702, MCA; IMP, Sec. 50-60-203, 50-60-701, 50-60-702, MCA

REASON: This rule is amended to correct cross references to amend version of the Uniform Building Code and correct version of the elevator code.

"8.70.1503 BUILDING ACCESSIBILITY (1) through (1)(c)(ii) will remain the same.

(d) In the new construction of establishments which serve

food or beverages to be consumed on premises, on a case-by-case basis, the building official shall have the discretion to approve the installation of one unisex accessible restroom which includes a urinal, in lieu of one male and one female accessible restroom, when it can be demonstrated that due to an occupant load which will not exceed 20 seated persons, it would not be reasonable to require two separate accessible restrooms. Section ~~1002~~1003.2.2, Uniform Building Code, shall be used to determine occupant load.

(e) and (f) will remain the same."

Auth: Sec. 50-60-203, MCA; IMP, 50-60-201, MCA

"8.70.1504 SITE ACCESSIBILITY (1) through (2) will remain the same.

(3) Appendix Chapter 4 of the Uniform Building Code, Site Accessibility, is amended as follows:

(a) Subsection 11067.1, subsection 11078.1 and subsection 11082.1 are each amended by addition of the following sentence: "A person or entity may not be required to meet fully the accessible exterior route requirements for new buildings or alterations to existing buildings, where the person or entity can demonstrate that due to unique characteristics of the terrain, it is structurally impractical to fully comply, as determined on a case-by-case basis, at the discretion of the building official. Full compliance may be considered structurally impractical only in those rare circumstances when the unique characteristics of the terrain prevent the incorporation of accessibility features. The person or entity shall comply with the accessible facilities requirements to the extent that compliance is not structurally impractical."

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

(6) Each new building or alteration to an existing building which provides off street parking shall provide at least one accessible parking space with required additional parking spaces as established in Table A-11-A and Section 11078 of Appendix Chapter 11, UBC of the Uniform Building Code. One van accessible parking space shall be provided for every eight accessible parking spaces, or fraction thereof. If only one accessible parking space is required, the space shall be a van accessible parking space."

Auth: Sec. 50-60-203, MCA; IMP, Sec. 50-60-201, MCA

REASON: The Department is proposing the changes to ARM 8.70.1503 and 8.70.1504 to update references to sections as numbered in the 1997 Edition of the Uniform Building Code.

3. The Division is proposing to Repeal ARM 8.70.107 (authority 50-60-203, MCA and implementing 50-60-203, MCA); 8.70.201 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.204 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.205 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.206 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.207 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.211

(authority 50-60-302, MCA and implementing 50-60-101, 50-60-302, MCA); 8.70.212 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.213 (authority 50-60-302, MCA and implementing 50-60-302, MCA); 8.70.301 (authority 50-60-203, 50-60-504, MCA and implementing 50-60-203, 50-60-504, MCA); 8.70.567 (authority 50-60-203, 50-60-401, MCA and implementing 50-60-203, 50-60-401, MCA). The text of these rules are located at pages 8-2002, 8-2011, 8-2012, 8-2013.1, 8-2014, 8-2015 and 8-2113, Administrative Rules of Montana. Rule 8.70.107 is being repealed because the necessity for the Uniform Mitigation Plan has been supplanted by the State of Montana Hazard Mitigation Plan under the authority of the Department of Military Affairs, Disaster and Emergency Services Division pursuant to Federal Emergency Management Agency agreement with the State of Montana, FEMA-DR-1104-MT and FEMA-DR-1113-MT. Rules 8.70.201, 8.70.204, 8.70.205, 8.70.206, 8.70.207, 8.70.211, 8.70.212 and 8.70.213 are being repealed due to the new requirements and procedures established by Ch. 488, L. 1997. The functions of these rules are being replaced by amendments to 8.70.202, 8.70.208 and new rules I, II, III, IV, V and VI. Rule 8.70.301 is being repealed because the reformatting of the plumbing rules does not require a specific definition section. Rule 8.70.567 is being repealed because a reciprocity rule is not required due to a lack of active factory-built building manufacturers in Montana. The Division has also been informed that other area states do not offer lower fees in exchange for reciprocity.

4. The proposed new rules will read as follows.

"I CERTIFICATION OF CODE ENFORCEMENT PROGRAMS (1) A county or municipality with a previously approved code enforcement program in existence on June 30, 1998, shall be considered by the department of commerce, building codes division, as certified and in compliance with applicable statutes and department certification rules with the authority to enforce codes within its jurisdictional area, until such time that an initial annual report is filed and the division reviews the report, and makes a determination as to whether or not the county or municipality is in compliance with applicable statutes and rules based upon the information contained in the report and any on-site evaluation.

(2) A county or municipality without a previously approved code enforcement program in existence on June 30, 1998, shall submit the equivalent of an initial annual report to support a request for certification of the new code enforcement program. Certification of the proposed code enforcement program shall be effective upon the division's written determination that the local government would be in compliance with applicable statutes and rules."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, Sec. 50-60-302, MCA

REASON: This rule provides for the interim authority and

certification of previously certified code enforcement programs as of the effective date of Ch. 488, L. 1997, until such time that an annual report is submitted and can be reviewed for compliance with new requirements created by Ch. 488, L. 1997. The rule clarifies what information, i.e. the equivalent of the annual report, must be submitted to support the request of the local government for certification of its code enforcement program.

"II STAFF QUALIFICATION (1) Local plumbing and electrical inspectors must be either Montana licensed plumbers, electricians or be plumbing or electrical inspector certified, as may be applicable to the type of the installations being inspected, by any one of the following nationally recognized entities: international conference of building officials (ICBO), international code conference (ICC), international association of plumbing and mechanical officials (IAPMO), international association of electrical inspectors (IAEI) or conference of American building officials (CABO). (2) Local building and mechanical inspectors must be inspector certified by either ICBO, ICC or CABO. (3) Plans examiners must be either plans examiner certified by either ICBO, ICC or be inspector certified as allowed in (2) or have an engineering or architecture degree. In lieu of plans examinations by a local jurisdiction's staff, the division may allow a local jurisdiction to contract out plans examinations with a qualified plans examination organization. (4) Other nationally recognized entities for testing and certification of inspectors not listed above may be approved by the division upon the request of the local government. (5) Plumbing, electrical, mechanical or building inspector certification may be obtained as part of a combination inspector certification. (6) The types of buildings which may be inspected or plans examined by a particular certification classification, shall be determined by the division utilizing the standards and recommendations of the entity administering the certification program. However, as a general rule, one and two family dwelling certification shall be acceptable for inspections of residential buildings containing less than five dwelling units. Light commercial combination inspector certification shall be acceptable for inspections of residential buildings containing less than five dwelling units and commercial buildings two stories or less and no more than 12,000 square feet of total floor space. (7) Plumbing inspectors and electrical inspectors for a county or municipality with a previously approved code enforcement program in existence on June 30, 1998, must meet the licensing or certification standards listed above by July 1, 1998. Building, mechanical inspectors and plans examiners from a previously approved code enforcement program in existence on June 30, 1998, must meet the certification standards listed above by June 30, 1999.

(8) Newly hired building inspectors and plans examiners who do not meet the certification standards listed above may conduct inspections and review plans if they obtain the necessary certification within twelve months of the date of hiring, and are supervised in the interim by appropriately certified personnel. If the code enforcement program cannot provide supervision by a certified person, the newly hired non-certified building inspector or plans examiner must have actual practical experience in the construction trade, and must participate in six working days of on-the-job training with the division. Such training shall be at the expense of the county or municipality employing the inspector. There shall be no fee charged by the division. Upon approval by the division, on-the-job training with another code enforcement program may be accepted. Upon approval by the division, four days of classroom training may be substituted for six days of on-the-job training.

(9) Building inspectors and plans examiners from a previously approved code enforcement program in existence on June 30, 1998, who are not qualified and who are not supervised by a qualified individual, shall submit a training plan to the division by January 1, 1999, providing for six days of on-the-job training or four days of classroom training and the plan to become certified by June 30, 1999. Acceptable training is the same as discussed in (8) above.

(10) An inspector or other qualified individual, though not certified in a required discipline, may make inspections or plans examinations for brief periods resulting from absenteeism of a certified individual for reasons such as vacation, illness, training or similar circumstances."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, 50-60-302, MCA

REASON: Ch. 488, L. 1997 establishes minimum qualifications for local government plumbing and electrical inspectors. This rule identifies what are the commonly accepted nationally recognized testing and certification entities referenced in the statute. This rule establishes minimum qualification standards to building and mechanical inspectors and plans examiners in order to maintain minimum building inspection program competency and ensure that all code enforcement program functions are being properly performed.

"III ANNUAL REPORT (1) A local government with a certified code enforcement program shall submit to the department of commerce, building codes division, detailed and fully documented reports on an annual basis.

(2) The date of the initial annual report for a local government with a previously approved code enforcement program in existence on June 30, 1998, shall be September 1, 1998.

(3) Annual reports shall be filed with the division on or before September 1st of each year for the immediately preceding fiscal year.

(4) The annual report shall contain the following information:

(a) a map and legal description of the jurisdictional area;

- (b) a list of building related codes, with edition dates being enforced with copies of adopting ordinances;
- (c) a list of structures subject to and a list of structures exempted from the building related codes;
- (d) a schedule of fees charged for permits;
- (e) an accounting of the collection and expenditure of fees and charges for the immediately preceding fiscal year;
- (f) a copy of the ordinance establishing the appeal procedure or the acknowledgment that the Uniform Building Code appeals procedure will be followed, a list of the members of the appeals board and their qualifications;
- (g) the current plan for enforcement;
- (i) a general description of how permits are applied for and issued;
- (ii) how plan reviews are conducted;
- (iii) how and when inspections are made; and
- (iv) how final approvals or certificates of occupancy are issued.
- (h) a list of employees inspecting, reviewing plans or approving any installation with description of responsibilities and qualification status of each employee as provided in new rule II."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, Sec. 50-60-302, MCA

REASON: This rule consolidates into one rule the various requirements which the division must review to assure that certified local government maintain compliance with rules and statutes.

"IV AUDIT (1) A local government with a certified building code enforcement program shall require its independent auditor, in conjunction with the audit required by 2-7-503, MCA, to perform agreed-upon procedures to determine whether the local government has complied with the financial related statutes and administrative rules relating to local building code enforcement programs. The agreed-upon procedures engagement must be performed and reported in accordance with standards prescribed by the American institute of certified public accountants. The engagement must include, but is not limited to, procedures necessary to determine:

- (a) all construction-related fees or charges imposed and collected by the local building code enforcement program are used only for the building code enforcement program which consists of necessary and reasonable costs directly and specifically identifiable for the administration and enforcement of building, mechanical, plumbing and electrical codes;
- (b) indirect costs are charged on the same basis as other local government proprietary funds not paying administrative charges as direct charges;
- (c) if indirect costs are waived for any other local government proprietary fund, those indirect costs are waived for the local building code enforcement program;

- (d) indirect charges are limited to the charges that are allowed under federal cost accounting principles applicable to a local government;
 - (e) the collection and expenditure of all fees and charges are fully documented;
 - (f) fees and charges are not accumulated in excess of the amount necessary to operate the local building code enforcement program for 12 months; and
 - (g) excess fee and charge accumulations are placed in a reserve account and used only for the local building code enforcement program.
- (2) The cost of the agreed-upon procedures engagement shall be paid by the local government, but may be considered a direct cost of the code enforcement program.
- (3) Copies of the report on applying agreed-upon procedures shall be filed with both the building codes division and the local government assistance division of the department of commerce."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, Sec. 50-60-302, MCA

REASON: This rule provides for an audit of local government building code enforcement programs to the same standard required by the State of Montana Single Audit Act, Title 2, chapter 7, part 5, MCA. These audits are to be performed in conjunction with the local government audits required by the Single Audit Act. As such, the results of the audit are not available until one year following the close of the fiscal year or the fiscal biennium as may be selected by the local government. This professional and independent audit will serve to verify the annual accounting provided by the local governments as part of the Annual Report.

"V. CERTIFICATION OF EXTENDED JURISDICTIONAL AREA

- (1) A municipality with an existing code enforcement program which desires to make an initial request for an extended jurisdictional area or increase the area of its existing extended jurisdictional area shall:
- (a) Make such request by providing the department of commerce, building codes division, with the written consent of the board of county commissioners of the county in which the extended jurisdiction lies.
 - (b) The written consent shall indicate the scope of building codes to be enforced, the type of structures to be subject to the building codes and the schedule of fees to be charged for permits.
 - (c) The municipality must also provide to the division proof that the persons residing in the area into which the jurisdictional area will be extended received reasonable notice of the proposed extension, and were given an effective opportunity to present evidence and express opinions in support of, or in opposition to, the extension and such evidence and opinions were available to the county commissioners for their consideration prior to issuing the written consent.

(2) A municipality with a code enforcement program which annexes a new area into its corporate limits shall automatically have authority to enforce building codes in the newly annexed area under the same conditions of the municipality's existing code enforcement program. The municipality shall inform the division of the annexation as soon as possible. If necessary, the municipality and the division shall coordinate the transfer of authority for projects existing at the time of the annexation."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, Sec. 50-60-101, MCA

REASON: This rule clarifies that a city requesting new areas of extended jurisdiction has the responsibility of assuring meaningful public participation in the decision making process prior to the county's consent. This rule clarifies that annexation of new area allows the automatic expansion of the city's code enforcement program since the annexation procedure provides sufficient public input.

"VI DECERTIFICATION OF CODE ENFORCEMENT PROGRAMS

(1) If the department of commerce, building codes division determines a code enforcement program is not in compliance with the applicable statutes or rules it shall:

(a) Give the local government notice of such non-compliance and may allow a reasonable amount of time, not to exceed six months, for the local government to come into compliance or have the code enforcement program decertified.

(b) Failure of the local government to come into compliance within the time prescribed by the division will result in the decertification of the local government to the extent the code enforcement program is out of compliance.

(c) The local government shall be given the opportunity to contest the division's determination through contested case proceedings as provided by the Montana Administrative Procedure Act.

(2) A local government may voluntarily decertify all or part of its code enforcement program upon a 90-day written notice to the division, unless the division otherwise accepts a lesser notice or the public health, safety and welfare is at risk.

(3) If a local government's code enforcement program is decertified, either involuntarily or voluntarily, in whole or in part, the local government shall be obligated to complete all construction projects started with permits issued under the local government's program, unless the division otherwise consents or determines that the public health, safety or welfare is at risk.

(4) A county which has previously granted written consent to a municipality for extended jurisdiction may rescind that consent if the municipality changes the scope of the building codes enforced or the type of structures covered without the approval of the county. The county shall notify the division, which shall in turn grant the municipality the opportunity to come into compliance or risk decertification pursuant to the

procedure described in (1) above. If the non-compliance is corrected by the municipality, the county's rescission of consent shall be dismissed."

Auth: Sec. 50-60-203, 50-60-302, MCA; IMP, Sec. 50-60-302, MCA

REASON: This rule clarifies the process of voluntary and contested decertification of code enforcement programs. The rule clarifies that local governments are entitled to Montana Administrative Procedure Act contested case proceeding for involuntary decertification.

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Building Codes Division, Department of Commerce, 1218 E. Sixth, P.O. Box 200517, Helena, Montana 59620, no later than 5:00 p.m., July 1, 1998.

6. The Division 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., June 25, 1998, to advise us of the nature of the accommodation that you need. Please contact Eric Fehlig, Building Codes Division, Department of Commerce, 1218 E. Sixth, P.O. Box 200517, Helena, Montana 59620; telephone (406) 444-3933; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-4240. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule making process should contact Eric Fehlig at the above address.

7. Persons who wish to be informed of Building Codes Division administrative rulemaking hearings may be placed on a list of interested persons by advising the Division at the rulemaking hearing or in writing to the Building Codes Division, Department of Commerce, 1218 E. Sixth, P.O. Box 200517, Helena, Montana 59620.

8. Eric Fehlig, attorney, has been designated to preside over and conduct the hearing.

9. The two bill sponsor notice requirements of section 2-4-302, MCA, do apply and the sponsors of the bill have been notified.

BUILDING CODES DIVISION

BY:

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 18, 1998.

BEFORE THE LOCAL GOVERNMENT ASSISTANCE DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment to rules pertaining) OF RULES PERTAINING TO THE
to the Single Audit Act) SINGLE AUDIT ACT

NO PUBLIC HEARING CONTEMPLATED

1. On June 18, 1998, the Local Government Assistance Division proposes to amend rules pertaining to the single audit act.

2. The Division is proposing to amend ARM 8.94.4102 and 8.94.4103. Those amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.94.4102 REPORT FILING FEE (1) through (6) will remain the same.

(6) (a) as required by ~~section~~ 2-7-514(2), MCA, the ~~superintendent office~~ of public instruction shall pay the annual filing fee ~~from the state equalization account,~~ ~~notwithstanding the provisions of section 20-9-343, MCA;~~

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

Auth: Sec. ~~2-7-514~~, MCA; IMP, Sec. ~~2-7-514~~, MCA

"8.94.4103 PENALTY FOR FAILING TO FILE ANNUAL FINANCIAL REPORT WITHIN PRESCRIBED TIME WITHOUT APPROVED EXTENSION

(1) As provided by ~~section~~ 2-17-517(1), MCA, if a local government entity, other than a school district or associated cooperative, is unable to file its annual financial report with the department within ~~four~~ six months of the end of the local government entity's fiscal year as required by ~~section~~ 2-7-503(1), MCA, the department may grant an extension of time in which to file the financial report if the local government entity can demonstrate to the department that it has good cause for not submitting the report within the prescribed time. Good cause will be deemed to exist if the local government entity has exercised ordinary business care and prudence and was nevertheless unable to prepare and properly submit the annual financial report within the prescribed time. The department will determine what constitutes the exercise of ordinary business care and prudence based on the facts of each case.

(2) If a local government entity has failed to file its annual financial report with the department within ~~four~~ six months of the end of the local government entity's fiscal year, and if the department has not granted an extension of time in which to file the financial report, the department may issue an order to all state agencies requiring each agency to withhold payment of any state financial assistance to the local government entity pending receipt of the local government entity's annual financial report.

(3) will remain the same."

Auth: Sec. 2-7-517, MCA; IMP, Sec. 2-7-517, MCA

REASON: The Division is making changes in these rules in order to comply with statutory changes made by the Legislature, as follows:

ARM 8.94.4102 is being amended so that it is in agreement with the provisions of section 2-7-514(2), MCA. ARM 8.94.4102 currently states that the Office of Public Instruction (OPI) shall pay the filing fees for school districts and associated cooperatives from the state equalization account. The 1995 Legislature deleted the separate state equalization account, and amended section 2-7-514(2), MCA, so as to delete the requirement that OPI pay the filing fees. The proposed rule amendment will delete the rule requirement that OPI pay the filing fees from the state equalization account, and will bring the administrative rule into agreement with section 2-7-514(2), MCA.

ARM 8.94.4103 is being amended so that it is in agreement with the provisions of section 2-7-503(1), MCA. ARM 8.94.4103 currently states that local government annual financial reports must be completed within four months of the end of the local government entity's fiscal year. The 1997 Legislature amended section 2-7-503(1), MCA, and changed the required time completion of a local government entity's annual financial report from four months after fiscal year end to six months after fiscal year end. The proposed rule amendment will change the time for completion of a local government entity's annual financial report from four months after fiscal year end to six months after fiscal year end, and bring the administrative rule into agreement with section 2-7-503(1), MCA.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Local Government Assistance Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620, or by facsimile to (406) 444-2903 to be received no later than 5:00 p.m., June 25, 1998.

4. If a person who is directly affected by the proposed amendments wishes to present his/her data, view or arguments orally or in writing at a public hearing, he/she must make written request for a hearing and submit the request along with any comments he/she has to the Local Government Assistance Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620, or by facsimile to (406) 444-2903, to be received no later than 5:00 p.m., June 25, 1998.

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

the Montana Administrative Register. The amendment to ARM 8.94.1402 affects only the Office of Public Instruction. Ten percent of those persons directly affected by the proposed amendment to ARM 8.94.4103 has been determined to be 100 based on the 995 local governments who are required to complete and file annual financial reports with the Department of Commerce.

6. Persons who wish to be informed of Local Government Assistance Division administrative rulemaking proceedings, or other administrative proceedings, may be placed on a list of interested persons by advising the Division in writing at 1424 Ninth Avenue, Helena, MT 59620.

LOCAL GOVERNMENT ASSISTANCE DIVISION

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

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, May 18, 1998.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of proposed)	
amendment and adoption)	NOTICE OF PUBLIC
of rules relating to)	HEARING
content and performance)	
standards for reading)	
and mathematics.)	

TO: All interested persons.

1. Public hearings will be held from 6:30 to 8:30 p.m. at the following sites to consider the proposed amendment and adoption of rules pertaining to content and performance standards at the end of 4th and 8th grades and upon graduation for reading and mathematics programs in public schools.

Glendive	June 23, 1998 (Tuesday) Dawson County High School Auditorium, 900 N. Merrill
Billings	June 24, 1998 (Wednesday) Lincoln Center Auditorium, 415 N. 30th St.
Great Falls	June 25, 1998 (Thursday) School for the Deaf & Blind Conference Room, 3911 Central Ave.
Missoula	June 29, 1998 (Monday) Sentinel High School Little Theatre, 901 South Ave. W.

2. The Montana Board of Public Education (BPE) will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this document. If you need accommodation, please contact Pat Reichert, (406) 444-4402, to advise the Board of the nature of the accommodation you need.

3. REASONABLE NECESSITY. These proposed new rules and amended rules revise Montana's current program area standards and learner goals for reading and mathematics. The existing model learner goals for reading and mathematics will be repealed by reference upon adoption of these changes. In future rulemaking, the remaining model learner goals will be replaced with rules. Over the next 18 months the standards for communication arts, fine arts, health enhancement, science, social studies, vocational/practical arts, library media, and guidance will also be revised.

These changes are necessary because the 55th Legislature directed the Office of Public Instruction (OPI) to review the 1989 program area standards and recommend revisions to the model learner goals associated with the BPE's accreditation standards (see HB 2, Page E-3). By revising these rules the BPE and the state superintendent are carrying out their statutory duties under §§ 20-2-114, 20-2-121, 20-3-106 and 20-7-101, MCA, to define the basic instruction program for pupils in Montana's public schools. The revisions are also necessary for school districts and the state to comply with requirements to continue receiving federal funding.

The 55th Legislature directed the BPE and OPI to act with the assistance and advice of Montana's educators, parents and the public. These proposed rules represent the work to date of interested members of Montana's education community. This rulemaking process provides the BPE with additional input from the general public concerning how Montana should revise its content standards and develop performance standards in reading and mathematics.

4. The rules, as proposed to be amended, new material underlined, deleted material interlined, provide as follows.

10.55.602 DEFINITIONS ~~(1)~~ For the purpose of this chapter, the following terms apply:

(1) "Benchmark" means expectations for a student's knowledge, skills, and abilities along a developmental continuum in each content area. That continuum is focused at three points: the end of grade 4, the end of grade 8, and upon graduation (grade 12).

(a) and (b) remain the same, but are renumbered (2) and (3).

(4) "Content standard" means what a student should know, understand and be able to do in a specific content area, such as reading, mathematics, or social studies.

(c) through (g) remain the same, but are renumbered (5) through (9).

~~(10)~~ (10) "Learner goals," as developed by the local school board, community, and educators and provided to the office of public instruction, are the attitudes, concepts, skills, and knowledge which students are given the opportunity to acquire during their K-12 schooling. They are to be developed progressively through three checkpoints:

(i) and (ii) remain the same, but are relettered (a) and (b).

~~(c)~~ (c) upon graduation (typically, the completion of grade 12). Program areas designated by the board of public education in the accreditation standards, other than mathematics and communication arts - reading, will have locally developed learner goals which shall use as a model the

learner goals as approved by the board and provided by the office of public instruction. The learner goals, as approved by the board, are contained in the ~~March 1989~~ June 1996 Montana School Accreditation Manual, and are hereby adopted by reference and incorporated in this rule. A copy may be obtained from the Office of Public Instruction, ~~Capitol Station PO Box 202501,~~ Helena, MT 59620-2501.

(11) "Performance standard" means the specific expectations for performance in each content area at each of the three benchmarks. Performance standards explicitly define the quality of performance and describe the performance to be demonstrated.

(12) "Program area standards" means the subject matter Montana school districts are required to offer and the strategies and best practices used to instruct. The program area standards include: communication arts, fine arts, health enhancement, mathematics, science, social studies, vocational/practical arts, library media, and guidance.

(1) remains the same, but is renumbered (13).

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.603 CURRICULUM DEVELOPMENT AND ASSESSMENT

(1) Local school districts are responsible for incorporating shall incorporate all required learner goals and content and performance standards into their curriculum, defining and organizing the program area learner goals into specific curricula and for extending them to help students meet the challenges of the future, introducing the learner goals when appropriate, implementing them sequentially and developmentally, and building upon previous goals. Student assessment shall be used to examine the program and ensure its effectiveness based on the learner goals and content and performance standards.

(2) In all program areas and at all levels standards, learner goals and content and performance standards, the school district shall:

(a) establish curriculum and assessment development processes as a cooperative effort of personnel certified in the program area and trustees, administrators, other teachers, students, specialists, parents, community and, when appropriate, state resource people;

(b) develop, in accordance with the schedule in subsection (3), written sequential curricula for each subject area. The curricula shall address learner goals as defined in ARM 10.55.602 and district educational goals.

(c) construct curriculum to include such parts of education: as content, skills and thinking.

~~(d)~~ (b) review curricula at intervals not exceeding five years and modify as needed to meet educational goals; and

~~(e) establish a curriculum review cycle and timelines for curriculum development and evaluations.~~

~~(f)(c) select materials and resources to include supplies, books, materials and equipment necessary for development and implementation of the curriculum and assessment that are consistent with the goals of the education program. These materials shall be reviewed at least every five years.~~

~~(3) By September 15, 1991, the school shall begin the curriculum development process in at least one program. School districts will continue to follow their approved plan to align programs established curriculum and assessment development processes until the school year 1999-2000 2000-2001, when all programs must be in alignment with the above curriculum development process content and performance standards. The schools shall submit a plan by the same date to the office of public instruction designating the subject areas to be considered each year and the anticipated completion. Any variation of the plan must be approved by the board of public education.~~

~~(4) In all program areas and at all levels standards, learner goals and content and performance standards, the school district shall:~~

~~(a) assess, in accordance with the schedule in subsection (5), student progress toward achieving learner goals and content and performance standards including:~~

~~(i) through (iv) remain the same.~~

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

~~(5) Not later than the school year immediately following the completion of a written sequential curricula in a subject program area, the school shall begin the development of an assessment process for that subject area. Once begun, the assessment process for a subject area will be in place within two years until the school year 2000-2001, when all programs must be in alignment with the assessment process.~~

~~(BEE: 7/1/99)~~

~~(6) and (7) remain the same.~~

~~(AUTH: 20-2-114, 20-2-121, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)~~

10.55.604 ALTERNATIVE STANDARD (1) A school may apply to the board of public education through the office of public instruction for permission to use an alternative to any standard, section of standards, or the entire set of standards, excluding standards pertaining to law or certification requirements. To do so, the school shall provide the office of public instruction evidence that the opportunity to meet the accreditation standards' learner goals, content and performance standards and program area standards are at the core of its curricula--that is, that the school has put in place curriculum and assessment procedures

which give students opportunities to meet the stated goals and which have been the results of the curriculum development process as outlined in the standards. The board of public education may withdraw its permission of the alternative program at any time if experience shows it no longer provides an educationally sound alternative.

(2) through (5) remain the same.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.605 CATEGORIES OF ACCREDITATION (1) Regular accreditation: The school meets the requirement for regular accreditation: when:

(a) Its program reflects the standard's learner goals, content and performance standards and program area standards;

(b) The staff is certified, appropriately assigned, and fully utilized;

(c) The school program and resources are adequate;

(d) Facilities meet appropriate standards; and

(e) The school trustees, staff, parents, and community work together to provide a quality education;

(2) Regular accreditation is for one year.

(3) Regular accreditation with note of minor deviations: is when The school meets most of the regular accreditation standards, but there are deviations from the standards that are of a minor nature.

(4) Regular accreditation with note of minor deviations will be for one year. If deviations are not corrected, the school may be moved to advice status.

(5) Accreditation with advice status: means The school exhibits serious and/or numerous deviations from the standards. The school must submit an improvement plan developed by trustees, administrators, teachers, parents, and the community, to the office of public instruction.

(6) If a school is on advice status for two years and continues to have serious and/or numerous deviations, it will move to deficiency status.

(7) Accreditation with deficiency status: is The fourth level is for schools and means that the school have has been on advice status for two years and continues to have serious and/or numerous deviations, or have has substantially increased the seriousness of deviations over the previous year. A school will be placed on deficiency status if:

(a) A the school that employs a noncertified teacher;

(b) that the school has a facility that creates an unhealthy environment with safety and health hazards; or

(c) that the school provides an inadequate learning environment will be placed on deficiency status.

(8) The school administrator and the chair of the board of trustees will submit and/or come before the board of public education with an improvement plan and a systematic procedure for correcting the deviations noted.

~~(5)(9) Nonaccredited status: If means that if a school is on level four deficiency status and fails to document that it has met its improvement plan, its accreditation may be rescinded. (Eff. 7/1/99)~~
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.901 BASIC EDUCATION PROGRAM: ELEMENTARY (1) An elementary school shall have an education program that gives students the opportunity to meet the learner goals as defined in ARM 10.55.602 at the appropriate levels and content and performance standards in reading and mathematics. (At least one component a year beginning 7/1/91; Eff. 7/1/99)
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.902 BASIC EDUCATION PROGRAM: MIDDLE SCHOOL
(1) remains the same.
(2) A middle school shall have an education program that gives students the opportunity to meet the learner goals as defined in ARM 10.55.602 in the program areas listed in subsection (5) at the appropriate levels and content and performance standards for reading and mathematics. (At least one component a year beginning 7/1/91; Eff. 7/1/99)
(3) through (5) remain the same.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.903 BASIC EDUCATION PROGRAM: JUNIOR HIGH AND GRADES 7 AND 8 BUDGETED AT HIGH SCHOOL RATES (1) The basic education program for junior high school and grades 7 and 8 budgeted at high school rates shall have an education program that gives students the opportunity to meet the learner goals as defined in ARM 10.55.602 in the program areas listed in subsection (2) at the appropriate levels and content and performance standards for reading and mathematics. (At least one component a year beginning 7/1/91; Eff. 7/1/99)
(2) Study areas identified as meeting the learner goals and content and performance standards include:
(a) through (i) remain the same.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.904 BASIC EDUCATION PROGRAM OFFERINGS: HIGH SCHOOL
(1) The basic education program for each high school shall be at least 16 units of course work that give students the opportunity to meet the learner goals as defined in ARM 10.55.602 in the program areas listed in subsection (2) and content and performance standards for reading and mathematics. (At least one component a year beginning 7/1/91; Eff. 7/1/99)
(2) remains the same.
(3) The basic education program for each high school shall be at least 20 units of course work that give students the opportunity to meet the learner goals set forth in the program area standards as defined in ARM 10.55.602 and content

and performance standards for reading and mathematics. ~~(Eff. 7/1/92)~~ (At least one component a year beginning 7/1/91; Eff. 7/1/99)

(4) remains the same.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.905 GRADUATION REQUIREMENTS (1) As a minimum, a school district's requirements for graduation shall include a total of 20 units of study that meet the required learner goals and content and performance standards. ~~(Eff. 7/1/89)~~

(2) In order to meet the learner goals as defined in ARM 10.55.602 and content and performance standards for reading and mathematics, the following ~~9 1/2~~ ~~(Eff. 7/1/89)~~, 13 ~~(Eff. 7/1/92)~~ units shall be part of the 20 units required for all students to graduate:

- (a) 4 ~~(Eff. 7/1/89)~~, units of English language arts;
- (b) 2 units of mathematics; ~~(Eff. 7/1/89)~~
- (c) ~~1 1/2~~ ~~(Eff. 7/1/89)~~, 2 ~~(Eff. 7/1/92)~~ units of social studies;
- (d) ~~1~~ ~~(Eff. 7/1/89)~~, 2 ~~(Eff. 7/1/92)~~ units of science;
- (e) 1 unit of health enhancement, with 1/2 unit each year for two years; ~~(Eff. 7/1/89)~~
- (f) 1 unit of fine arts; ~~(Eff. 7/1/92)~~
- (g) 1 unit of vocational/practical arts. ~~(Eff. 7/1/92)~~
- (3) and (4) remain the same.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.906 CREDIT: HIGH SCHOOL, JUNIOR HIGH AND GRADES 7 AND 8 BUDGETED AT HIGH SCHOOL RATES (1) through (3) remain the same.

(4) Alternative credit ~~may be given:~~

(a) with the permission of the school district trustees, a student may be given credit for a course satisfactorily completed in a period of time shorter or longer than normally required and, provided that the course meets the district's curriculum and assessment requirements, which are aligned with the learner goals and content and performance standards stated in the education program. Examples of possible acceptable course work include accredited correspondence and extension courses, adult education, summer school, work study, specially designed courses and challenges to current courses. Any acceptable program must be consistent with local board policy.

(b) remains the same.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.907 DISTANCE LEARNING (1) remains the same.

(2) Schools shall meet the following criteria:

(a) distance learning course(s) meet(s) the learner goals and content and performance standards articulated in the accreditation rules;

(b) through (e) remain the same.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

10.55.1001 DISTRICT'S RESPONSIBILITIES FOR PROGRAM AREA STANDARDS (1) It is the school district's task to-
~~(a) incorporate all required learner goals, as defined in ARM 10.55.602, and content and performance standards for reading and mathematics into its curriculum;~~

~~(b) introduce the learner goals when appropriate;~~
implement ~~implementing~~ them sequentially and developmentally, and build upon previous goals. (At least one component a year, beginning 7/1/91; Eff. 7/1/99.)

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

5. The rules, as proposed to be adopted, provide as follows:

RULE I EXPLANATION OF THE CONTENT AND PERFORMANCE STANDARDS (1) The content and performance standards shall be used by school districts to develop local curriculum and assessment in all the content areas including: communication arts (reading, English language, second language, literature, writing, listening, speaking); fine arts; guidance; health enhancement; library media; mathematics; media; science; social studies; technology; and vocational/practical arts. The K-12 content standards describe what students shall know, understand and be able to do in these content areas. Benchmarks define the expectations for students' knowledge, skills, and abilities along a developmental continuum in each content area. Progress toward meeting these standards are measured at three points along that continuum: the end of grade 4, the end of grade 8, and upon graduation. Performance standards explicitly define the quality of student performance and describe the performance to be demonstrated. Performance level descriptions provide a picture or profile of student achievement at the four performance levels: advanced, proficient, nearing proficiency, and novice.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE II DEFINITIONS (1) "Benchmark" means expectations for a student's knowledge, skills, and abilities along a developmental continuum in each content area. That continuum is focused at three points: the end of grade 4, the end of grade 8, and upon graduation (grade 12).

(2) "Content standard" means what a student should know, understand, and be able to do in a specific content area, such as reading, mathematics, or social studies.

(3) "Performance level" means the level of achievement in broad, general terms.

- (a) "Advanced level" means superior performance;
 - (b) "Proficient level" means solid academic performance for each benchmark, reaching levels of demonstrated competency over challenging subject matter, including subject-matter knowledge, application of such knowledge to real-world situations, and analytical skills appropriate to the subject matter;
 - (c) "Nearing proficiency level" means a student has partial mastery of the prerequisite knowledge and skills fundamental for proficient work at each benchmark; and
 - (d) "Novice level" means a student is beginning to attain the prerequisite knowledge and skills that are fundamental for work at each benchmark.
 - (4) "Performance standard" means the specific expectations for performance in each content area at each of the three benchmarks. Performance standards explicitly define the quality of performance and describe the performance to be demonstrated.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE III READING CONTENT STANDARD 1 (1) A student constructs meaning as he/she comprehends and interprets what he/she reads.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE IV BENCHMARK FOR READING CONTENT STANDARD 1 FOR END OF GRADE 4 (1) The benchmark for reading content standard 1 for a student at the end of grade 4 is the ability to:

- (a) make predictions and connections between new material and previous information/experiences;
- (b) incorporate new print/nonprint information into existing knowledge to draw conclusions and make application;
- (c) respond personally to ideas and feelings generated by the reading material;
- (d) demonstrate basic understanding of main ideas and some supporting details; and
- (e) accurately retell key elements of appropriate reading material.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE V BENCHMARK FOR READING CONTENT STANDARD 1 FOR END OF GRADE 8 (1) The benchmark for reading content standard 1 for a student at the end of grade 8 is the ability to:

- (a) make predictions and clearly describe, with details, meaningful connections between new material and previous information/experiences;
- (b) compare and contrast important print/nonprint information with existing knowledge to draw conclusions and make application;

(c) interpret and respond personally to the ideas and feelings generated by the reading material and compare responses with peers;

(d) demonstrate understanding of main ideas and select important supporting facts and details; and

(e) accurately summarize key elements of appropriate reading material with detail.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE VI BENCHMARK FOR READING CONTENT STANDARD 1 UPON GRADUATION (1) The benchmark for reading content standard 1 for a student upon graduation is the ability to:

(a) make predictions and describe inferences and causal connections within material and between new material and previous information/experiences;

(b) integrate new important print/nonprint information with existing knowledge to draw conclusions and make application;

(c) respond personally and creatively to ideas and feelings generated by the reading material, providing examples of the way these influence the student's life and role in society;

(d) elaborate understanding of main ideas and formulate arguments with critical supporting evidence; and

(e) accurately paraphrase reading material reflecting tone and point of view.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE VII READING CONTENT STANDARD 2 (1) A student applies a range of skills and strategies to read.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE VIII BENCHMARK FOR READING CONTENT STANDARD 2 FOR END OF GRADE 4 (1) The benchmark for reading content standard 2 for a student at the end of grade 4 is the ability to:

(a) decode unknown words combining the elements of phonics, grammatical structures, analysis of word parts, and context to understand reading material;

(b) demonstrate understanding of literary elements (e.g., plot, character, setting, problem, solution);

(c) identify literary devices (e.g., figurative language and exaggeration);

(d) use features and organization of fiction and nonfiction material to comprehend (e.g., paragraphs, chapters, titles, indices, tables of contents, graphs, charts, visuals);

(e) adjust fluency, rate, and style of reading to the purpose of the material with guidance;

(f) develop vocabulary through the use of context clues, analysis of word parts, auditory clues, and reference sources (e.g., dictionary, thesaurus, glossary);

(g) identify and apply reading strategies, including decoding words, self-correcting, and rereading to comprehend; and

(h) ask questions and check predictions prior to, during, and after reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE IX BENCHMARK FOR READING CONTENT STANDARD 2 FOR END OF GRADE 8 (1) The benchmark for reading content standard 2 for a student at the end of grade 8 is the ability to:

(a) decode unknown words combining the elements of phonics, grammatical structures, analysis of word parts, and context to understand reading material;

(b) demonstrate understanding of and analyze literary elements (e.g., plot, character, setting, point of view, conflict);

(c) identify and compare literary devices (e.g., figurative language, exaggeration, irony, humor, dialogue);

(d) use features and organization of fiction and nonfiction material to comprehend more complex material (e.g., paragraphs, chapters, titles, indices, tables of contents, graphs, charts, visuals);

(e) adjust fluency, rate and style of reading to the content and purpose of the material;

(f) develop vocabulary through the use of context clues, analysis of word parts, auditory clues, and reference sources, and construct general and specialized vocabularies related to specific academic areas, culture, and technology;

(g) use a variety of reading strategies to comprehend meaning, including self-correcting, rereading, using context, and adjusting rate; and

(h) ask questions, check predictions, and summarize information prior to, during, and after reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE X BENCHMARK FOR READING CONTENT STANDARD 2 UPON GRADUATION (1) The benchmark for reading content standard 2 for a student upon graduation is the ability to:

(a) decode unknown words combining the elements of phonics, grammatical structures, analysis of word parts, word connotation and denotation, and context to understand reading material;

(b) demonstrate understanding of, analyze, and evaluate literary elements (e.g., plot, character, theme, setting, point of view, conflict);

(c) identify, analyze, and evaluate the use of literary devices (e.g., figurative language, exaggeration, irony, humor, dialogue, satire, symbolism);

(d) use features and organization of fiction and nonfiction material to comprehend increasingly complex material (e.g., paragraphs, chapters, titles, indices, tables

of contents, graphs, charts, visuals, methods of organization);

(e) adjust fluency, rate and style of reading to content and purpose of the material;

(f) develop vocabulary through the use of context clues, analysis of word parts, auditory clues, and reference sources, and expand and refine vocabulary related to specific academic areas, culture, and technology;

(g) use a variety of reading strategies to comprehend complex material, including self-correcting, rereading, using context, and adjusting rate; and

(h) ask questions, check predictions, summarize, and reflect on information to monitor progress while taking responsibility for directing one's own reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XI READING CONTENT STANDARD 3 (1) A student monitors and evaluates his/her progress in reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XII BENCHMARK FOR READING CONTENT STANDARD 3 FOR END OF GRADE 4 (1) The benchmark for reading content standard 3 for a student at the end of grade 4 is the ability to:

(a) articulate strategies used to self-monitor reading progress and to overcome reading difficulties with guidance from the teacher;

(b) describe reading successes and set reading goals; and

(c) select authors, subjects, books and nonprint material to share with others.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XIII BENCHMARK FOR READING CONTENT STANDARD 3 FOR END OF GRADE 8 (1) The benchmark for reading content standard 3 for a student at the end of grade 8 is the ability to:

(a) articulate and personally evaluate strategies needed to self-monitor reading progress, to overcome reading difficulties, and seek guidance as needed;

(b) monitor reading successes and set reading goals; and

(c) select authors, subjects, books, and nonprint material, expressing reasons for personal recommendations.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XIV BENCHMARK FOR READING CONTENT STANDARD 3 UPON GRADUATION (1) The benchmark for reading content standard 3 for a student upon graduation is the ability to:

(a) articulate and personally evaluate strategies needed to solve reading problems, self-monitor progress, and direct one's own reading;

(b) analyze reading successes and attainment of reading goals; and

(c) select authors, subjects, books, and nonprint material, expressing reasons for personal recommendations, and information and insights gained.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XV READING CONTENT STANDARD 4 (1) A student reads different material for a variety of purposes.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XVI BENCHMARK FOR READING CONTENT STANDARD 4 FOR END OF GRADE 4 (1) The benchmark for reading content standard 4 for a student at the end of grade 4 is the ability to:

(a) demonstrate understanding that the purposes for reading include personal satisfaction and developing lifelong reading habits;

(b) read signs, labels, and instructions to solve a problem or answer a question;

(c) read information to perform tasks for a variety of purposes (e.g., recipes, directions, schedules, maps, tables, charts);

(d) read and respond to traditional and contemporary literature representing diverse perspectives, cultures, and issues;

(e) identify and read material related to careers;

(f) read newspapers and other sources of information to learn civic and social responsibility; and

(g) read and interpret information from a variety of documents and sources (e.g., memos, directories, maps, tables, schedules, other technological material).

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XVII BENCHMARK FOR READING CONTENT STANDARD 4 FOR END OF GRADE 8 (1) The benchmark for reading content standard 4 for a student at the end of grade 8 is the ability to:

(a) demonstrate understanding that the purposes for reading include personal satisfaction, developing lifelong reading habits, and selecting appropriate books from a variety of genres and forms, and sharing and reflecting upon the reading;

(b) read to organize and understand information, and to use material to investigate a topic (e.g., reference material, manuals, public documents, newspapers, magazines, electronic information);

(c) read, interpret, and apply information to perform specific tasks (e.g., maps, travel books, first aid manuals, catalogs);

(d) read, respond to, and analyze traditional and contemporary literature;

(e) understand diverse perspectives, cultures, and issues, and identify recurring themes (e.g., identity, conflict, change);

(f) identify, select, read material, and complete documents (e.g., job applications) related to careers;

(g) read, interpret, and analyze social rules, handbooks, newspapers, and other information to learn civic and social responsibilities; and

(h) locate, read, and interpret information from a variety of documents and sources (e.g., graphs, charts, tables, policy statements, television, internet and other electronic information).

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XVIII BENCHMARK FOR READING CONTENT STANDARD 4 UPON GRADUATION (1) The benchmark for reading content standard 4 for a student upon graduation is the ability to:

(a) demonstrate understanding that the purposes for reading include personal satisfaction, developing lifelong reading habits, selecting reading as a leisure activity, and sharing and reflecting upon the reading;

(b) read to evaluate appropriate resource material for a specific task;

(c) locate, analyze, and interpret material to investigate a question, topic, or issue (e.g., reference material, pamphlets, book excerpts, articles, letters, electronic information);

(d) read, analyze, and synthesize information to perform complex tasks for a variety of purposes (e.g., schedules, maps, instructions, consumer reports, technical manuals);

(e) read, respond to, and critically evaluate traditional and contemporary literature;

(f) analyze works of various authors, diverse cultures, perspectives and issues, and recurring themes;

(g) select and analyze material related to occupations/careers of interest;

(h) read, evaluate, and create material and documents related to social and civic responsibilities in order to fully participate in a democratic society; and

(i) locate, read, analyze and evaluate information from a variety of media and technical sources (e.g., manuals, instructions, flowcharts, television, internet and other electronic information).

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XIX READING CONTENT STANDARD 5 (1) A student gathers, analyzes, synthesizes, and critically evaluates information from a variety of sources.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XX BENCHMARK FOR READING CONTENT STANDARD 5 FOR END OF GRADE 4 (1) The benchmark for reading content standard 5 for a student at the end of grade 4 is the ability to:

(a) extend comprehension by finding similarities and differences using a single element such as characters within a text and between two sources of information;

(b) draw connections and integrate information from two sources; and

(c) recognize different purposes of authors and distinguish fact from opinion.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXI BENCHMARK FOR READING CONTENT STANDARD 5 FOR END OF GRADE 8 (1) The benchmark for reading content standard 5 for a student at the end of grade 8 is the ability to:

(a) compare and contrast information and textual elements among several sources of information;

(b) draw connections, explain relationships among multiple sources, and integrate similar information; and

(c) recognize authors' points of view and use of language to influence readers.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXII BENCHMARK FOR READING CONTENT STANDARD 5 UPON GRADUATION (1) The benchmark for reading content standard 5 for a student upon graduation is the ability to:

(a) compare and contrast information and broad themes within and among multiple sources of information;

(b) logically synthesize information from a complex range of print and nonprint sources; and

(c) analyze use of evidence, logic, language devices, and bias as strategies to influence readers.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXIII ADVANCED READING PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth-grade student at the advanced reading level demonstrates superior performance including, but not limited to, the ability to:

(a) consistently make predictions and connections between new material and prior knowledge;

(b) understand main ideas and cause and effect relationships and select supporting details;

(c) respond personally and analyze the ideas and feelings generated by the text;

(d) transfer ideas and feelings to varied situations;

(e) consistently internalize and combine a variety of strategies, including phonics, grammatical structure, context clues, analysis of word parts, and self-monitoring to read fluently with comprehension;

- (f) demonstrate understanding of the elements of fiction/nonfiction and often critically analyze and elaborate these elements;
 - (g) exhibit a reading vocabulary beyond the fourth-grade level;
 - (h) clearly articulate strategies used to self-monitor reading progress;
 - (i) set and meet ambitious reading goals;
 - (j) self-select material appropriate to personal goals and define purposes for reading;
 - (k) compare and integrate information from two or more sources;
 - (l) recognize author's purpose;
 - (m) distinguish fact from opinion; and
 - (n) analyze, synthesize, evaluate, and create information based on print and nonprint material.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXIV PROFICIENT READING PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth-grade student at the proficient reading level demonstrates solid academic performance including, but not limited to, the ability to:

- (a) consistently make predictions and connections between new material and prior knowledge;
- (b) understand main ideas, select supporting details and respond personally to ideas generated by text;
- (c) consistently combine and apply a variety of strategies, including phonics, analysis of word parts, and grammatical structure, context clues, and self-monitoring to fluently read with comprehension;
- (d) consistently demonstrate understanding of the elements of fiction and nonfiction and exhibit a reading vocabulary appropriate to fourth grade;
- (e) articulate the strategies used to self-monitor reading progress;
- (f) consistently set and meet reading goals;
- (g) self-select different material and define purpose for reading;
- (h) compare and integrate information from two sources;
- (i) recognize author's purpose; and
- (j) distinguish fact from opinion.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXV NEARING PROFICIENCY READING PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth-grade student at the nearing proficiency reading level demonstrates partial mastery of prerequisite knowledge and skills fundamental for proficient reading including, but not limited to, the ability to:

- (a) make predictions and connections between new material and prior knowledge;
 - (b) usually select supporting details;
 - (c) sometimes locate a main idea and respond personally to the text;
 - (d) combine a variety of strategies, including phonics, grammatical structure, context clues, analysis of word parts, and self-monitoring to read, with literal comprehension, print and nonprint material;
 - (e) demonstrate understanding of the elements of fiction/nonfiction;
 - (f) exhibit a basic vocabulary appropriate to grade 4;
 - (g) sometimes articulate strategies to self-monitor reading progress;
 - (h) often set and meet reading goals;
 - (i) self-select different material and often define purpose for reading; and
 - (j) sometimes compare and integrate information from two sources, recognize author's purpose, and distinguish fact from opinion.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

- RULE XXVI NOVICE PROFICIENCY READING PERFORMANCE
STANDARDS FOR END OF GRADE 4 (1) A fourth-grade student at the novice reading level is beginning to attain prerequisite knowledge and skills that are fundamental for reading at each benchmark, including beginning to:
- (a) make predictions and connections between new material and prior knowledge;
 - (b) identify some details, but seldom understand the main idea;
 - (c) respond personally, but often inaccurately, to the text;
 - (d) use a single strategy, but seldom move beyond phonics or picture clues;
 - (e) demonstrate understanding of the elements of fiction;
 - (f) demonstrate a listening vocabulary appropriate to fourth grade in familiar texts;
 - (g) demonstrate understanding of the elements of literature, but usually has a reading vocabulary below fourth grade;
 - (h) understand and articulate strategies to self-monitor reading progress or set reading goals;
 - (i) define a purpose for reading, but with limited reading selections; and
 - (j) compare and integrate information from two sources, recognize an author's purpose, and distinguish fact from opinion, but often with difficulty.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXVII ADVANCED READING PERFORMANCE STANDARDS FOR
END OF GRADE 8 (1) An eighth-grade student at the advanced reading level demonstrates superior performance including, but not limited to, the ability to:

- (a) consistently make complex predictions and elaborately describe meaningful connections between new material and prior knowledge;
 - (b) describe and infer main ideas;
 - (c) select important and secondary supporting details;
 - (d) respond personally to ideas and feelings generated by text, comparing and analyzing the student with peers;
 - (e) flexibly combine and monitor a variety of strategies, including phonics, analysis of word parts, grammatical structure, context clues, and self-monitoring to fluently and critically read material with comprehension;
 - (f) consistently demonstrate understanding and analysis of the complex elements of fiction and nonfiction;
 - (g) identify and analyze complex literary devices;
 - (h) exhibit expanded reading and content specialized vocabularies beyond eighth-grade level;
 - (i) articulate and evaluate the strategies used to monitor reading progress;
 - (j) consistently set and meet challenging reading goals;
 - (k) consistently self-select a variety of material and define the various purposes for reading;
 - (l) compare, contrast and integrate information from many print and nonprint sources; and
 - (m) evaluate the author's point of view and use of language to influence readers.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXVIII PROFICIENT READING PERFORMANCE STANDARDS FOR
END OF GRADE 8 (1) An eighth-grade student at the proficient reading level demonstrates solid academic performance including, but not limited to, the ability to:

- (a) consistently make predictions and clearly describe meaningful connections between new material and prior knowledge;
- (b) describe main ideas;
- (c) select important supporting details;
- (d) respond personally to ideas and feelings generated by text comparing the student with peers;
- (e) combine a variety of strategies, including phonics, analysis of word parts, grammatical structure, context clues, and self-monitoring to fluently read material with comprehension;
- (f) consistently demonstrate understanding and analysis of the elements of fiction and nonfiction;

- (g) identify and analyze literary devices;
 - (h) exhibit reading and specialized content vocabularies appropriate to eighth grade;
 - (i) articulate and evaluate the strategies used to monitor reading progress;
 - (j) consistently set and meet reading goals;
 - (k) consistently self-select different material and define purpose for reading;
 - (l) compare, contrast, and integrate information from several sources; and
 - (m) recognize author's point of view and use of language to influence audience.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXIX NEARING PROFICIENCY READING PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth-grade student at the nearing proficiency reading level demonstrates partial mastery of prerequisite knowledge and skills fundamental for proficient reading including, but not limited to, the ability to:

- (a) make minimal predictions and briefly describe connections between new material and prior knowledge;
 - (b) demonstrate some understanding of main ideas;
 - (c) select at least one important supporting detail;
 - (d) sometimes respond personally to ideas and feelings generated by text and only briefly share them with peers;
 - (e) combine some strategies to achieve understanding, including phonics, analysis of word parts, grammatical structure, context clues, and self-monitoring;
 - (f) sometimes demonstrate an understanding and analysis of the elements of fiction and nonfiction;
 - (g) sometimes identify and analyze literary devices;
 - (h) exhibit specialized content and general reading vocabularies appropriate to eighth grade;
 - (i) describe, but seldom personally evaluate, the strategies used to monitor reading progress;
 - (j) occasionally set and meet reading goals;
 - (k) sometimes self-select material;
 - (l) sometimes define the purpose for reading;
 - (m) compare and integrate information from a few sources; and
 - (n) recognize author's point of view and use of language to influence audience.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXX NOVICE PROFICIENCY READING PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth-grade student at the novice reading level is beginning to attain prerequisite knowledge and skills that are fundamental for reading at each benchmark, including beginning to:

- (a) make predictions and connections between new material and prior knowledge;
 - (b) exhibit some understanding of main ideas;
 - (c) select a few supporting details and respond personally to ideas generated by text and share them with peers;
 - (d) combine a few strategies, often relying on one strategy such as phonics, analysis of word parts, grammatical structure, context clues, and self-monitoring;
 - (e) demonstrate understanding of the elements of fiction and nonfiction;
 - (f) identify and analyze literary devices;
 - (g) exhibit a reading vocabulary appropriate to the eighth-grade level;
 - (h) articulate the strategies used to monitor reading progress and sometimes set and meet reading goals;
 - (i) self-select material, but rarely define the purpose for reading;
 - (j) compare and occasionally integrate information from three sources; and
 - (k) sometimes recognize author's point of view and use of language to influence audience.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXI. ADVANCED READING PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the advanced reading level demonstrates superior performance including, but not limited to, the ability to:

- (a) make predictions, describe inferences and make causal connections between new material and prior knowledge;
- (b) exhibit understanding of inferred ideas;
- (c) formulate complex arguments with critical supporting evidence;
- (d) respond personally and creatively to ideas and feelings generated by text, expanding the application to a variety of situations;
- (e) flexibly monitor the use of a variety of strategies, including analysis of language structures and overall meaning, to read fluently with in-depth comprehension;
- (f) analyze and evaluate literary devices and the elements of fiction and nonfiction;
- (g) exhibit a reading vocabulary beyond the twelfth-grade level;
- (h) evaluate the strategies used to self-monitor reading progress;
- (i) consistently set ambitious reading goals;
- (j) self-select material appropriate to their purpose for reading;

(k) critically compare, contrast and synthesize information from several sources;

(l) evaluate evidence, bias, logic and language devices used in increasingly complex material; and

(m) incorporate reading into many aspects of the student's life for the lifelong practice of reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXII PROFICIENT READING PERFORMANCE STANDARDS UPON GRADUATION

(1) A graduating student at the proficient reading level demonstrates solid academic performance including, but not limited to, the ability to:

(a) consistently make predictions, describe inferences, and make causal connections between new material and prior knowledge;

(b) exhibit understanding of main ideas;

(c) formulate arguments with critical supporting evidence;

(d) respond personally and creatively to ideas and feelings generated by text, providing examples of the way texts influence the student's life and role in society;

(e) flexibly monitor the use of strategies to comprehend and fluently read complex material;

(f) exhibit a reading vocabulary appropriate to the twelfth-grade level;

(g) consistently analyze and evaluate literary devices and the elements of fiction and nonfiction;

(h) evaluate the strategies used to self-monitor reading progress;

(i) consistently set and meet reading goals;

(j) self-select material appropriate to the purpose for reading;

(k) critically compare, contrast and synthesize information from several sources;

(l) analyze evidence, bias, logic, and language devices used by authors; and

(m) incorporate reading into many aspects of the student's life for the lifelong practice of reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXIII NEARING PROFICIENCY READING PERFORMANCE STANDARDS UPON GRADUATION

(1) A graduating student at the nearing proficiency reading level demonstrates partial mastery of prerequisite knowledge and skills fundamental for proficient reading including, but not limited to, the ability to:

(a) often make predictions, describe inference, and make causal connections between new material and prior knowledge;

(b) demonstrate understanding of main ideas;

(c) formulate arguments with supporting evidence;

- (d) respond personally and creatively to ideas and feelings generated by text;
 - (e) usually monitor the use of strategies primarily using grammatical structure and overall meaning to read fluently with comprehension;
 - (f) often analyze and evaluate literary devices and the elements of fiction and nonfiction;
 - (g) sometimes exhibit a reading vocabulary appropriate to the twelfth grade;
 - (h) sometimes evaluate the strategies used to self-monitor reading progress;
 - (i) set and meet reading goals;
 - (j) select material appropriate to the purpose for reading;
 - (k) compare, contrast and synthesize information from a variety of sources;
 - (l) occasionally analyze evidence, bias, logic and language devices used by authors; and
 - (m) incorporate reading into some aspects of the student's life for the lifelong practice of reading.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXIV. NOVICE PROFICIENCY READING PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the novice reading level is beginning to attain prerequisite knowledge and skills that are fundamental for reading at each benchmark, including beginning to:

- (a) make predictions;
- (b) describe simple inferences;
- (c) make causal connections between new material and prior knowledge;
- (d) demonstrate understanding of basic ideas and formulate arguments, but with little supporting evidence;
- (e) respond personally to ideas and feelings generated by texts;
- (f) monitor use of strategies, but primarily rely on grammatical structure and overall meaning to achieve limited comprehension of grade-level material;
- (g) read familiar material fluently, but exhibit a reading vocabulary below twelfth grade;
- (h) analyze and evaluate literary devices and the elements of fiction and nonfiction;
- (i) evaluate the strategies used to self-monitor reading progress;
- (j) set and meet reading goals;
- (k) select material appropriate to the purpose for reading, with assistance;
- (l) compare and contrast, but seldom synthesize information from two or more sources;

(m) analyze evidence, bias, logic, and language devices used by authors; and

(n) incorporate reading into aspects of their lives for the lifelong practice of reading.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXV MATHEMATICS CONTENT STANDARD 1 (1) A student will engage in the mathematical processes of problem solving and reasoning, estimation, communication, connections and applications, and use appropriate technology.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXVI BENCHMARK FOR MATHEMATICS CONTENT STANDARD 1 FOR THE END OF GRADE 4 (1) The benchmark for mathematics content standard 1 for a student at the end of grade 4 is the ability to:

(a) solve problems from many contexts using a variety of strategies (e.g., estimate, make a table, look for a pattern, simplify the problem) and explain the methods for solving these problems;

(b) apply estimation strategies throughout the problem-solving process;

(c) communicate mathematical ideas in a variety of ways (e.g., written, verbal, concrete, pictorial, graphical, algebraic);

(d) recognize and investigate the relevance and usefulness of mathematics through applications, both in and out of school; and

(e) select and use appropriate technology to enhance mathematical understanding. Appropriate technology may include, but is not limited to, paper and pencil, calculator, and computer.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXVII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 1 FOR THE END OF GRADE 8 (1) The benchmark for mathematics content standard 1 for a student at the end of grade 8 is the ability to:

(a) formulate and solve multi-step and nonroutine problems using a variety of strategies and generalize methods to new problem situations;

(b) select and apply appropriate estimation strategies throughout the problem-solving process;

(c) interpret and communicate mathematical ideas and logical arguments using correct mathematical terms and notations;

(d) recognize and investigate the relevance and usefulness of mathematics through applications, both in and out of school; and

(e) select and use appropriate technology to enhance mathematical understanding. Appropriate technology may include, but is not limited to, paper and pencil, calculator, computer, and data collection devices.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXVIII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 1 UPON GRADUATION (1) The benchmark for mathematics content standard 1 for a student upon graduation is the ability to:

(a) recognize and formulate problems from situations within and outside mathematics and apply solution strategies to those problems;

(b) select, apply, and evaluate appropriate estimation strategies throughout the problem-solving process;

(c) formulate definitions, make and justify inferences, express generalizations, and communicate mathematical ideas and relationships;

(d) apply and translate among different representations of the same problem situation or of the same mathematical concept;

(e) model connections between problem situations that arise in disciplines other than mathematics; and

(f) select and use appropriate technology to enhance mathematical understanding. Appropriate technology may include, but is not limited to, paper and pencil, calculator, computer, and data collection devices.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XXXIX MATHEMATICS CONTENT STANDARD 2 (1) A student will develop an understanding of and an ability to use numbers and operations.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XL BENCHMARK FOR MATHEMATICS CONTENT STANDARD 2 FOR END OF GRADE 4 (1) The benchmark for mathematics content standard 2 for a student at the end of grade 4 is the ability to:

(a) exhibit connections between the concrete and symbolic representation of a problem or concept;

(b) use the number system by counting, grouping, and applying place value concepts;

(c) model, explain, and use basic facts, the operations of addition and subtraction of whole numbers, and mental mathematics;

(d) model and explain multiplication and division of whole numbers; and

(e) model and explain part/whole relationships in everyday situations.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLI BENCHMARK FOR MATHEMATICS CONTENT STANDARD 2 FOR END OF GRADE 8 (1) The benchmark for mathematics content standard 2 for a student at the end of grade 8 is the ability to:

(a) use the four basic operations with whole numbers, fractions, decimals and integers;

(b) use mental mathematics and number sense in using order of operations and order relations for whole numbers, fractions, decimals, and integers;

(c) use the relationships and applications of ratio, proportion, percent, and scientific notation; and

(d) develop and apply number theory concepts (e.g., primes, factors, multiples) in real-world and mathematical problem situations.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 2 UPON GRADUATION (1) The benchmark for mathematics content standard 2 for a student upon graduation is the ability to:

(a) use and understand the real number system, its operations, notations, and the various subsystems; and

(b) use definitions and basic operations of the complex number system.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLIII MATHEMATICS CONTENT STANDARD 3 (1) A student will use algebraic concepts, processes, and language to model and solve a variety of real-world and mathematical problems.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLIV BENCHMARK FOR MATHEMATICS CONTENT STANDARD 3 FOR END OF GRADE 4 (1) The benchmark for mathematics content standard 3 for a student at the end of grade 4 is the ability to:

(a) use symbols (e.g., boxes or letters) to represent numbers in simple situations;

(b) explore the use of variables and open sentences to express relationships (e.g., missing addend); and

(c) use inverse operations and other strategies to solve number sentences.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLV BENCHMARK FOR MATHEMATICS CONTENT STANDARD 3 FOR END OF GRADE 8 (1) The benchmark for mathematics content standard 3 for a student at the end of grade 8 is the ability to:

(a) understand the concepts of variable, expression, and equation;

- (b) represent situations and number patterns using tables, graphs, verbal rules, equations, and models;
 - (c) recognize and use the general properties of operations (e.g., the distributive property);
 - (d) solve linear equations using concrete, numerical, and algebraic methods; and
 - (e) investigate inequalities and nonlinear relationships informally.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLVI. BENCHMARK FOR MATHEMATICS CONTENT STANDARD 3 UPON GRADUATION (1) The benchmark for mathematics content standard 3 for a student upon graduation is the ability to:

- (a) use algebra to represent patterns of change;
- (b) use basic operations with algebraic expressions;
- (c) solve algebraic equations and inequalities: linear, quadratic, exponential, logarithmic, and power;
- (d) solve systems of algebraic equations and inequalities, including use of matrices; and
- (e) use algebraic models to solve mathematical and real-world problems.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLVII. MATHEMATICS CONTENT STANDARD 4 (1) A student will develop an understanding of shape and an ability to use geometry.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLVIII. BENCHMARK FOR MATHEMATICS CONTENT STANDARD 4 FOR END OF GRADE 4 (1) The benchmark for mathematics content standard 4 for a student at the end of grade 4 is the ability to:

- (a) describe, model, and classify two and three-dimensional shapes;
- (b) investigate and predict results of combining, subdividing, and changing shapes; and
- (c) identify lines of symmetry, congruent and similar shapes, and positional relationships.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE XLIX. BENCHMARK FOR MATHEMATICS CONTENT STANDARD 4 FOR END OF GRADE 8 (1) The benchmark for mathematics content standard 4 for a student at the end of grade 8 is the ability to:

- (a) identify, describe, construct and compare plane and solid geometric figures;
- (b) understand and apply geometric properties and relationships (e.g., the Pythagorean theorem);
- (c) represent geometric figures on a coordinate grid;

(d) explore properties and transformations of geometric figures; and

(e) use geometry as a means of describing the physical world.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE L BENCHMARK FOR MATHEMATICS CONTENT STANDARD 4 UPON GRADUATION (1) The benchmark for mathematics content standard 4 for a student upon graduation is the ability to:

(a) construct, interpret, and draw three-dimensional objects;

(b) classify figures in terms of congruence and similarity and apply these relationships;

(c) translate between synthetic and coordinate representations;

(d) deduce properties of figures using transformations, coordinates, and vectors in problem solving; and

(e) apply trigonometric ratios (sine, cosine, and tangent) to problem situations involving triangles.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LI MATHEMATICS CONTENT STANDARD 5 (1) A student will develop an understanding of measurable attributes and an ability to use measurement processes.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 5 FOR END OF GRADE 4 (1) The benchmark for mathematics content standard 5 for a student at the end of grade 4 is the ability to:

(a) estimate, measure, and investigate length, capacity, weight, mass, area, volume, time, and temperature;

(b) develop the process of measuring and concepts related to units of measurement, including standard units (English and metric) and nonstandard units;

(c) apply measurement skills to everyday situations; and

(d) select and use appropriate tools and techniques.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LIII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 5 FOR END OF GRADE 8 (1) The benchmark for mathematics content standard 5 for a student at the end of grade 8 is the ability to:

(a) estimate, make, and use measurements to describe, compare, and/or contrast objects in real-world situations;

(b) select and use appropriate units and tools to measure to a level of accuracy required in a particular setting;

(c) apply the concepts of perimeter, area, volume and capacity, weight and mass, angle measure, time, and temperature;

(d) demonstrate understanding of the structure and use of systems of measurement, including English and metric;

(e) use the concepts of rates and other derived and indirect measurements; and

(f) demonstrate relationships between formulas and procedures for determining area and volume.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LIV BENCHMARK FOR MATHEMATICS CONTENT STANDARD 5 UPON GRADUATION (1) The benchmark for mathematics content standard 5 for a student upon graduation is the ability to:

(a) apply concepts of indirect measurements (e.g., using similar triangles to calculate a distance);

(b) use dimensional analysis to check reasonableness of procedures;

(c) investigate systems of derived measures (e.g., km/sec, g/cm³); and

(d) apply the appropriate concepts of estimates in measurement, error in measurement, tolerance, and precision.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LV MATHEMATICS CONTENT STANDARD 6 (1) A student will demonstrate understanding of and an ability to use data analysis, probability, and statistics.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LVI BENCHMARK FOR MATHEMATICS CONTENT STANDARD 6 FOR END OF GRADE 4 (1) The benchmark for mathematics content standard 6 for a student at the end of grade 4 is the ability to:

(a) collect, organize, and display data;

(b) construct, read, and interpret displays of data, including graphs;

(c) formulate and solve problems that involve collecting and analyzing data; and

(d) demonstrate basic concepts of chance (e.g., equally likely events, simple probabilities).

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LVII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 6 FOR END OF GRADE 8 (1) The benchmark for mathematics content standard 6 for a student at the end of grade 8 is the ability to:

(a) systematically collect, organize, and describe data;

(b) construct, read, and interpret tables, charts, and graphs;

(c) draw inferences, construct and evaluate arguments based on data analysis and measures of central tendency;

- (d) construct sample spaces and determine the theoretical and experimental probabilities of events; and
- (e) make predictions based on experimental results or probabilities.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LVIII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 6 UPON GRADUATION

(1) The benchmark for mathematics content standard 6 for a student upon graduation is the ability to:

- (a) use curve fitting to make predictions from data;
- (b) apply measures of central tendency and demonstrate understanding of the concepts of variability and correlation;
- (c) select an appropriate sampling method for a given statistical analysis;
- (d) use experimental probability, theoretical probability, and simulation methods to represent and solve problems, including expected values;
- (e) design a statistical experiment to study a problem and communicate the outcomes; and
- (f) describe, in general terms, the normal curve and use its properties to answer questions about sets of data that are assumed to be normally distributed.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LIX MATHEMATICS CONTENT STANDARD 7 (1) A student will demonstrate understanding of and an ability to use patterns, relations, and functions.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LX BENCHMARK FOR MATHEMATICS CONTENT STANDARD 7 FOR END OF GRADE 4 (1) The benchmark for mathematics content standard 7 for a student at the end of grade 4 is the ability to:

- (a) recognize, describe, extend, and create a variety of patterns; and
- (b) represent and describe mathematical and real-world relationships.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXI BENCHMARK FOR MATHEMATICS CONTENT STANDARD 7 FOR END OF GRADE 8 (1) The benchmark for mathematics content standard 7 for a student at the end of grade 8 is the ability to:

- (a) describe, extend, analyze, and create a variety of patterns and functions;
- (b) describe and represent relationships with tables, graphs, and rules;
- (c) analyze functional relationships to explain how a change in one quantity results in a change in another;
- (d) use patterns and functions to represent and solve problems; and

(e) describe functions using graphical, numerical, physical, algebraic, and verbal models or representations.
(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXII BENCHMARK FOR MATHEMATICS CONTENT STANDARD 7 UPON GRADUATION (1) The benchmark for mathematics content standard 7 for a student upon graduation is the ability to:

- (a) describe functions and their inverses using graphical, numerical, physical, algebraic, and verbal mathematical models or representations;
 - (b) analyze the graphs of the families of polynomial, rational, power, exponential, logarithmic, and periodic functions;
 - (c) analyze the effects of parameter changes on the graphs of functions and relations, including translations;
 - (d) model real-world phenomena with a variety of functions; and
 - (e) use graphing for parametric equations, three-dimensional equations, and recursive relations.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXIII ADVANCED MATHEMATICS PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth-grade student at the advanced level in mathematics demonstrates superior performance including, but not limited to, the ability to:

- (a) select and use appropriate problem-solving strategies, including mental math;
- (b) present well-organized solutions with information and explanations that exceed requirements;
- (c) clearly communicate, in a variety of ways, the connections between concrete and symbolic representations;
- (d) select appropriate technologies to enhance mathematical understanding;
- (e) analyze a variety of patterns, clearly describe relationships and functions within those patterns, and apply to varied situations;
- (f) examine relationships of shapes in the physical world and make generalizations;
- (g) accurately use whole numbers to estimate, compute, and determine whether results are reasonable;
- (h) select appropriate tools for measurement and use them accurately; and
- (i) accurately predict and make decisions based on data and analyze and evaluate results, consistently going beyond the obvious.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXIV PROFICIENT MATHEMATICS PERFORMANCE STANDARDS FOR THE END OF GRADE 4 (1) A fourth-grade student at the proficient level in mathematics demonstrates solid academic performance including, but not limited to, the ability to:

- (a) select and use appropriate problem-solving strategies, including mental math;
 - (b) present organized solutions with supporting information and explanations of how solutions were achieved;
 - (c) communicate, in a variety of ways, the connections between concrete and symbolic representations;
 - (d) select appropriate technology to enhance mathematical understanding;
 - (e) recognize, represent, and create a variety of patterns and describe relationships and functions within those patterns;
 - (f) describe, model, and classify relationships of shapes in the physical world;
 - (g) use whole numbers to estimate, compute, and determine whether results are reasonable;
 - (h) determine measurable attributes of objects and select appropriate tools for measurement; and
 - (i) predict and make decisions based on data.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXV NEARING PROFICIENCY MATHEMATICS PERFORMANCE STANDARDS FOR THE END OF GRADE 4 (1) A fourth-grade student at the nearing proficiency level in mathematics demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficient-level mathematics including, but not limited to, the ability to:

- (a) sometimes select and use appropriate problem-solving strategies, including mental math;
- (b) sometimes present organized solutions, and sometimes such solutions are presented with supporting information and explanations;
- (c) make connections between concrete and symbolic representations, but seldom able to communicate these concepts;
- (d) sometimes select appropriate technology for enhancing mathematical understanding;
- (e) recognize, represent and create a limited range of patterns, and sometimes describe relationships within those patterns and their functions;
- (f) describe, model and classify some shapes and their relationships;
- (g) sometimes use whole numbers to estimate, compute and determine whether results are reasonable;
- (h) determine measurable attributes of objects, but does not always select appropriate tools for measurement; and
- (i) sometimes predict, but often make inaccurate decisions based on data.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXVI. NOVICE MATHEMATICS PERFORMANCE STANDARDS FOR END OF GRADE 4 (1) A fourth-grade student at the novice level in mathematics is beginning to attain the prerequisite knowledge and skills that are fundamental at each benchmark in mathematics including, but not limited to, beginning to:

- (a) select and use appropriate problem-solving strategies, including mental math;
 - (b) present organized solutions, but often such solutions are presented without supporting information or explanations;
 - (c) make connections between concrete and symbolic representations, but misconceptions are present;
 - (d) communicate concepts;
 - (e) select and use technology appropriately for mathematical understanding;
 - (f) recognize, represent, and create a limited range of patterns and describe relationships within those patterns and their functions, but frequently inaccurate;
 - (g) describe, model, and classify some shapes;
 - (h) use whole numbers to estimate and compute, but frequently inaccurate;
 - (i) determine whether results are reasonable;
 - (j) determine some measurable attributes of objects, but sometimes not select appropriate tools for measurement; and
 - (k) predict and sometimes make decisions based on data.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXVII. ADVANCED MATHEMATICS PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth-grade student at the advanced level in mathematics demonstrates superior performance including, but not limited to, the ability to:

- (a) go beyond the obvious when applying mathematical processes;
 - (b) effectively use multiple strategies and extend concepts to new situations;
 - (c) explore hypothetical questions and articulate valid arguments;
 - (d) go beyond the obvious when applying numbers, operations, patterns, relations, and functions;
 - (e) apply algebraic concepts and processes to solve real and theoretical problems;
 - (f) go beyond the obvious in the understanding of and the ability to use data analysis, probability, statistics, shape, geometry, and measurement; and
 - (g) recognize interconnections within and outside mathematics.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXVIII. PROFICIENT MATHEMATICS PERFORMANCE STANDARDS FOR THE END OF GRADE 8 (1) An eighth-grade student at the proficient level in mathematics demonstrates solid academic

performance including, but not limited to, the ability to:

- (a) consistently apply mathematical processes correctly using a variety of problem-solving strategies;
- (b) demonstrate valid reasoning;
- (c) use estimation skills appropriately and consistently;
- (d) apply mathematics in a variety of contexts;
- (e) use appropriate mathematical terms to formulate logical arguments;
- (f) select and use appropriate technology to enhance mathematical understanding;
- (g) accurately use numbers, operations, patterns, relations, and functions;
- (h) use algebraic concepts and processes to represent and solve mathematical problems; and
- (i) accurately use data analysis, probability, statistics, shape, geometry, and measurement.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXIX NEARING PROFICIENCY MATHEMATICS STANDARDS FOR END OF GRADE 8 (1) An eighth-grade student at the nearing proficiency level in mathematics demonstrates partial mastery of the prerequisite knowledge and skills fundamental for proficient-level mathematics including, but not limited to, the ability to:

- (a) often apply mathematical processes, but use incomplete problem-solving strategies and incorrect, beginning-level reasoning skills;
- (b) estimate, but often inconsistently;
- (c) communicate mathematical ideas, but sometimes inaccurately;
- (d) make connections, but not generalize;
- (e) sometimes recognize the usefulness of mathematics, both in and outside of school;
- (f) often use technology appropriately;
- (g) sometimes understand and use numbers, operations, patterns, relations, and functions;
- (h) sometimes use algebraic concepts and processes to represent and solve mathematical problems; and
- (i) sometimes demonstrate an understanding of data analysis, probability, statistics, shape, geometry, and measurement.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXX NOVICE MATHEMATICS PERFORMANCE STANDARDS FOR END OF GRADE 8 (1) An eighth-grade student at the novice level in mathematics is beginning to attain the prerequisite knowledge and skills that are fundamental to each benchmark in mathematics, including beginning to:

- (a) use a few strategies for problem-solving and superficial reasoning;

- (b) use estimation strategies, but often inappropriately;
 - (c) communicate mathematical ideas, but often limited, incomplete, and incoherent;
 - (d) make immediate, concrete, mathematical connections;
 - (e) on a limited basis, apply and recognize mathematics' usefulness in or outside of school;
 - (f) on a limited basis, use technology appropriately with understanding;
 - (g) use numbers, operations, patterns, relations, and functions;
 - (h) understand and use algebraic concepts and processes to represent and solve mathematical problems;
 - (i) on a limited basis, understand data analysis, probability, and statistics; and
 - (j) understand shape, geometry, and measurement.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXXI. ADVANCED MATHEMATICS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the advanced level in mathematics demonstrates superior performance including, but not limited to, the ability to:

- (a) understand the function concepts;
- (b) go beyond the obvious when comparing and applying the numeric, algebraic, and graphical properties of functions;
- (c) apply algebra, geometry, trigonometry, and statistics to solve problems in advanced areas of continuous and discrete mathematics;
- (d) use appropriate technology, evaluate the appropriateness, and choose efficient and effective tools;
- (e) apply previously learned mathematical concepts demonstrating the ability to go beyond the obvious; and
- (f) extend mathematical knowledge and skills to demonstrate advanced abilities including, but not limited to:
 - (i) basic operations with complex numbers,
 - (ii) trigonometric and circular functions,
 - (iii) trigonometric equations and their identities,
 - (iv) polar coordinates,
 - (v) complex numbers and DeMoivre's theorem,
 - (vi) random variables to generate and interpret probability distribution, and
 - (vii) graphs of conic sections.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXXII. PROFICIENT MATHEMATICS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the proficient level in mathematics demonstrates solid academic performance including, but not limited to, the ability to:

- (a) consistently demonstrate an understanding and communication of algebraic, statistical, geometric, trigonometric, and spatial reasoning;

- (b) select and use appropriate problem-solving strategies;
 - (c) recognize mathematical relationships within and outside of mathematical contexts;
 - (d) justify algebraic and geometric relationships;
 - (e) judge and defend the reasonableness of answers as applied to relevant situations;
 - (f) consistently analyze and interpret data in tabular and graphical form;
 - (g) use statistical analysis to model problem situations that arise in disciplines other than mathematics;
 - (h) use elements of the functions and curve fitting using data in symbolic, graphical, and tabular forms;
 - (i) make conjectures, defend ideas, and give supporting examples using appropriate technology; and
 - (j) demonstrate understanding of real and complex number systems and consistently use correct notations and operations within these systems.
- (AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXXIII. NEARING PROFICIENCY MATHEMATICS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the nearing-proficiency level in mathematics demonstrates partial mastery in knowledge and skills fundamental for proficient-level mathematics including, but not limited to, the ability to:

- (a) use estimation to verify solutions and determine reasonableness of results of mathematical problems;
- (b) use algebraic and geometric reasoning strategies to solve problems;
- (c) sometimes select and use appropriate problem-solving strategies within and outside mathematical contexts;
- (d) recognize relationships presented in verbal, algebraic, tabular, and graphical forms;
- (e) demonstrate knowledge of geometric relationships and corresponding skills;
- (f) apply statistical reasoning in the organization and display of data and reading tables and graphs;
- (g) generalize from patterns and examples in algebra and geometry, including the basics of triangular trigonometry, probability, and statistics;
- (h) use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes;
- (i) use calculators appropriately to solve problems;
- (j) demonstrate an understanding of a mathematical argument, but not construct the argument;
- (k) sometimes make connections between mathematical processes and situations in the world; and
- (l) sometimes use correct notation and operation with complex number systems.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

RULE LXXIV NOVICE MATHEMATICS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the novice level in mathematics is beginning to attain the prerequisite knowledge and skills that are fundamental at each benchmark in mathematics, including beginning to:

(a) sometimes use estimation to verify solutions and determine the reasonableness of results of mathematical problems;

(b) use algebraic and geometric reasoning strategies to solve problems;

(c) select and use appropriate problem-solving strategies within or outside mathematical contexts;

(d) recognize relationships presented in verbal, algebraic, tabular, and graphical forms;

(e) demonstrate knowledge of geometric relationships and corresponding measurement skills;

(f) apply statistical reasoning in the organization and display of data, and reading tables and graphs;

(g) generalize patterns and examples in algebra, geometry, and statistics, but frequently inaccurate;

(h) use correct mathematical language and symbols to communicate mathematical relationships and reasoning processes;

(i) use calculators appropriately to solve problems; and

(j) understand complex number systems, sometimes using correct notations and operations.

(AUTH: 20-2-114, MCA; IMP: 20-2-121, 20-3-106, 20-7-101, MCA)

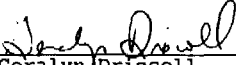
6. Any person/party may be placed on the Board of Public Education's list of interested persons/parties by contacting Board of Public Education, PO Box 200601, Helena, Montana 59620-0601, telephone number (406) 444-6576, FAX (406) 444-0684.

For purposes of this rulemaking, you may also be placed on the Board's list of interested persons by contacting Pat Reichert, Office of Public Instruction, PO Box 202501, Helena, Montana 59620-2501, telephone number (406) 444-4402.

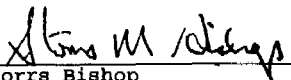
7. Interested persons may submit their data, views, or arguments, either orally or in writing, at the hearings. Written testimony may also be submitted to the Office of Public Instruction, PO Box 202501, Helena, Montana 59620-2501, until 5:00 p.m. on July 15, 1998.

8. Geralyn Driscoll and Janice Frankino Doggett of the Legal Services Unit, Office of Public Instruction, have been designated to preside over and conduct the hearings.

9. The notice requirements of 2-4-302, MCA, have been satisfied.



Geralyn Driscoll
Rule Reviewer



Storrs Bishop
Chairperson

Certified to the Secretary of State May 18, 1998.

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 46.30.507)	ON PROPOSED AMENDMENT
pertaining to child support)	
enforcement distributions of)	
collections)	

TO: All Interested Persons

1. On July 8, 1998, 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 46.30.507 pertaining to child support enforcement distributions of collections.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you request an accommodation, contact the department no later than 5:00 p.m. on June 29, 1998, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

46.30.507 DISTRIBUTION OF COLLECTIONS (1) Except as provided in (2) and (6), collections of support from all sources including but not limited to the proceeds from writs of execution, support liens, state tax offsets, and lump sum settlements will be distributed, to the extent the collection is sufficient, in the following sequence:

(1)(a) remains the same.

(b) ~~to satisfy any arrears owing to the state of Montana by reason of 40-5-202, 40-5-221 and 53-2-613, MCA. If there are no arrears owing to the state of Montana or if the collection exceeds the arrears owed to the state, to satisfy arrears owed to the obligee, to satisfy any arrears owed to the obligee, except when the obligee is a recipient of public assistance, including IV-E foster care services. When the obligee is a public assistance recipient, or if no arrears are owed to the obligee, collections in excess of current support shall first be applied to arrears owed to the state of Montana under 40-5-202, 50-5-221 and 53-2-613, MCA, before any funds are distributed to the obligee.~~

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

(3) After a distribution of support collections to the obligee is determined appropriate but before actual distribution is made, the CSED may-

~~(a) intercept a portion of the collections, as authorized by ARM 46.30.701, to be applied towards recoupment of overpayments previously made to the obligee.~~

~~(b) deduct from arrears collections, an amount to satisfy fees awarded under 40-5-210, MCA which are owed by the obligee.~~

(4) through (5)(e) remain the same.

(6) Support collections resulting from federal and state tax offsets will be distributed only to those arrears certified to the tax authorities as past due, ~~and to the extent applicable as provided under (1)(b) and, if appropriate, (4)(b).~~ These collections shall be distributed, to the extent they are sufficient, first to satisfy any arrears owing to the state of Montana under 40-5-202, 40-5-221 and 53-2-613, MCA. If there is no past due support owed to the state of Montana, or if the collection exceeds the amount owed to the state of Montana, the collection shall be distributed to arrears owed to the obligee. If arrears are owed in more than one case, the collection shall be distributed equally among the obligor's cases, provided that the amount distributed shall not exceed the arrears owed.

(8) through (9) remain the same.

(a) For collections made under an order to withhold income, the date of collection is the day the ~~payor withholds the collection from the obligor's income. If the collection is paid by check, the date of collection is the date specifically reported by the payor in documentation accompanying the payment; the CSED receives the payment. However, if the support is withheld by the payor in a month when the payment is due, but the payment is received by the CSED in a month other than the month when due, the date of withholding is the date specifically reported by the payor in documentation accompanying the payment;~~

~~(b) Except as provided in (9)(c), when a collection is received in the mail directly from the obligor, the date of collection is the postmark date. If the postmark is illegible or missing, the postmark date is presumed to be 3 days prior to receipt, if posted in the state of Montana, and 5 days prior to receipt if posted outside the state, date that the CSED receives the payment;~~

(9)(c) remains the same.

(d) In all other cases, the date of collection shall be the day the CSED, ~~or its collecting agent,~~ receives the collection;

(10) and (11) remain the same.

AUTH: Sec. 40-5-202, MCA

IMP: Sec. 17-4-105 and 40-5-202, MCA

3. The State of Montana Department of Public Health and Human Services, Child Support Enforcement

10-5/28/98

MAR Notice No. 37-96

Division is the program affected by the proposed amendments. The current rule establishes a distribution schedule as allowed under 45 CFR 302.32 and 302.51. However, amendments are needed to conform with new distribution requirements enacted in section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, which revises section 657 of the Federal Social Security Act found in USCA Title 42, Ch. 7. Further amendments are needed to conform with the Balanced Budget Act of 1997 which amended 42 USC 654B(c)(1).

Based on changes in Federal law, the Department is required to change distribution priorities for obligees who do not receive public assistance. Further, amendments are needed to conform with the Balanced Budget Act of 1997 which amended 42 USC 654B(c)(1).

This rule should be amended to conform with recent amendments in Federal law. There are no available options outside of the rulemaking process to implement a support distribution schedule. Section 40-5-910(2), MCA assumes that the Department will use a support distribution schedule established via administrative rules. The Department is required to adopt administrative rules under the Montana Administrative Procedure Act.

There were no options offered by the changes in federal law, except flexibility in the date that all of the distribution changes could occur. The CSED declined to implement distribution changes at the earliest possible date, which was October, 1997. The date was not feasible, because there was very little time between the Federal changes, and the October, 1997 date to complete both the rulemaking process, and changes needed in the Department's computer system to facilitate the new distribution requirements. The Department also declined to phase in the distribution changes, which was one of the options provided in the Federal law. The Department determined that a phase-in would result in at least two sets of new administrative rules, and would cause extra work and confusion for the public and Department employees.

The Department chose to implement required distribution changes in total, beginning October 1, 1998. This was the date allowed in Federal law, for States who declined to implement the changes in phases. The reasons for the Department's decision not to phase-in changes is discussed in the previous paragraph.

4. 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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than July 16, 1998. The Department also maintains lists of persons

interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dann Ellis
Rule Reviewer

Muri Klingman
Director, Public Health and
Human Services

Certified to the Secretary of State May 18, 1998.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE PROPOSED) NOTICE OF THE PROPOSED AMENDMENT
AMENDMENT of ARM 42.38.101;) AND REPEAL
42.38.102; 42.38.103;)
42.38.104; 42.38.201;)
42.38.203; 42.38.204; and)
PROPOSED REPEAL of ARM)
42.38.205 relating to) NO PUBLIC HEARING CONTEMPLATED
Unclaimed Property

TO: All Interested Persons:

1. On July 31, 1998, the Department of Revenue proposes to amend ARM 42.38.102; 42.38.103; 42.38.104; 42.38.201; 42.38.203; 42.38.204; and repeal ARM 42.38.205 relating to Unclaimed Property.

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

42.38.101 PURPOSE (1) The Uniform ~~Disposition of~~ Unclaimed Property Act provides that property presumed abandoned under the act shall be delivered to and taken into custody by the department of revenue. The department shall protect the unknown owners by returning property delivered to the department under the act upon the filing of a verified claim by the owner which is approved by the department.

AUTH: Sec. ~~70-9-105~~ 70-9-828, MCA; IMP: Secs. ~~70-9-101 through 70-9-316~~ 70-9-805 and 70-9-815, MCA.

42.38.102 APPLICABILITY (1) The Uniform ~~Disposition of~~ Unclaimed Property Act primarily relates to money and most other kinds of intangible property, but may apply to tangible personal property such as the contents of a safe deposit box, a collateral deposit box, or personal property held in escrow.

(2) remains the same.

AUTH: Sec. ~~70-9-105~~ 70-9-828, MCA; IMP: Secs. ~~70-9-101 through 70-9-316~~ 70-9-803 and 70-9-804, MCA.

42.38.103 DEFINITIONS OF TERM "ITEMS OF PROPERTY"

(1) "Items of property" as used in the Uniform ~~Disposition of~~ Unclaimed Property Act, with respect to money or funds, generally means amounts in a single account. Interest or earnings are part of the principal and are part of the "items of property".

(2) An "item" is ~~An~~ an account in a financial institution ~~is an "item",~~ regardless of the number of deposits made by the owner or accruals thereon on the account. ~~Interest or earnings are part of the principal which is the "item of property".~~ However, Other "items" include but are not limited to:

(a) unclaimed dividends declared but held for payment, annually or otherwise, for an absent owner of stock certificates of a corporation ~~are separate "items".~~

(b) Ownership certificates of a corporation held for distribution to an owner, ~~singly solely~~ or jointly; ~~and also is an "item".~~

(c) ~~Individual accounts comprising made up of public utility deposits or refunds each constitute an "item".~~

AUTH: Sec. ~~70-9-105~~ 70-9-828, MCA; IMP: Secs. ~~70-9-101~~ through ~~70-9-316~~ 70-9-802, 70-9-803, MCA.

42.38.104 PRESUMPTION OF OWNERSHIP (1) remains the same.

(2) Presumption of ownership of other intangible property required to be reported to the department of revenue, and thereafter delivered to the state, shall arise from the records of the person reporting ~~showing the~~ ownership or entitlement to such property.

AUTH: Sec. ~~70-9-105~~ 70-9-828, MCA; IMP: Secs. ~~70-9-101~~ THROUGH ~~70-9-316~~ 70-9-802 and 70-9-805, MCA.

42.38.201 PRESUMPTION OF ABANDONMENT -- EXCEPTION

(1) Property in the possession of a holder that is presumed abandoned under the act must be reported and delivered to the department as abandoned property.

(2) ~~Generally, property is presumed abandoned when it is held for 5 years by the holder and the owner has not contacted or corresponded with the holder concerning the property or otherwise indicated an interest in the property. An indication of interest in the property by the owner must be evidenced by a memorandum on file with the holder to defeat the presumption of abandonment.~~

(3) ~~Any demand, savings, or matured time deposit held by a banking or financial organization or business association is presumed abandoned if the owner has not claimed it or corresponded in writing with the holder concerning the property within 5 years after the date of last deposit or withdrawal, or the date of the last memorandum from the owner indicating an interest in the deposit. The crediting of interest to an account on the holders records does not in itself constitute an indication of interest by the owner in the deposit.~~

(4) ~~Property such as stocks, dividends, gift certificates, credit memos, checks, money orders, certificates of deposit, and unclaimed funds held by a life insurance corporation are presumed abandoned if the owner has not claimed it or corresponded in writing with the holder concerning the property within 5 years after the date prescribed for payment, delivery, or distribution of the property of the owner.~~

(5) (2) Property held by a fiduciary is presumed abandoned unless the owner has, within 5 years after it became payable or distributable;

(a) increased or decreased the principal;

(b) accepted payment of principal or income;

(c) corresponded in writing concerning the property; or

(d) otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary.

~~(6) Intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization that is unclaimed by the owner on the date of final dissolution is presumed abandoned.~~

AUTH: Sec. ~~70-9-105~~ 70-9-828, MCA; IMP: Secs. ~~70-9-201 through 70-9-205~~ 70-9-803, 70-9-804, 70-9-805 and 70-9-808, MCA.

42.38.203 CLAIMS FOR RECOVERY OF PROPERTY DELIVERED TO STATE (1) The owner of property presumed abandoned which has been delivered to the department of revenue shall claim such property or the proceeds of such property upon forms supplied by the department.

(a) No claim may be filed for property with a value of less than \$50.

(2) General requirements are as follows:

(a) Submission of a claim and request for return of property in the possession of the department must be on a form prescribed by the department bearing the notarized signature of the owner. ~~If the claim is for tangible personal property, such as safe deposit box contents and is made within one (i) year after delivery to the department the property itself may be recovered. After this period of time the department destroys all unsalable items.~~

(b) The department may require production of originals or copies of driver's licenses, social security cards, voter registration cards, or any other documents needed to verify a claimant's identity and signature.

~~(c) The department will publish notice as required by the act of named payees and remitters on cashier's checks and money orders delivered to the department as abandoned property. A return will only be made to a claimant who is named as payee on a cashier's check or a money order, unless the remitter provides the original cashier's check or money order, or a notarized statement signed by the payee stating that the payee renounces any interest in the cashier's check or money order.~~

~~(d) (c)~~ A claim received from an owner of property held by the department shall have first payment priority over any other claim, unless:

(i) such other claim is supported by a court ordered judgment against the owner; or

(ii) upon bond or other indemnified claim received from the former holder of the property.

(3) Specific requirements are as follows:

(a) In the course of verifying a claim, the ~~The~~ department is authorized to require reproduction of any of the following ~~in the course of verifying a claim:~~

~~(a) (i)~~ A properly completed claim form prescribed by the department, bearing the notarized signature of the claimant; ~~and/or~~

(ii) original negotiable instrument;

- (iii) a stock certificate;
- (iv) check;
- (v) money orders;
- (vi) certificate of deposit; and
- (vii) cashier check.

(b) ~~e~~Originals or photo copies of any of the following documents to substantiate the right to claim property:

- (i) death certificate;
- (ii) birth certificate;
- (iii) marriage license of claimant or decedent;
- (iv) complete last will and testament;
- (v) insurance policy;
- (vi) document establishing trust;
- (vii) power of attorney;
- ~~(viii) articles of loss, original copy;~~
- ~~(ix) (viii) indemnity bond;~~
- ~~(x) (ix) articles of incorporation;~~
- ~~(xi) (x) final account of decree of distribution;~~
- ~~(xii) (xi) valid drivers license;~~
- ~~(xiii) (xii) social security card;~~
- ~~(xiv) (xiii) voter registration card;~~
- ~~(xv) (xiv) court document showing appointment as personal representative, executor, executrix, conservator, etc.; and~~
- ~~(xvi) original negotiable instrument (stock certificate, check, money order, certificate deposit, cashier check, etc.); and~~

~~(xvii) (xv) affidavit of authority to receive and disburse funds for the person or company.~~

(4) ~~(a)~~ Claims for abandoned property submitted by a finder must include:

~~(i) (a) a A properly completed claim form as prescribed by the department, bearing the notarized signature of the claimant/client; and/or~~

~~(ii) (b) an An original, signed specific power of attorney authorizing the finder to prosecute a claim for abandoned property on behalf of a claimant. The specific power of attorney must also contain:~~

~~(A) (i) specific authorization for the department to release private information concerning the owner's interest in the property; and~~

~~(B) (ii) specific instructions concerning payment.~~

(5) Only one check is prepared ~~issued~~ by the department ~~state~~. The check will be prepared ~~issued~~ in the name of the person signing the power of attorney and mailed to the finder, unless the power of attorney specifically states that the check is to be made out payable in the names of to both the finder and the person signing the power of attorney. If the check is made out in the name of payable to the finder only, the power of attorney must specifically authorize "authority to receive the check in the name of the (fee finder's name)".

~~(b) (6) The department may require any other documents as provided in (3) to verify the claim.~~

~~(c) Checks issued on claims submitted by finders or persons other than the owner will be made payable to the owner and the finder or such other person.~~

~~AUTH: Sec. 70-9-105 70-9-828, MCA; IMP: Secs. 70-9-310 70-9-815 and 70-9-311 70-9-825, MCA.~~

42.38.204. DEFINITIONS (1) through (4) remain the same.

(5) "Memorandum" means but is not limited to:

(a) A confirmation letter or card signed by the owner;

(b) A personal letter of inquiry from the owner;

(c) A note in the file that the owner has discussed the account or property with the holder or an employee of the holder by telephone; ~~or~~

(d) A note in the file that the owner personally came in and discussed the account or property with the holder or an employee of the holder; or

(e) ~~e~~Communication in writing or verbal communication (evidenced by a note in the file) from the owner to a banking or financial organization concerning another relationship with the organization, including a loan payment or discussion concerning another account; ~~as~~ as long as the organization sends regular statements to the owner concerning the subject property or account.

(6) "Unconscionable fee" means the fee or compensation paid to a finder by the owner that exceeds 15% of the value of the property paid or delivered to the administrator.

~~AUTH: Sec. 70-9-105 70-9-828, MCA; IMP: Sec. 70-9-102 70-9-802, MCA.~~

3. The Department proposes to repeal the following rule:

42.38.205. SERVICE CHARGES found at page 42-3814 of the Administrative Rules of Montana.

~~AUTH: Sec. 70-9-105, MCA; IMP: Sec. 70-9-303, MCA.~~

4. The Department proposes to amend the above rules because Title 70, Chapter 9, parts 1, 2, and 3, MCA, have been repealed. A new part 8 to Chapter 9 was enacted by the 55th Legislature in 1997 which addresses the provisions of the law covered by these rules. The authority and implementing sections of all the rules in this chapter must be amended to reflect the changes to the law. The original rules were adopted in 1975 and some of the language is out dated. Therefore, additional housekeeping is necessary in some of the rules.

ARM 42.38.101 and 42.38.102 are amended to reflect the title of the act. The only other changes to these two rules are shown in the authority and implementing cites.

ARM 42.38.103 is amended to reflect the change to the title of the act and housekeeping. The catchphrase is amended to correctly refer to the rule as "definitions" rather than a specific definition. A definition for "item" was buried inside the definition of "items of property" and the text within this

definition rule was out of order.

ARM 42.38.104 is a housekeeping amendment only and reflects the correction to the statutory cites.

ARM 42.38.201 is amended to remove language that is now contained in the law and is therefore redundant. Subsection (5) is being amended as housekeeping to comply with proper outlining form. The rule is also amended to correct the cites.

ARM 42.38.203 is being amended to indicate that abandoned property will not be tracked for a value under \$50 as required by 70-9-808, MCA. The holder will report all that property under aggregated. Therefore, an owner or the department will not know that there is property available for an owner to claim. Under the previous statute, 70-9-310, MCA (1995), a claim could not be filed for less than \$10. The new language reflects the change to the law and addresses the fact that the state will not issue checks for less than \$50.

ARM 42.38.204 is amended to reflect the language in 70-9-825(4), MCA, which states that a finder's compensation, which is what the finder charges an owner for finding the abandoned property held by the state, cannot be unconscionable. A definition of what is considered to be unconscionable is found in the amendment to this rule. Thirty-two other states have a percentage that sets the maximum a finder can charge an owner for locating their abandoned property. The average of the 32 states which have a maximum is 15%. The amendment will protect an owner from being over charged by a finder that charges 20-50% and will allow the finder to receive adequate compensation for finding the owner of abandoned property.

ARM 42.38.205 is being repealed because the language contained in this rule is now under the dormancy charge as shown in 70-9-806, MCA.

5. 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 June 26, 1998.


6. If a person who is directly affected by the proposed action 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 June 26, 1998.

7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association

having 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.

8. All parties interested in receiving notification of any change in rules pertaining to this subject should contact the Rule Reviewer in writing at the address shown in section 5 above.


CLEO ANDERSON
Rule Reviewer


MARY BRYSON
Director of Revenue

Certified to Secretary of State May 18, 1998

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

In the matter of the) NOTICE OF AMENDMENT
amendment of rule 6.6.5101)
pertaining to the plan of)
operation for the small)
employer health reinsurance)
program.)

TO: All Interested Persons

1. On April 16, 1998, the State Auditor and Commissioner of Insurance published notice of proposed amendment of Rule 6.6.5101 pertaining to the plan of operation for the small employer health reinsurance program. The notice was published at page 814 of the 1998 Montana Administrative Register, issue number 7.

2. The agency has amended Rule 6.6.5101 exactly as proposed.

3. No comments or testimony were received.

By: 

Frank Cote
Deputy Insurance Commissioner

By: 

Russell B. Hill
Rules Reviewer

Certified to the Secretary of State this 18th day of May, 1998.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE
OF THE STATE OF MONTANA

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

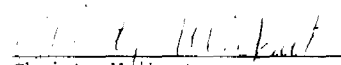
TO: All Interested Persons

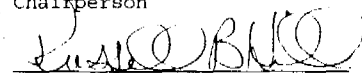
1. On March 12, 1998, the Classification Review Committee of the state of Montana published notice of proposed amendment of Rule 6.6.8301, concerning updating references to the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 ed. The notice was published at page 599 of the 1998 Montana Administrative Register, issue number 5.

2. The committee has amended Rule 6.6.8301 exactly as proposed.

3. No comments or testimony were received.

CLASSIFICATION REVIEW COMMITTEE

By: 
Christy Weikart
Chairperson

By: 
Russell B. Hill
Rules Reviewer

Certified to the Secretary of State on this 15th day of May, 1998.

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

In the matter of the adoption) NOTICE OF ADOPTION OF RULES
of rules pertaining to chemical) PERTAINING TO CHEMICAL
dependency counselor certifica-) DEPENDENCY COUNSELOR CERTI-
tion) FICATION

TO: All Interested Persons:

1. On March 12, 1998, the Chemical Dependency Counselor Certification Program of the Department of Commerce published a notice of public hearing on the proposed adoption of rules pertaining to chemical dependency counselor certification at page 602, 1998 Montana Administrative Register, issue number 5. The hearing was held on April 13, 1998, in Helena, Montana.

2. The Department has adopted new rules I (8.11.102), II (8.11.103), III (8.11.104), IV (8.11.105), V (8.11.106), VI (8.11.107), VII (8.11.108), VIII (8.11.109), IX (8.11.110), X (8.11.111), XI (8.11.112), XII (8.11.113), XIV (8.11.115), XV (8.11.116), XVI (8.11.117), XVII (8.11.118) and XVIII (8.11.119) exactly as proposed. The Department has adopted new rule XII (8.11.113) as proposed, but with the following changes:

"8.11.113 ORAL EXAMINATIONS (1) through (2)(g) will remain the same as proposed.

(3) The examiners shall be Montana certified counselors, with at least three year's experience - post certification - in a chemical dependency treatment setting, who have completed the department examiner training."

Auth: 37-35-103, MCA; IMP, Sec. 37-35-202, MCA

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

COMMENT NO. 1: One comment was received in support of the proposed rules.

RESPONSE: The Department acknowledges receipt of the comment in support.

COMMENT NO. 2: One comment was received stating New Rule V on Education Requirement provides for a baccalaureate degree, associate degree and training program course work, but excludes master's level course work at an accredited college or university. The comment stated this was an oversight, and in contradiction to the standards of national counseling training programs. Additionally, the comment stated that (1) limits education to accredited colleges or universities, but (2) allows workshop training and home study courses. The rule is unclear as to whether the 270 hours is a core curriculum or a substitute for education. The comment stated it was unclear whether the 270 hours were to be considered as part of the educational program, or part of the work experience program.

RESPONSE: The Department noted that the degree requirement is in statute, found at Mont. Code Ann. 37-35-202 (1997). The rule language merely reiterates what is found in statute, and cannot deviate from this statute. Therefore, the rule must use the proper statutory wording, as it has done in (1), and no change would be appropriate. Further, (2) on 270 contact hours appears clear as written. The 270 hour requirement applies to ALL education listed above in (1), as is stated in the rule. If the degree or training already included minimum hours in each of the listed areas, this will not have to be repeated. If, however, the degree or training did not include 270 hours in the listed areas, the rule will make clear which areas must be made up. In addition, the Department is proposing legislation for the 1999 Montana Legislative Session that will include the words "baccalaureate or post-graduate degree in ..." If this is successful, it will clarify the statutory language, and will cause the rule to be amended as well.

COMMENT NO. 3: One comment was received stating New Rule VI on Required Supervised Experience should not use the phrases "six months or 1000 hours" interchangeably. The comment suggested eliminating the phrase "six months." Also, (2) should not limit the experience setting to only two different treatment settings. Finally, (4) of New Rule VI should not require the outpatient facility providing supervisory experience to have medical detoxification services and psychiatric and psychological consultation, as this would unnecessarily limit the ability of state-approved agencies in rural areas to recruit or train interns.

RESPONSE: The Department noted (1) uses the phrase "six months" merely as a convenience for applicants, so the amount of time necessary to complete this requirement can be estimated. This gives the applicant a general idea of the time required. This phrasing also allows for full and part time work, as part time work is a common scenario for many applicants.

The Department further noted that (2) stating no more than two different treatment settings are allowed was a condition agreed to by a state-wide Task Force composed of certified chemical dependency counselors. The Task Force felt that more than two jobs in a six month period would not provide adequate clinical preparation and consistency in the supervised work experience.

Finally, the Department stated that it was this same state-wide Task Force which developed the criteria in (4) for what constitutes an appropriate substance abuse treatment program for supervised experience. The Task Force and the Department are aware that all treatment programs in the state must have a provision for medical detoxification services and psychiatric and psychological consultation, but the services are not necessarily in-house. The rule allows for this by stating the treatment setting must have "a direct referral affiliation" for these services. Program standards in all

practices require a referral affiliation to be present, and this would include practices in rural settings. The rule will not exclude treatment programs. The Department has determined this standard will ensure that quality supervisory experience will be gained by all applicants.

COMMENT NO. 4: One comment was received stating New Rule XII on Oral Exams should state the qualifications for the three examiners who will conduct the oral exam.

RESPONSE: The Department agreed with the comment, and will amend the rule as shown above, to include language on the qualifications of the three examiners for the oral exam.

COMMENT NO. 5: One comment was received stating New Rule XV on Continuing Education Requirements contains contradictory language, as (1) provides that CE credits cannot be carried over from one certification period to the next, while (2) states up to 20 CE credits may be carried forward to the next renewal cycle.

RESPONSE: The Department noted (1) of New Rule XV clearly states that training received prior to the date of certification (not after the certificate is received) is not counted for renewal, or toward the total CE credits required. This subsection does not address carry-over of CE credits at all. By contrast, (2) is also quite clear in stating carry-over of up to 20 CE hours (those earned after certification has been received) will be allowed. No ambiguity exists in the proposed rule language.

COMMENT NO. 6: One comment was received stating New Rule XVI on Course Criteria for CE does not say who will determine if course work is relevant. The comment noted that DPHHS prevention and gambling education, as well as LCPC and LCSW CE credits should meet the criteria. Further, the rule should not restrict credit for partial attendance, as some three day conventions or workshops contain stand-alone workshop elements.

RESPONSE: The Department noted the description of the types of acceptable CE courses is clear in the rule. The broad and inclusive language of the rule will allow most types of relevant courses in the chemical dependency counseling area. The Department of Commerce, by statute, has authority on the decision-making for this CDC program. Secondly, partial attendance is not allowed because the presenters have had their courses approved either in whole or in segments. If in segments, the presenters plan to present a certificate of completion after each segment. This would qualify for CE credit. If, however, the program has been approved as a whole, it is not intended to be divided into segments of attendance, and would require attendance throughout to earn a certificate of completion.

COMMENT NO. 7: One comment was received stating the rules refer to "chemical dependency counselor certification program" in several places, and "department" in others. It is not clear

what "program" refers to, and this reference should probably be changed to "department."

RESPONSE: The Department noted the rules appropriately refer to the "Department" (of Commerce) for any reference needing authority for decision making. The rules conversely use "program" to refer to the chemical dependency counselor certification program which is within the Department of Commerce whenever the applicants or licensees are being specifically directed as to where to submit papers or direct inquiries. The chemical dependency counselor certification program is within the Department of Commerce, POL Division, therefore either reference is correct.

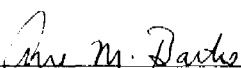
COMMENT NO. 8: One comment was received stating New Rule IV(1) refers to "non-resident consulting chemical dependency counselor services" as defined in Mont. Code Ann. §37-35-201. This statute does not define such services, so the rule language should be amended.

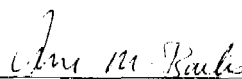
RESPONSE: The Department noted that Mont. Code Ann. 37-35-201 does define non-resident services, at (2)(e). This rule is therefore an attempt to expand and explain the procedural requirements for any non-resident chemical dependency counselor who wishes to provide limited professional services in this state. The citation is correct and appropriate.

COMMENT NO. 9: One comment was received stating the current proposed rules should not limit the educational qualification to a bachelor's degree only, to the exclusion of the AA degree. If the education is limited to a bachelor's degree, all students currently in a chemical dependency counseling AA school program should be grandfathered in under their current curriculum. The education requirement should be clarified.

RESPONSE: The Department noted the New Rule V(1)(b) specifically states an AA degree in alcohol and drug studies, chemical dependency or substance abuse from an accredited college or university WILL BE ACCEPTED for the education requirement. Since this rule repeats statutory language found at Mont. Code Ann. 37-35-202, the AA degree cannot be eliminated without a legislative statutory change. No grandfathering or other notification of current students is therefore required.

CHEMICAL DEPENDENCY COUNSELOR
CERTIFICATION PROGRAM
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS
RULE REVIEWER

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

Certified to the Secretary of State, May 18, 1998.

10-5/28/98

Montana Administrative Register

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

In the matter of the adoption) NOTICE OF ADOPTION
of new rules relating to)
financial assistance available)
under the drinking water state)
revolving fund act)

TO: All Interested Persons.

1. On April 16, 1998, the Department of Natural Resources and Conservation published notice of the proposed adoption of new Rules I through XX, which implement the provisions of the Drinking Water State Revolving Fund Act, at page 861 of the 1998 Montana Administrative Register, Issue No. 7.

2. The department has adopted new rules I through XX (36.23.101 through 36.23.120) as proposed, but with the following additions:

Rules I, III, V and VII through XX remain the same.

RULE II (36.23.102) DEFINITIONS In this chapter, the following terms have the meanings indicated below and are supplemental to the definitions contained in Title 75, chapter 6, parts 1 and 2, MCA; sections 300f through 300j-26 of the Federal Safe Drinking Water Act, 42 USC, as amended, and ARM 17.38.101 et seq. and 17.38.201 et seq. Terms used but not defined herein have the meanings prescribed in ARM 17.38.101 et seq. and 17.38.201 et seq. or the indenture of trust. (Definitions (2), (16), (19), (23), (28), (29), (30), (33), (35), (36), (40), (41), (42), (43) and (47) are statutory definitions.) Subsections (1) through (55) remain the same.

RULE IV (36.23.104) USE OF THE REVOLVING FUND

Subsections (1) through (4) remain the same. [With the exception of (1), this rule repeats statutory language.]

RULE VI (36.23.106) APPLICATION

Subsection (1) remains the same. [With the exception of the phrase "after consultation with the department of environmental quality," this rule repeats statutory language.]

AUTH: 75-6-205 and 75-6-232, MCA



IMP: 75-6-202, 75-6-205, 75-6-212, 75-6-221, 75-6-222,
75-6-223, 75-6-224, 75-6-226, MCA

3. The department thoroughly considered the one comment received. That comment and the department's response thereto are as follows:

COMMENT: The Legislative Services Division, Legal Services Office, felt some parts of the rules repeat state statute and are not necessary.

RESPONSE: The department agrees with the comment. However, many of the communities that will be using the rules to access the financing allowed are small public entities and associations of persons with volunteer boards or councils. The identified groups do not have ready access to the Montana Code Annotated. Since they do not have access or it would be a burden for them to obtain the Montana Code Annotated, having a complete copy of the rules will allow them to have a single source from which to obtain the necessary information. Therefore, the department will implement the comment by providing a reference clearly indicating the portion of the language that is statutory and the portion that is an amplification of the statutory language.

DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION

 
ARTHUR R. CLINCH, DIRECTOR DONALD D. MACINTYRE, RULE REVIEWER

Certified to the Secretary of State May 18, 1998.

BEFORE THE BOARD OF LAND COMMISSIONERS
AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION
of Rule I, pertaining to the)
grazing of domestic sheep on)
state tracts within or adjacent)
to occupied bighorn ranges.)

TO: All Interested Persons.

1. On March 26, 1998, the Board of Land Commissioners and the Department of Natural Resources and Conservation published notice of a public hearing to consider the proposed adoption of new Rule I pertaining to the grazing of domestic sheep on state tracts within or adjacent to occupied bighorn ranges at page 731 of the 1998 Montana Administrative Register, Issue No. 6.

2. The department has adopted new rule I (36.25.127) as proposed.

AUTH: 77-1-209, MCA

IMP: 77-1-203, MCA

3. Eleven persons attended the public hearing, nine of whom presented oral testimony and supporting information. In addition to those oral comments presented, the department received seven written comments during the designated comment period which ended April 23, 1998. Those comments and audio tape of the hearing are available for review at the DNRC main office upon request. All comments received endorsed the policy adopted by the Board of Land Commissioners and supported the proposed rule as written. Most of the comments strongly approved the process utilized to develop the policy and rule. No comments were received which opposed either the policy or the proposed rule as written. Additionally, no comments suggested any changes to the proposed language of the rule. A checklist environmental assessment was compiled regarding the proposed administrative rule and found no significant impacts as a result of this rulemaking.

BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



MARC RACICOT, CHAIR



ARTHUR R. CLINCH, DIRECTOR



DONALD D. MACINTYRE, RULE REVIEWER

Certified to the Secretary of State May 18, 1998.

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

In the matter of the adoption of) NOTICE OF ADOPTION
rules pertaining to marketing)
of water at state water projects)

TO: All Interested Persons.

1. On March 26, 1998, the Department of Natural Resources and Conservation published notice of the proposed adoption of new Rules I through IV, pertaining to the marketing of stored water at water projects owned by the department, specifically the negotiation of water marketing contracts, at pages 728-730 of the 1998 Montana Administrative Register, Issue No. 6.


2. The department has adopted new rules I through IV (36.30.101 through 36.30.104) as proposed.

AUTH: 85-1-201, MCA

IMP: 85-1-209 and 85-1-211, MCA

3. No comments were received.

DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION


ARTHUR R. CLINCH, DIRECTOR


DONALD D. MACINTYRE, RULE REVIEWER

Certified to the Secretary of State May 18, 1998.

TO: All Interested Persons

3. No comments or testimony were received.

Mimi Lerner
Director, Public Health and
Human Services

10-5/28/98

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL of) NOTICE OF REPEAL
ARM 42.31.331 relating to)
Tobacco Rules)

TO: All Interested Persons:

1. On March 26, 1998, the Department published notice of the proposed repeal of ARM 42.31.331 relating to Tobacco Rules at page 733 of the 1998 Montana Administrative Register, issue no. 6.

2. No comments were received regarding the rule.

3. The Department has repealed the rule as proposed.


CLEO ANDERSON
Rule Reviewer


MARY BYSON
Director of Revenue

Certified to Secretary of State May 18, 1998

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

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

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 1998. This table includes those rules adopted during the period April 1, 1998 through June 30, 1998 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 1998, 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, 1997 and 1998 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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- 44.9.101 and other rules - Mail Ballot Elections, p. 737, 1285

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- 44.10.331 Limitations on Receipts from Political Committees, p. 1986, 186

BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in April 1998, appear. Vacancies scheduled to appear from June 1, 1998, through August 31, 1998, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of May 8, 1998.

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

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Athletics (Commerce)			
Mr. Gary Langley	Governor	not listed	4/2/1998
Helena			4/25/2001
Qualifications (if required):	public member		
Commission on Practice of the Supreme Court (Supreme Court)			
Mr. Gary Davis	elected	not listed	4/1/1998
Helena			4/1/2002
Qualifications (if required):	none specified		
Mr. Sam Haddon	elected	not listed	4/1/1998
Missoula			4/1/2002
Qualifications (if required):	none specified		
MSU-Billings Executive Board (Education)			
Ms. Carol Willis	Governor	reappointed	4/15/1998
Billings			4/15/2001
Qualifications (if required):	public member		
MSU-Northern Executive Board (Education)			
Mr. Doug Ross	Governor	reappointed	4/15/1998
Havre			4/15/2001
Qualifications (if required):	public member		
Montana State University Executive Board (Education)			
Ms. Beatrice Taylor	Governor	Roehm	4/15/1998
Bozeman			4/15/2001
Qualifications (if required):	public member		

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Tech of the University of Montana (Education)			
Mr. Tad Dale	Governor	Fisher	4/15/1998
Butte			4/15/2001
Qualifications (if required):	public member		
Montana Workforce Preparation Coordinating Council (Labor and Industry)			
Ms. Sally Newhall	Governor	Estenson	4/30/1998
Great Falls			0/0/0
Qualifications (if required):	representing local education		
Montana-Alberta Boundary Advisory Council (Commerce)			
Ms. Lisa Perry	Governor	Dompier	4/1/1998
Shepherd			3/9/2000
Qualifications (if required):	representative of the Tourism Advisory Council		
Public Employees Retirement Board (Administration)			
Mr. Troy W. McGee, Sr.	Governor	reappointed	4/8/1998
Helena			4/1/2003
Qualifications (if required):	retired public employee		
Colonel Robert Griffith	Governor	Flanders	4/8/1998
Helena			4/1/2003
Qualifications (if required):	public member		
State Emergency Response Commission (Military Affairs)			
Captain David Martinson	Governor	Kobaszar	4/2/1998
Great Falls			8/10/1999
Qualifications (if required):	representative of Malmstrom Air Force Base		

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Trauma Care Committee (Public Health and Human Services)			
Ms. Dory Fried	Governor	Neff	4/2/1998
Malta			11/2/2000
Qualifications (if required): representative of the Eastern Regional Trauma Care Advisory Committee			
University of Montana Executive Board (Education)			
Ms. Arlene Breum	Governor	reappointed	4/15/1998
Missoula			4/15/2001
Qualifications (if required): public member			
Upper Clark Fork River Basin Remediation and Restoration (Environmental Quality)			
Mr. Jack Lynch	Governor	not listed	4/23/1998
Butte			4/23/2000
Qualifications (if required): local government representative			
Commissioner Gail Jones	Governor	not listed	4/23/1998
Deer Lodge			4/23/2000
Qualifications (if required): local government representative			
Mr. Jim Flynn	Governor	not listed	4/23/1998
Anaconda			4/23/2000
Qualifications (if required): businessperson			
Ms. Mary Secombe	Governor	not listed	4/23/1998
Butte			4/23/2000
Qualifications (if required): conservation district representative			
Dr. Pat Munday	Governor	not listed	4/23/1998
Walkerville			4/23/2000
Qualifications (if required): engineer			

BOARD AND COUNCIL APPOINTEES FROM APRIL, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Upper Clark Fork River Basin Remediation and Restoration (Environmental Quality) cont.			
Mr. Tom Bugni	Governor	not listed	4/23/1998
Butte			4/23/2000
Qualifications (if required):	member of the public active in conservation or recreation		
Ms. Kathleen Hadley	Governor	not listed	4/23/1998
Deer Lodge			4/23/2000
Qualifications (if required):	local natural resource scientist		
Mr. Bruce Hall	Governor	not listed	4/23/1998
Miltown			4/23/2000
Qualifications (if required):	local planner or local development specialist		
Mr. Geoff Smith	Governor	not listed	4/23/1998
Missoula			4/23/2000
Qualifications (if required):	representative of a non-profit organization		
Ms. Sally Johnson	Governor	not listed	4/23/1998
Missoula			4/23/2000
Qualifications (if required):	member of the public who does not represent one of the above		
Western Montana College of the University of Montana (Education)			
Ms. Betty Iverson	Governor	Blade	4/15/1998
Dillon			4/15/2001
Qualifications (if required):	public member		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Aging Advisory Council (Governor)		
Mr. M.L. Cook, Helena	Governor	7/18/1998
Qualifications (if required): representing Region III		
Ms. Fern Prather, Big Timber		
Qualifications (if required): representing Region II	Governor	7/18/1998
Mr. R.H. Hultman, Drummond		
Qualifications (if required): representing Region V	Governor	7/18/1998
Mr. Irvin Hutchison, Chester		
Qualifications (if required): representing Region III	Governor	7/18/1998
Agriculture Development Council (Agriculture)		
Mr. Peter Blouke, Helena	Governor	7/1/1998
Qualifications (if required): Director of the Department of Commerce		
Mr. Larry Johnson, Kremlin		
Qualifications (if required): active in agriculture	Governor	7/1/1998
Mr. P.L. "Joe" Boyd, Billings		
Qualifications (if required): actively engaged in agriculture	Governor	7/1/1998
Mr. W. Ralph Peck, Helena		
Qualifications (if required): Director of the Department of Agriculture	Governor	7/1/1998
Alfalfa Leaf-Cutting Bee Advisory Committee (Agriculture)		
Mr. Allen Whitmer, Bloomfield	Governor	7/1/1998
Qualifications (if required): representative of an alfalfa seed association		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alfalfa Leaf-Cutting Bee Advisory Committee (Agriculture) cont. Mr. W. Ralph Peck, Helena Qualifications (if required): representative of the Department of Agriculture	Governor	7/1/1998
Ms. Sue Blodgett, Bozeman Qualifications (if required): representative of the extension service of Montana State University	Governor	7/1/1998
Board of Banking (Commerce) Mr. Douglas Morton, Kalispell Qualifications (if required): national bank officer	Governor	7/1/1998
Ms. Shirley Gierke, Miles City Qualifications (if required): public member	Governor	7/1/1998
Board of Barbers (Commerce) Mr. Max DeMars, Big Timber Qualifications (if required): barber	Governor	7/1/1998
Board of Funeral Service (Commerce) Mr. Douglas D. Lowry, Big Timber Qualifications (if required): licensed mortician	Governor	7/1/1998
Board of Hearing Aid Dispensers (Commerce) Ms. Kristy Foss, Billings Qualifications (if required): hearing aid dispenser	Governor	7/1/1998
Board of Landscape Architects (Commerce) Mr. Robert Broughton, Hamilton Qualifications (if required): licensed architect	Governor	7/1/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Landscape Architects (Commerce) cont. Mr. Lester Field, Townsend Qualifications (if required): public member	Governor	7/1/1998
Board of Nursing (Commerce) Ms. Bianche Proul, Anaconda Qualifications (if required): public member	Governor	7/1/1998
Ms. Suzzie Thomas, Stevensville Qualifications (if required): licensed practical nurse	Governor	7/1/1998
Ms. Rita Harding, Edgar Qualifications (if required): registered nurse	Governor	7/1/1998
Ms. Kathy Barkus, Kalispell Qualifications (if required): public member	Governor	7/1/1998
Board of Pharmacy (Commerce) Ms. Ann H. Pasha, Highwood Qualifications (if required): public member	Governor	7/1/1998
Board of Physical Therapy Examiners (Commerce) Ms. Colleen Hatcher, Miles City Qualifications (if required): physical therapist	Governor	7/1/1998
Board of Private Security Patrol Officers and Investigators (Commerce) Ms. Mary Luntsford, Kalispell Qualifications (if required): representing proprietary security organizations	Governor	8/1/1998
Mr. Gary Gray, Great Falls Qualifications (if required): representing contract security companies	Governor	8/1/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Private Security Patrol Officers and Investigators (Commerce) cont. Mr. Michael Ames, Colstrip Qualifications (if required): representative of a proprietary security organization	Governor	8/1/1998
Board of Professional Engineers and Land Surveyors (Commerce) Mr. Paul Dana, Billings Qualifications (if required): public member	Governor	7/1/1998
Mr. Daniel Prill, Great Falls Qualifications (if required): professional engineer	Governor	7/1/1998
Mr. Richard Ainsworth, Missoula Qualifications (if required): professional land surveyor	Governor	7/1/1998
Board of Public Accountants (Commerce) Mr. James R. Smrcka, Glasgow Qualifications (if required): certified public accountant	Governor	7/1/1998
Board of Radiologic Technologists (Commerce) Mr. Jim Winter, Great Falls Qualifications (if required): radiologic technologist	Governor	7/1/1998
Dr. Daniel Alzheimer, Helena Qualifications (if required): physician who employs a radiologic technologist	Governor	7/1/1998
Board of Regents of Higher Education (Education) Mr. Jason Thielman, Missoula Qualifications (if required): student representative	Governor	6/1/1998
Board of Sanitarians (Commerce) Ms. Melissa Tuemmler, Ulm Qualifications (if required): sanitarian	Governor	7/1/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Veterinary Medicine (Commerce)		
Dr. Robert P. Myers, Bozeman	Governor	7/31/1998
Qualifications (if required): licensed veterinarian		
Board of Water Well Contractors (Natural Resources and Conservation)		
Mr. Pat Byrne, Great Falls	Governor	7/1/1998
Qualifications (if required): water well contractor		
Committee on Telecommunications Services for the Handicapped (Social and Rehabilitation Services)		
Mr. John Delano, Helena	Governor	7/1/1998
Qualifications (if required): non-handicapped and engaged in business		
Mr. Ben Havdahl, Helena	Governor	7/1/1998
Qualifications (if required): hard of hearing		
Mr. Ron Bibler, Great Falls	Governor	7/1/1998
Qualifications (if required): handicapped		
Community Services Advisory Council (Governor)		
Mr. Bob Simoneau, Helena	Governor	7/1/1998
Qualifications (if required): representing the Department of Labor and Industry		
Ms. Patricia J. Gunderson, Belgrade	Governor	7/1/1998
Qualifications (if required): representing labor unions		
Ms. Billie Krenzler, Billings	Governor	7/1/1998
Qualifications (if required): representing local government		
Ms. Candace Bowman, Lewistown	Governor	7/1/1998
Qualifications (if required): representing human services		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Community Services Advisory Council (Governor) cont. Mr. Bill Cain, Butte Qualifications (if required): representing business	Governor	7/1/1998
Electrical Board (Commerce) Mr. Todd Stoddard, Dillon Qualifications (if required): licensed journeyman electrician	Governor	7/1/1998
Family Education Savings Program Oversight Committee (Commissioner of Higher Education) Mr. Gerry Meyer, Great Falls Qualifications (if required): public member	Governor	7/1/1998
Governor's Advisory Council on Disability (Administration) Mr. Peter Leech, Missoula Qualifications (if required): public member	Governor	8/1/1998
Mr. James Meldrum, Helena Qualifications (if required): public member	Governor	8/1/1998
Ms. Mary Morrison, Missoula Qualifications (if required): public member	Governor	8/1/1998
Mr. Michael Regnier, Missoula Qualifications (if required): public member	Governor	8/1/1998
Mr. Bill Roberts, Helena Qualifications (if required): public member	Governor	8/1/1998
Ms. Anne MacIntyre, Helena Qualifications (if required): ex-officio member	Governor	8/1/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Advisory Council on Disability (Administration) cont.		
Mr. William Jones, Great Falls	Governor	8/1/1998
Qualifications (if required): public member		
Ms. Patricia Lockwood, Laurel	Governor	8/1/1998
Qualifications (if required): public member		
Governor's Council on Families (Public Health and Human Services)		
Rep. Loren Soft, Billings	Governor	6/25/1998
Qualifications (if required): public member		
Rep. Betty Lou Kasten, Brockway	Governor	6/25/1998
Qualifications (if required): public member		
Mr. Kirk Astroth, Bozeman	Governor	6/25/1998
Qualifications (if required): public member		
Judge Katherine "Kitty" Curtis, Columbia Falls	Governor	6/25/1998
Qualifications (if required): public member		
Dr. Stephen Duncan, Bozeman	Governor	6/25/1998
Qualifications (if required): public member		
Ms. Bonnie Bowman McGowan, Highwood	Governor	6/25/1998
Qualifications (if required): public member		
Mr. Wade Riden, Chinook	Governor	6/25/1998
Qualifications (if required): public member		
Ms. Kathleen Jensen, Westby	Governor	6/25/1998
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Families (Public Health and Human Services) cont.		
Mr. John Vincent, Gallatin Gateway	Governor	6/25/1998
Qualifications (if required): public member		
Mr. Peter Bruno, Glendive	Governor	6/25/1998
Qualifications (if required): public member		
Mr. Stanley Rathman, Choteau	Governor	6/25/1998
Qualifications (if required): public member		
Mr. Bill Pena, Seeley Lake	Governor	6/25/1998
Qualifications (if required): public member		
Mr. Michael McCarvel, Helena	Governor	6/25/1998
Qualifications (if required): public member		
Judge Gary Acevedo, Ronan	Governor	6/25/1998
Qualifications (if required): public member		
Ms. Kathy Peoples, Butte	Governor	6/25/1998
Qualifications (if required): public member		
Ms. M.J. Fors, Great Falls	Governor	6/25/1998
Qualifications (if required): public member		
Ms. Kim Visser, Missoula	Governor	6/25/1998
Qualifications (if required): public member		
Ms. Kathleen Heiser, Billings	Governor	6/25/1998
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historical Society Board of Trustees (Historical Society)		
Dr. Thomas A. Foor, Missoula	Governor	7/1/1998
Qualifications (if required): anthropologist/archeologist		
Mr. William M. Holt, Lolo	Governor	7/1/1998
Qualifications (if required): public member		
Ms. Vicki A. McCarthy, Billings	Governor	7/1/1998
Qualifications (if required): public member		
Indian Burial Preservation Board (Commerce)		
Mr. Gilbert Horn, Harlem	Governor	8/22/1998
Qualifications (if required): representing the Gros Ventre Tribe		
Mr. John Pretty On Top, Crow Agency	Governor	8/22/1998
Qualifications (if required): representing the Crow Tribe		
Mr. Germaine White, Pablo	Governor	8/22/1998
Qualifications (if required): representing the Little Shell Band of Chippewa Indians		
Mr. Mickey Nelson, Helena	Governor	8/22/1998
Qualifications (if required): representing the Montana Coroner's Association		
Mr. Duncan Standing Rock, Sr., Box Elder	Governor	8/22/1998
Qualifications (if required): representing the Chippewa-Cree Tribe		
Dr. Ken Deaver, Billings	Governor	8/22/1998
Qualifications (if required): representing the Montana Archaeological Association		
Lewis and Clark Bicentennial Advisory Council (Historical Society)		
Mr. John G. Lepley, Fort Benton	Governor	8/1/1998
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis and Clark Bicentennial Advisory Council Ms. Edythe McCleary, Hardin Qualifications (if required): public member	(Historical Society) cont. Governor	8/1/1998
Mr. John Pretty On Top, Crow Agency Qualifications (if required): public member	Governor	8/1/1998
Mr. Mike Labriola, Great Falls Qualifications (if required): public member	Governor	8/1/1998
Mr. Tim Crawford, Helena Qualifications (if required): public member	Governor	8/1/1998
Ms. Gloria Wester, Laurel Qualifications (if required): public member	Governor	8/1/1998
Mr. Jack Hines, Big Timber Qualifications (if required): public member	Governor	8/1/1998
Mr. Dennis Seibel, Bozeman Qualifications (if required): public member	Governor	8/1/1998
Ms. Diane Wolfe, Missoula Qualifications (if required): public member	Governor	8/1/1998
Ms. Jan Blaydon, Missoula Qualifications (if required): public member	Governor	8/1/1998
Dr. Robert Bergantino, Butte Qualifications (if required): public member	Governor	8/1/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Lewis and Clark Bicentennial Advisory Council Mr. Darrell Kipp, Browning Qualifications (if required): public member	(Historical Society) cont. Governor	8/1/1998
Ms. Nancy Maxson, Missoula Qualifications (if required): public member	Governor	8/1/1998
Ms. Mary Partridge, Miles City Qualifications (if required): public member	Governor	8/1/1998
Mr. Loren Stiffarm, Harlem Qualifications (if required): public member	Governor	8/1/1998
Colonel Harold Stearns, Missoula Qualifications (if required): public member	Governor	8/1/1998
Ms. Mary Farver Urquhart, Great Falls Qualifications (if required): public member	Governor	8/1/1998
Montana Mint Committee (Agriculture) Mr. Darrel Sperry, Corvallis Qualifications (if required): mint grower	Governor	7/1/1998
Petroleum Tank Release Compensation Board (Environmental Quality) Ms. Laura Nordahl, Helena Qualifications (if required): representative of the industry	Governor	6/30/1998
Mr. Gary Basso, Billings Qualifications (if required): representative of the insurance industry	Governor	6/30/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

Board/current position holder	Appointed by	Term end
Petroleum Tank Release Compensation Board (Environmental Quality) cont.		
Mr. Dallas Herron, Kalispell	Governor	6/30/1998
Qualifications (if required): representative of the petroleum services industry		
Risk Management Advisory Committee (Administration)		
Ms. Jane Reed Benson, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Environmental Quality		
Ms. Lois A. Menzies, Helena	Governor	8/26/1998
Qualifications (if required): representing the Governor's Office		
Mr. Bob Person, Helena	Governor	8/26/1998
Qualifications (if required): representing the Legislative Services Division		
Ms. Donna Campbell, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Fish, Wildlife and Parks		
Mr. Gary Managhan, Helena	Governor	8/26/1998
Qualifications (if required): representing the Office of Secretary of State		
Ms. Barb Charlton, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Commerce		
Ms. Ann Gilkey, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Public Health and Human Services		
Ms. Karen Munro, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Justice		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Advisory Committee (Administration) cont.		
Captain Thomas Muri, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Military Affairs		
Mr. Mike Zahn, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Revenue		
Mr. Bruce Swick, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Natural Resources and Conservation		
Mr. Michael Buckley, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Transportation		
Mr. Patrick A. Chenovick, Helena	Governor	8/26/1998
Qualifications (if required): representing the Montana Judiciary		
Ms. Laura Calkin, Helena	Governor	8/26/1998
Qualifications (if required): representing the Montana Public Service Commission		
Ms. Janie Wunderwald, Helena	Governor	8/26/1998
Qualifications (if required): representing the Department of Corrections		
Ms. GERALYN Driscoll, Helena	Governor	8/26/1998
Qualifications (if required): representing the Office of Public Instruction		
Mr. Carl Swanson, Helena	Governor	8/26/1998
Qualifications (if required): representing the State Compensation Insurance Fund		

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Advisory Committee (Administration) cont.		
Mr. Richard A. Crofts, Helena Qualifications (if required): representing the Office of the Commissioner of Higher Education	Governor	8/26/1998
Mr. Mike Krings, Helena Qualifications (if required): representing the Department of Administration	Governor	8/26/1998
Ms. Sandra Kuchenbrod, Helena Qualifications (if required): representing the Department of Agriculture	Governor	8/26/1998
Mr. David Scott, Helena Qualifications (if required): representing the Department of Labor and Industry	Governor	8/26/1998
Mr. George Harris, Helena Qualifications (if required): representing the Department of Livestock	Governor	8/26/1998
Ms. Sharon McCabe, Helena Qualifications (if required): representing the Montana Historical Society	Governor	8/26/1998
Mr. Bob Post, Helena Qualifications (if required): representing the Office of the State Auditor	Governor	8/26/1998
Teachers' Retirement Board (Administration)		
Dr. Rick Stuber, Culbertson Qualifications (if required): teacher	Governor	7/1/1998
Tourism Advisory Council (Commerce)		
Ms. Diane Brandt, Glasgow Qualifications (if required): representing Missouri Country	Governor	7/1/1998

VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 1998 through AUGUST 31, 1998

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Tourism Advisory Council (Commerce) cont.		
Ms. Maureen Averill, Bigfork	Governor	7/1/1998
Qualifications (if required): representing Glacier Country		
Ms. Edythe McCleary, Hardin	Governor	7/1/1998
Qualifications (if required): represents Custer Country		
Ms. Lisa Perry, Shepherd	Governor	7/1/1998
Qualifications (if required): representing Custer Country		
Ms. Betsy Baumgart, Helena	Governor	7/1/1998
Qualifications (if required): representing Gold Country		
Mr. Robert Dompier, Great Falls	Governor	7/1/1998
Qualifications (if required): representing the Montana Innkeepers Association		
Western Interstate Commission on Higher Education (Education)		
Rep. Emily Swanson, Bozeman	Governor	6/19/1998
Qualifications (if required): legislator		
Wheat and Barley Committee (Agriculture)		
Mr. Fred Elling, Rudyard	Governor	8/20/1998
Qualifications (if required): Republican from District II		
Ms. Judy Vermulm, Cut Bank	Governor	8/20/1998
Qualifications (if required): Democrat from District III		