

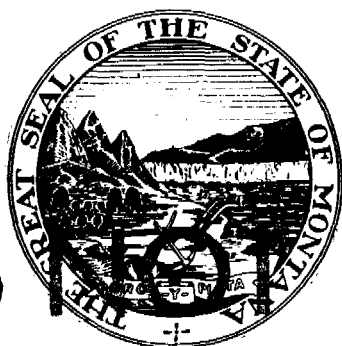
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MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 19

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment)	NOTICE OF PUBLIC HEARING ON
of rule 2.55.321, pertaining)	THE PROPOSED AMENDMENT OF
to calculation of experience)	RULE 2.55.321
rates)	

TO: All Interested Persons:

1. On October 28, 1998 the State Compensation Insurance Fund will hold a public hearing at 2:00 p.m., in Room 201 of the State Compensation Insurance Fund Building, 5 South Last Chance Gulch, Helena, Montana, to consider the amendment of rule 2.55.321.

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

2.55.321 CALCULATION OF EXPERIENCE RATES (1) For each classification, the state fund staff shall calculate an experience rate based upon the experience of the class. The experience rate must be based on a review of the total incurred losses and total payroll in the classification during up to 10 full fiscal years immediately preceding the date of review. "Fiscal year" means the year beginning July 1. The experience rate is derived by dividing the weighted selected liabilities by the weighted selected payroll. The experience rate shall be adjusted for current state fund expenses and the current state fund rate level, excluding construction credit program offsets. For each fiscal year, in consultation with the actuary, liabilities shall be adjusted for actuarially-determined differences in benefit levels, loss trends, reserve development, and other actuarially predicted costs. For each fiscal year, in consultation with the actuary, payroll shall be adjusted for actuarially-determined differences in payroll trends. The number of selected payroll and liability years and the weight of each shall be approved by the board. With approval of the board, experience rates may be limited to a percentage variance from current rates excluding construction credit program offsets; the percentage variance may vary by credibility. The net result is a set of experience-based rates which, based on payroll of the last complete fiscal year would be expected to develop approximately the same level of revenue as the current set of rates in force, excluding construction credit program offsets after the application of credibility in ARM 2.55.322, and the exceptions provided in ARM 2.55.324. With approval of the board, payroll of the last complete fiscal year may be adjusted for projected payroll distributions.

AUTH: Sec. 39-71-2315 and 39-71-2316 MCA; IMP: Sec. 39-71-2316 and 39-71-2330 MCA.

RATIONALE: Each year the State Fund reviews its processes,

procedures, formulas and factors for the adopting and changing of premium rates to determine if they meet future ratemaking needs. Pursuant to this review the internal actuary made a recommendation to improve the current process. It is reasonably necessary in response to this review and recommendation by the actuary to amend the current rule. The amendment would permit the state fund to mitigate rate indications judged not to be a reasonable prediction of future loss experience for classifications with low amounts of covered payroll for which the State Fund loss data is potentially unreliable. Under the proposed rule, the board would be allowed to approve upper and lower constraints on State Fund experience rates based on a percentage of current rates. The State Fund is required by law in 39-71-2316, MCA to place the processes, procedures, formulas and factors for ratemaking in administrative rule form, thereby necessitating this amendment in order to change to process as recommended.

3. The State Compensation Insurance Fund makes reasonable accommodations for persons with disabilities who wish to participate in this public hearing. Persons needing accommodations must contact the State Fund, Attn: Ms. Rita Bird, P.O. Box 4759, Helena, MT 59604; telephone (406) 444-6480; TDD (406) 444-5971; fax (406) 444-6555, no later than 5:00 p.m., October 26, 1998, to advise as to the nature of the accommodation needed and to allow adequate time to make arrangements.

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 state fund attorney Nancy Butler, Legal Department, State Compensation Insurance Fund, 5 South Last Chance Gulch, P.O. Box 4759, Helena, Montana 59604-4759, and must be received no later than 5:00 p.m. November 5, 1998. The state fund maintains a list of interested persons, which must include the subject, or subjects in which each person on the list is interested. Any interested person may be placed on the list by providing the name, address, and subject matter of which the interested person desires notice to Ms. Rita Bird, P.O. Box 4759, Helena, MT 59601, telephone (406) 444-6480.

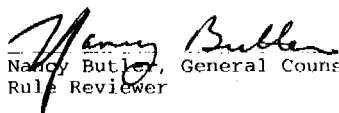
5. The State Fund Legal Department has been designated to preside over and conduct the hearing.



Dal Smilie, Chief Legal Counsel
Rule Reviewer



Jim Brouelette
Chairman of the Board



Nancy Butler, General Counsel
Rule Reviewer

Certified to the Secretary of State September 28, 1998.

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING
repeal of rules 12.6.1501) ON PROPOSED REPEAL AND ADOPTION
through 12.6.1519 and adoption) OF GAME FARM RULES
of new rules I through XXV)
relating to game farms.)

TO: All Interested Persons.

1. The Department of Fish, Wildlife and Parks (department) will hold public hearings to consider the repeal of present game farm rules and adoption of new game farm rules. The hearing dates and places are as follows:

November 2, 1998, 7:00 p.m.
Billings Hotel and Convention Center (Clarion Hotel)
1123 Malowney Lane
Billings, Montana

November 4, 1998, 7:00 p.m.
Heritage Inn, Alberta Room
10th Avenue South
Great Falls, Montana

November 5, 1998, 7:00 p.m.
Doubletree Inn
100 Madison
Missoula, Montana

These hearings will be held jointly with the Department of Livestock. The Department of Livestock is proposing to adopt game farm rules to implement their statutory responsibilities in the regulation of game farms in this issue of the register as MAR Notice No. 32-3-143. The proposed rules of both departments have been jointly developed in a public process under the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1, MCA.

2. Rules 12.6.1501 through 12.6.1519 as proposed to be repealed are on pages 12-342.1 through 12-342.13 of the Administrative Rules of Montana, respectively.

AUTH: 81-1-102, 81-2-102, 81-2-103, 81-2-707, 81-3-202, 87-4-415, and 87-4-422, MCA

IMP: 81-2-102, 81-2-107, 81-2-703, 81-3-203, 81-3-210, 87-4-406, 87-4-409, 87-4-414, 87-4-415, 87-4-416, 87-4-417, 87-4-418, 87-4-419, 87-4-422, 87-4-423, and 87-4-424, MCA

3. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS The definitions in 87-4-406, MCA, and the following apply to this subchapter:

(1) "Catch pen" has the meaning defined in [proposed NEW RULE I of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register].

(2) "Elk-red deer hybrid" means an animal produced by the mating of a North American elk (Cervus elaphus canadensis, roosevelti, manitobensis, nannodes or nelsoni) and a red deer (Cervus elaphus elaphus) and all subsequent progeny.

(3) "Game farm animals" mean the animals defined as game farm animals and cloven-hoofed ungulates in 87-4-406, MCA, except domestic water buffalo (*Bubalus bubalis*).

(4) "Game proof" means:

(a) for game farms holding exclusively cloven-hoofed ungulates, that game farm animals cannot escape the game farm and that game animals (excluding mountain lions and bears) cannot enter the game farm;

(b) for game farms holding omnivores or carnivores, that game farm animals cannot escape the game farm and that game animals (including mountain lions and bears) cannot enter the game farm.

(5) "Handling device" has the meaning defined in [proposed NEW RULE I of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register].

(6) "Invoice/bill of sale" is a form utilized by the department to document the sale and movement of carnivores and omnivores.

(7) "Knotted-joint" means a joint consisting of a one-piece, continuous stay wire and a separate knotting wire.

(8) "Montana Environmental Policy Act" and "MEPA" means the Montana Environmental Policy Act, as amended, at Title 75, chapter 1, parts 1 through 3, MCA.

(9) "Peak number" of game farm animals means the highest number of game farm animals, including adults and offspring, births and purchases, that occupy a game farm at any time during a license year. The number of offspring for the purpose of this definition shall be the actual number, at the time of counting, of game farm animals born and surviving in the calendar year at issue.

(10) "Quarantine facility" has the meaning defined in [proposed NEW RULE I of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register].

(11) "Reconstruction" means the replacement of posts and the replacement of a section of mesh fence between any two exterior fence braces. The term excludes repairs, such as stapling and the replacement of posts or wire to close a gap or hole in a fence. If a section of exterior mesh fence between two fence braces is reconstructed, it must be constructed in compliance with the requirements of [NEW RULE XII] and be inspected by the department.

(12) "Transfer" as used in 87-4-417, MCA, and [NEW RULE XX], means the movement of any game farm animal to or from a game farm, and also includes the change in ownership interest or any part of an ownership interest in a game farm animal.

AUTH: 87-4-422, MCA

IMP: 87-4-406, MCA

NEW RULE II ADDITION AND DELETION OF SPECIES AS GAME FARM ANIMALS

(1) Any person desiring to add or delete a species of cloven-hoofed ungulate to the definition of game farm animals in [NEW RULE I(3)] shall petition the department to initiate a rulemaking proceeding pursuant to 2-4-315, MCA, and ARM 1.3.205 and 12.2.101.

AUTH: 87-4-422, MCA

IMP: 87-4-424, MCA

NEW RULE III LICENSE APPLICATION AND DEPARTMENT APPROVAL

(1) Applicants for a game farm license shall file with the department and the department of livestock a written application on a form prescribed by the department. The applicant shall include the initial license fee with the application.

(2) The application must include the following minimum requirements:

(a) a written description setting forth the township, range, and section, or portion of section, and estimated acreage of the game farm;

(b) a 7½ minute topographical map identifying the location of the game farm;

(c) a detailed drawing or map of the game farm showing the location of the exterior fence, all exterior gates, catch pens and quarantine facilities;

(d) a written description of specifications for all exterior fencing, including portions of quarantine and other internal facilities that serve as exterior fencing;

(e) documentation showing compliance with the application requirements for catch pens, handling devices and quarantine facilities in department of livestock rule [proposed NEW RULE XIX of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register];

(f) the species and peak numbers of game farm animals that will occupy the game farm;

(g) for game farm animals other than antelope, black bear, caribou, elk, fallow deer, mountain goat, mountain lion, mountain sheep, mule deer, muskox, reindeer, and whitetail deer, the applicant shall provide information required to evaluate the potential threat the species may pose to native wildlife or livestock through nonspecific genetic dilution, habitat degradation or competition caused by feral populations of escaped game farm animals, parasites and disease; and

(h) information showing the applicant's capacity to conduct regular inspections and to detect and respond on a timely basis to occurrences of ingress and egress.

(3) If the applicant anticipates expansions, increases in animal numbers or other modifications in the future, the applicant may request at the time of initial application that the department conduct a comprehensive environmental review pursuant to [NEW RULE VI] on all phases of the proposed project. The applicant's request must specify the elements of each future phase, including for each phase the proposed exterior fence locations, peak numbers and species of animals that will occupy the game farm.

(4) The department may not approve an application for a game farm that is in other than a single location. A game farm may be considered as a single location if the parcels of property comprising the game farm are contiguous and under the same ownership or secured lease. Contiguous property may include parcels separated by a public or private road or a river

or stream, or adjacent property under the same ownership or lease.

(5) The applicant shall complete the construction of the proposed game farm facilities within three years after the department approves the application. If the applicant fails to complete construction or obtain an extension within such period, the applicant must file a new application. If the department conducted a comprehensive environmental review on a phased development pursuant to (3), the applicant shall complete the construction for the phase or phases for which the applicant has requested and received approval within three years after the department's approval. To proceed with any additional phases, the licensee shall apply and receive approval for a license modification and shall complete any construction associated with such additional phases within three years after the department's approvals. The applicant may request extensions of the three year construction periods pursuant to [NEW RULE XXV].

AUTH: 87-4-422, MCA

IMP: 87-4-409 and 87-4-426, MCA

NEW RULE IV ISSUANCE OF LICENSE (1) The department may not issue a license until after it has approved the application for license and the following have been completed:

(a) the department has inspected and approved the applicant's fencing; and

(b) the department of livestock has approved the construction of catch pens, handling device and quarantine facilities.

AUTH: 87-4-422, MCA

IMP: 87-4-408 and 87-4-426, MCA

NEW RULE V LICENSE MODIFICATIONS (1) A licensee may not expand the area enclosed by exterior fence, exceed the peak number of animals, add a new species, or implement a minor modification pursuant to (3) without having requested and received the department's approval for a license modification. Applications for modifications must be made on forms prescribed by the department and must include the required fee.

(2) The department will review an application for modification of a license and determine whether it is complete within 30 days of its receipt. Within 45 days of accepting an application as complete, the department will determine whether a prior environmental review sufficiently addressed the impacts of the proposed changes. If the department determines not to perform a supplemental environmental review, the department will issue a decision to approve, deny or approve the application with stipulations within the 45 day period. If the department determines to perform a supplemental environmental review, the department will complete the review and issue a proposed decision within 120 days from the date of the acceptance of the application as complete. The department's decision will be issued in accordance with the procedures in 87-4-426, MCA.

(3) Minor modifications of game farm facilities include but are not limited to the reconstruction of fences, installation and relocation of exterior gates, and the relocation of exterior fences within the previously approved

perimeter. The reconstruction of fences, installation and relocation of exterior gates, and the relocation of exterior fences within the previously approved perimeter shall be categorically excluded from the requirement for the preparation of an environmental assessment or an environmental impact statement, unless a modification may involve one or more of the following extraordinary circumstances:

(a) significant impacts on wildlife resources or water quality; or

(b) any other kind of significant environmental impact, including cumulative or secondary impacts.

(4) A licensee may not change the location of a quarantine facility without complying with department of livestock regulation [proposed NEW RULE XXI of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register]. The department will not approve the license modification until the department of livestock has approved the new construction of catch pens and quarantine facilities under the process provided for in [proposed NEW RULE XXI of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register]. The department will not review such modifications under the process provided for in this rule.

AUTH: 87-4-422 and 87-4-426, MCA IMP: 87-4-426, MCA

NEW RULE VI ENVIRONMENTAL REVIEWS (1) The department will perform an environmental review under the Montana Environmental Policy Act (MEPA) on all applications for game farm licenses. The review will consider the peak number of animals identified in the application. The department may also perform a review of cumulative phases identified in an application.

(2) The department or its representatives shall discuss with the applicant the environmental impacts of the proposed action and potential mitigation measures or stipulations identified in the department's initial review prior to the issuance of a draft environmental assessment (EA) or environmental impact statement (EIS).

(3) The department may conduct a supplemental environmental review of a game farm operation, including modifications to licenses, under any of the following conditions:

(a) there are substantial changes in the proposed action that are relevant to environmental concerns; or

(b) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(4) A supplemental environmental review must include, but is not limited to, a description of the following:

(a) an explanation of the need for the supplement;

(b) the proposed action; and

(c) any impacts, alternatives or other items required by ARM 12.2.432 for an EA, by ARM 12.2.436 for a draft EIS, or by ARM 12.2.438 for a final EIS that were either not covered in the original environmental review or that must be revised based on

new information or circumstances concerning the proposed license modification.

(5) The renewal or transfer of a license pursuant to 87-4-412, MCA, is a ministerial action under the provisions of ARM 12.2.430(5)(e) and is not subject to an environmental review.

AUTH: 87-4-422, MCA

IMP: 87-4-409 and 87-4-426, MCA

NEW RULE VII LICENSE FEES (1) The initial application fee shall be as set forth in 87-4-411, MCA. The fee shall be based upon the peak number of animals identified in the application. If the applicant has submitted an application that identifies phases of construction, the fee shall be based upon the peak number of animals in the phase with the largest proposed number of animals.

(2) The annual renewal fee shall be as set forth in 87-4-411, MCA. The fee shall be based upon the number of animals, including offspring, owned, leased or kept on the game farm as of December 31 of the year preceding the renewal.

(3) The fee for an application for a license modification shall equal the initial application fee prescribed in (1) based upon the peak number of animals identified in the application for license modification. If the department determines not to perform a supplemental environmental review under MEPA, the department shall refund the fee.

AUTH: 87-4-422, MCA

IMP: 87-4-411, MCA

NEW RULE VIII LICENSE RENEWAL (1) A game farm license may be renewed prior to January 31 upon payment of the annual renewal fee and submission of the reports required by 87-4-417, MCA. The department's issuance of a renewal shall not constitute the department's approval of the accuracy or completeness of the reports or records submitted by the licensee. A licensee who fails to submit the renewal fee and required reports by April 1 shall file a new license application form accompanied by the initial application fee.

AUTH: 87-4-422, MCA

IMP: 87-4-412, MCA

NEW RULE IX LICENSE TRANSFERS (1) A licensee may not transfer a license without having requested and received the approval of the department. The licensee and transferee shall request such approval by filing an application on a form prescribed by the department.

AUTH: 87-4-422, MCA

IMP: 87-4-412, MCA

NEW RULE X LEGAL SOURCES (1) The licensee shall obtain, purchase, board, or lease game farm animals from properly licensed or legal sources.

AUTH: 87-4-422, MCA

IMP: 87-4-414, MCA

NEW RULE XI NOTICE OF MODIFICATION OR TERMINATION OF LEASES

(1) A licensee, which relies upon a lease or other agreement for its use or occupancy of any portion of the licensee's game farm or game farm facilities, shall notify the

department and the department of livestock within 10 days of the modification or termination of such lease or agreement.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

NEW RULE XII MINIMUM FENCE STANDARDS FOR APPLICATIONS FILED AFTER [EFFECTIVE DATE OF THESE RULES] FOR FACILITIES HOLDING CLOVEN-HOOFED UNGULATES (1) After [effective date of these rules], applicants for a game farm license or expansion shall construct game farm exterior fencing for facilities holding cloven-hoofed ungulates in compliance with the following minimum fencing standards and the requirements of [NEW RULE XVI].

(2) Exterior fences must be constructed to a minimum height of 8 feet with high tensile 12½ gauge, knotted-joint, woven wire game fence with vertical wires every 6 inches and 17 or more strands of horizontal wires. The fence bottoms must be installed to provide not more than 3 inches of ground clearance. The fence wire must be placed on the inside of the line posts, or in such other manner as will ensure the integrity of the fence. The fence wire must be secured to each line post in a minimum of five places for wood posts and a minimum of four places for steel posts, including the top and bottom wires. Exterior fences constructed on slopes of 50 percent grade or 30 degrees or greater may require additional, stronger or higher fence posts, special grading, additional wire to increase fence height and other measures. Unless site specific conditions require otherwise, fencing running perpendicular to the slope contour requires standard fencing.

(3) Exterior fence posts must extend a minimum of 8 feet above the ground and be of sufficient strength to maintain the fence integrity.

(a) line post requirements are as follows:

(i) wooden line posts must be a minimum of 4 inches in diameter, treated and be spaced no more than 24 feet apart;

(ii) steel pipe line posts must be a minimum of 2 3/8 inches in diameter and weigh a minimum of 3 pounds per foot and be spaced no more than 24 feet apart;

(iii) t-posts and channel steel posts must be a minimum of 1.33 pounds per foot and be spaced no more than 20 feet apart, and must be supported by a wooden or steel pipe post every 80 feet;

(iv) additional posts or other measures may be required in wetland areas, heavily timbered areas and irregular terrain, including low and high spots; and

(v) line posts must be set to a minimum depth of 3 feet to provide adequate support for the fence. T-posts must be installed according to manufacturers' specifications.

(b) corner and end posts requirements are as follows:

(i) wooden corner and end posts must be a minimum of 5 inches in diameter and treated;

(ii) steel pipe corner and end posts must be a minimum of 2 7/8 inches in outside diameter;

(iii) corner and end posts of other materials must be of sufficient strength to maintain the fence integrity and must be approved by the department; and

(iv) corner and end posts must be set to a minimum depth of 4 feet to provide adequate support for the fence.

(c) fence bracing requirements are as follows:

(i) posts used for braces must be treated wood or steel pipe and conform with the minimum diameters prescribed in (3)(b)(i) and (ii). Brace posts must be set to a minimum depth of 4 feet to provide adequate support for the fence;

(ii) corner and end braces must be constructed at each point where the direction of the fence changes;

(iii) corner and end braces which brace fence distances of greater than 660 feet must be constructed as a double brace with a total brace distance of 20 feet;

(iv) corner and end braces which brace fence distances of less than 660 feet must be constructed with a brace distance of 12 feet;

(v) in-line braces must be constructed in each fence line that exceeds 1,320 feet between corner or end posts. The in-line brace posts must be spaced no more than 1,320 feet apart in any such fence line; and

(vi) in-line braces must be constructed with a brace distance of 20 feet to provide adequate support for the fence.

(4) All exterior fence gates must be maintained in a closed, locked position at all times except when in use. The gates must have one latching and one locking device. All gates must be installed in locations approved by the department.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

NEW RULE XIII MINIMUM FENCE STANDARDS FOR FACILITIES HOLDING CARNIVORES AND OMNIVORES (1) Facilities for holding carnivores and omnivores constructed or reconstructed after [effective date of these rules] must be constructed and maintained in compliance with the following minimum fencing standards:

(a) all open-topped enclosures must meet the following minimum standards:

(i) all exterior fences and barriers must be constructed to a minimum of 12 feet in height with woven wire chain link at least 9 gauge in strength or with a solid material that cannot be destroyed and prevents climbing by the species contained therein. Enclosures must provide a minimum of 300 square feet of dry resting area for one animal and be increased by 50 percent for each additional animal;

(ii) exterior fences must be supported by posts every 10 feet;

(iii) the licensee shall install an overhang of barbed wire or electric wire along the entire length of the top of the exterior fence or barrier sufficient to preclude escape;

(iv) the licensee shall install buried mesh wire (minimum 11 gauge) attached to the bottom of the exterior fence or barrier and extending laterally 3 feet to the inside of the enclosure for the length of the fence or barrier (to prevent carnivores from digging under the fence and escaping;)

(v) the licensee shall remove any trees, rocks, debris or other objects that may allow carnivores to exit or enter the enclosure; and

(vi) adjoining indoor enclosures that measure a minimum of 5 feet by 5 feet by 5 feet must be provided for each bear, and no less than 3 feet high and 10 square feet for each mountain lion.

(b) all cages must satisfy the following minimum requirements:

(i) be of sufficient size (height, length and width) to prevent overcrowding and allow exercise; minimum requirements are 200 square feet for single mountain lions, to be increased by 50 percent for each additional animal, and 300 square feet for one black bear, to be increased by 50 percent for each additional animal;

(ii) have a cage top constructed of at least 11 gauge woven wire or chain link; and

(iii) have a floor made of cement or concrete at least 3 inches thick into which metal fence posts are permanently secured or a floor that consists of chain link or similar material that will preclude the animal digging through the floor to escape.

(c) gates on enclosures and cages must be self-closing and have double locks. The licensee shall confine the animals in cages at all times, except as may be authorized by the department;

(2) facilities must comply with the American zoological association (AZA) general guidelines for housing and caring for black bears and mountain lions including such considerations as temperature, lighting, ventilation, feeding and sanitation.

(3) The following requirements apply to facilities for holding carnivores and omnivores constructed prior to [effective date of these rules]. If the facilities are not in compliance with this rule or are not otherwise game proof, they will be subject to the requirements in (1). Reconstruction of such facilities must satisfy the minimum standards in (1), any additional requirements in the license and any further requirements to ensure that the facilities are game proof.

(a) all open-topped enclosures holding game farm carnivores must meet the following requirements:

(i) a perimeter fence at least 8 feet in height constructed of at least 9 gauge woven wire chain link or solid material that cannot be destroyed by the species contained therein;

(ii) the perimeter barrier must be supported by a post or a stay at 10 foot intervals;

(iii) an overhang of barbed wire or electric wire installed at the top of the perimeter fence or other configuration that precludes escape;

(iv) buried mesh wire (minimum 11 gauge) extending laterally 3 feet to the inside of the enclosure for the length of the perimeter fence (to prevent carnivores from digging under the fence and escaping); and

(v) any trees or obstacles that would allow carnivores to exit or enter the enclosure must be removed.

(b) all cages holding game farm carnivores must be of sufficient size (height, length and width) to prevent

overcrowding and allow exercise and must meet the following requirements:

(i) a cage top constructed of at least 11 gauge woven wire or chain link; and

(ii) a floor made of cement or concrete at least 3 inches thick into which metal fence posts are permanently secured or a floor that consists of chain link or similar material that will preclude the animal digging through the floor to escape.

(c) gates on enclosures and cages must be self-closing and have double locks. The licensee shall confine the animals in cages at all times, except as may be authorized by the department.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

NEW RULE XIV MINIMUM FENCE STANDARDS FOR APPLICATIONS FILED BETWEEN MAY 15, 1992 AND [EFFECTIVE DATE OF THESE RULES] FOR FACILITIES HOLDING CLOVEN-HOOFED UNGULATES

(1) The following requirements for fence height, posts and gates shall apply to applications filed between May 15, 1992, and [effective date of these rules] for game farms holding cloven-hoofed ungulates. If the facilities are not in compliance with this rule or are not otherwise game proof, they will be subject to the requirements in [NEW RULE XII]. Reconstruction of such facilities must satisfy the minimum standards in [NEW RULE XII], any additional requirements in the license and any further requirements to ensure that the fences are game proof.

(2) Conventional perimeter fences must be, at a minimum, 8 feet above ground level for their entire length. The bottom 6 feet must be mesh of sufficient size to prevent wild animals from entering and game farm animals from escaping. Supplemental wire required to attain a height of 8 feet may be smooth, barbed, or woven wire (at least 12½ gauge) with strands spaced not more than 6 inches apart.

(3) Perimeter fences constructed of high tensile wire must be supported by a post or a stay at minimum intervals of 8 feet.

(4) Conventional perimeter fences must be at least 12½ gauge woven wire, 14½ gauge high-tensile woven wire, chain link, non-climbable woven fence, or other fence approved by the department of fish, wildlife, and parks.

(a) if the wire used is not a full 8 feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(5) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(6) All gates in the perimeter fence must be self-closing, equipped with two locking devices and installed in locations that have been approved by the department of fish, wildlife, and parks. Double gates may be required at points in the perimeter fence subject to frequent vehicle traffic that is not related to operation of the game farm.

(7) Posts used in the perimeter fence must be:

(a) constructed of material of sufficient strength to keep game farm animals securely contained and wild animals from entering;

- (b) extended at least 8 feet above ground level;
- (c) spaced no more than 24 feet apart with stays or supports at 8 foot intervals between the posts; and
- (d) braced with wood or with suitable metal material properly set in concrete, at all corners.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

NEW RULE XV MINIMUM FENCE STANDARDS FOR APPLICATIONS FILED AND FACILITIES CONSTRUCTED PRIOR TO MAY 15, 1992 FOR GAME FARMS HOLDING CLOVEN-HOOVED UNGULATES (1) The following requirements shall apply to applications filed and facilities constructed prior to May 15, 1992, for game farms holding cloven-hoofed ungulates. If the facilities are not in compliance with this rule or are not otherwise game proof, they will be subject to the requirements in [NEW RULE XII]. Reconstruction of such facilities must satisfy the minimum standards in [NEW RULE XII], any additional requirements in the license and any further requirements to ensure that the fences are game proof.

- (2) For elk, fencing must be, at a minimum:

- (a) 7½ feet high, constructed of woven wire of 12½ gauge;

or

- (b) of a construction and material that the applicant can document has been successfully used in other locales for the same species and under similar conditions.

- (3) For all other species of game farm animals under 87-4-406, MCA, and [NEW RULE I], fencing will be required that has been documented in other areas as being sufficient to keep animals of the same species confined under similar conditions as is proposed by the applicant.

- (4) Fence right-of-way must be cleared of all dead timber with a height greater than 8 feet for a distance of 8 feet on the inside of the fence.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

RULE XVI GAME PROOF CONDITION (1) Exterior fence must be designed, constructed and maintained in a game proof condition at all times.

- (2) The department may require measures beyond the minimum requirements in [NEW RULES XII and XIII] in order to provide for a game proof fence. The additional measures must address site-specific conditions identified in the licensing review, which render the minimum requirements inadequate to provide a game-proof fence.

- (3) If the department receives any information, e.g., by inspection, or by review of the licensee's reports, that indicates that the fence has not been designed, constructed or maintained in a game proof condition, and notwithstanding the licensee's compliance with the applicable minimum standards and license stipulations, the department may modify the license to require the licensee to implement further measures to ensure that the fence is game proof. The modifications must be implemented in accordance with the procedures in 87-4-427(3)(c), MCA.

(4) The licensee shall maintain a clearance of vegetation and debris along the inside of the exterior fence sufficient for the department to conduct inspections of the fence.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

NEW RULE XVII ALTERNATIVE FENCE DESIGNS (1) An applicant may request approval of alternatives to the fence design requirements in [NEW RULES XII THROUGH XV], pursuant to the waiver provision in [NEW RULE XXV]. The applicant shall provide the department with all specifications on alternative fence designs and materials.

AUTH: 87-4-422, MCA

IMP: 87-4-426, MCA

NEW RULE XVIII TRANSPORTATION: CARNIVORES AND OMNIVORES

(1) A licensee shall not transport, sell or dispose of a carnivore or omnivore or its carcass until after the licensee requests and obtains an inspection by the department or its designated agent. The licensee shall sign the invoice/bill of sale certificate provided by the department, certifying the accuracy of the information stated.

(2) Copies of the invoice/bill of sale certificate will be dispensed as follows:

- (a) original and second copy retained by the department;
- (b) third copy to purchaser or transferee, which must also accompany the animals to their destination; and
- (c) fourth copy to be retained by the game farm operator at origin.

AUTH: 87-4-422, MCA

IMP: 87-4-415, MCA

NEW RULE XIX EGRESS AND INGRESS (1) The department or any peace officer may seize, capture, or destroy escaped game farm animals pursuant to the terms of this rule.

(2) The licensee shall report to the department and the department of livestock all escapes of game farm animals and all ingress of game animals (including all ingress of mountain lions and bears) and the reasons for such escapes and ingress. The licensee shall report each escape and ingress immediately by telephone to the department and the department of livestock and shall file a written report with both departments within 10 days of discovery or notice of the escape or ingress. The licensee shall submit the written reports on forms provided by the department and completed and signed by the licensee. Ingress of animals other than game animals requires no notification.

(3) The licensee shall make every reasonable effort to recapture or destroy escaped game farm animals within the following time periods from the date of discovery or notice of the escape:

(a) forty-eight hours for males during the breeding seasons specified below:

- (i) antelope - August through September;
- (ii) black bear - May through July;
- (iii) caribou/reindeer - September through October;
- (iv) elk - September through November;
- (v) mountain lion - year-round;

(vi) mountain sheep - November through December;
(vii) mule deer - November through December;
(viii) whitetail deer - November through December;
(ix) mountain goat - October through December;
(b) twenty-four hours if the game farm or animal is under department of livestock quarantine, except that diseased escaped animals may be destroyed on sight; or

(c) five days if the preceding conditions do not exist, unless the licensee and the department agree to a different period.

(4) The licensee shall notify the department and the department of livestock immediately of the recapture or death of an escaped animal and, upon the request of either department, shall hold the animal for inspection before returning it to the game farm.

(5) The department will make reasonable efforts to notify area game farmers of unreported, escaped game farm animals if local department officials observe or receive reports thereof. The department will attempt to use non-lethal means to capture and identify such animals, when observed in the vicinity of a game farm, except that the department may immediately destroy any such animals that pose a risk to wildlife or to public health or safety. The department may, without notification to area game farmers, use lethal means to control unreported, escaped game farm animals not in the vicinity of a game farm.

(6) Pursuant to 87-4-419, MCA, a game farm animal becomes the property of the state following the time frames specified in (3).

(7) When a licensee can identify the reason for an ingress or egress the licensee shall take immediate site-specific action to maintain the fence in a game proof condition and prevent future ingress or egress.

(8) The department may seize, capture or destroy game animals that have entered the game farm. The licensee may request that the department conduct disease testing of ingressed game animals at the licensee's expense.

AUTH: 87-4-419 and 87-4-422, MCA IMP: 87-4-419, MCA

RULE XX GAME FARM RECORDS AND REPORTS (1) The licensee shall maintain records, including records and reports prepared on forms provided by the department and the department of livestock, inspection certificates, receipts, invoices, agreements of sale, canceled checks, and bills of sale, in accordance with 87-4-417, MCA. The licensee shall keep such records on or near the premises of the game farm and shall make the records kept on forms provided by the department available for inspection upon the department's request. The licensee shall declare in the license application the location of the licensee's game farm records and reports and shall notify the department of any changes in their location.

(2) The licensee shall prepare and submit reports on forms provided by the department, unless the department has given written authorization for a different format.

(3) Records and reports must include purchases, sales, escapes, recaptures, boarding, leasing, transfers, slaughters, deaths and births of game farm animals and the sex, animal identification numbers, species (including the identification of hybrids) and ownership of each game farm animal. The licensee shall record purchases, sales, boarding, leasing, transfers and slaughters within 10 days of their occurrence.

(4) The licensee shall fill out all records and reports forms accurately and completely and shall certify the accuracy and completeness of the forms. The licensee may not discard pages in the forms provided by the department. The licensee shall return any voided pages to the department.

(5) The licensee shall file the reports prepared pursuant to this rule with the department within 2 weeks of the reporting periods ending December 31 and June 30 of each year.

(6) Upon license renewal, a licensee may request authorization to submit an annual report (instead of the semi-annual reports in (5)) due within 2 weeks after the reporting period ending on December 31 of each year. The department will approve the request if:

(a) the licensee's prior reports have been accurate and timely, the licensee is in compliance with all game farm statutes and regulations, and the licensee has reported fewer than 20 transactions within the prior year; or

(b) the licensee has no game farm animals and will not have any game farm animals during the license year.

(7) The department may require the licensee to perform a game farm animal census when there are discrepancies in game farm records or reports. The licensee may request the presence of both the department and the department of livestock.

(8) Upon the termination, revocation, or surrender (including the failure to renew) of a license, the licensee shall, within 10 days of the removal of the game farm animals, submit a final report, including records, showing the disposition of the animals.

AUTH: 87-4-417 and 87-4-422, MCA IMP: 87-4-426, MCA

RULE XXI CLASSIFICATION OF PROHIBITED AND RESTRICTED SPECIES (1) The department finds that the following species, hybrids, or viable gametes (ova and semen), are detrimental to existing wildlife and their habitats through nonspecific genetic dilution, habitat degradation or competition caused by feral populations of escaped game farm animals. The following is a list of prohibited species:

(a) In the family Bovidae, all members of the following genera and hybrids thereof:

(i) Subfamily Caprinae:

(A) Rudicapra (chamois);

(B) Hemitragus (tahr);

(C) Capra (goats, ibexes--except domestic goat, Capra hircus);

(D) Ammotragus (Barbary sheep or Aoudad); and

(E) Ovis (only the mouflon species, Ovis musimon);

(ii) Subfamily Hippotraginae:

- (A) Oryx (oryx and gemsbok); and
 - (B) Addax (addax);
 - (iii) Subfamily Reduncinae:
 - (A) Redunca (reedbucks);
 - (b) In the family Cervidae, all of the following species and hybrids thereof:
 - (i) Red deer (Cervus elaphus elaphus);
 - (ii) Axis deer (Axis axis);
 - (iii) Rusa deer (Cervus timorensis);
 - (iv) Sambar deer (Cervus unicolor);
 - (v) Sika deer (Cervus nippon); and
 - (vi) Roe deer (Capreolus capreolus and Capreolus pygargus);
 - (c) All wild species in the family Suidae (Russian boar, European boar) and hybrids thereof; and
 - (d) In the family Tayassuidae, the collared peccary (javelina) (Tayassu tajacu) and hybrids thereof.
- AUTH: 87-4-422, MCA IMP: 87-4-424, MCA

NEW RULE XXII POSSESSION OF PROHIBITED SPECIES (1) The prohibited species in [RULE XXI] and animals classified by the department of livestock pursuant to 87-4-424, MCA, may not be possessed, bred, released, imported, transported, bought, sold, bartered or traded within the state, except as authorized in writing by the department. A person may possess prohibited species for the life of the animals, provided that the person gained possession of the animals prior to May 15, 1992, and the animal is neutered and properly contained. Proof of ownership (including the date of acquisition) and neutering of such animals must be retained on the game farm premises. Prohibited species not legally retained under this rule must, within 10 days of notice from the department, be transported out of the state in compliance with the requirements of the department of livestock and the game farm rules of the receiving state and federal laws or be destroyed by the owner.

(2) Animals testing positive for elk-red deer hybridization pursuant to [NEW RULE XXIII] are subject to the following:

(a) a licensee shall neuter, sterilize, slaughter or sell such animal and its progeny out of the state within 6 months after the initial determination of a positive test result for elk-red deer hybridization. If the licensee fails to do so, the animal's possession shall be deemed illegal and the department may seize the animal. Any animal testing positive for elk-red deer hybridization must be confined to prevent breeding during the appropriate breeding season as defined in [NEW RULE XIX];

(b) a licensee shall submit proof of neutering or sterilization to the department and the department of livestock; and

(c) a licensee shall provide 5 working days advance written notice to the department and the department of livestock before removing any such animal from the licensee's game farm.

AUTH: 87-4-422, MCA IMP: 87-4-407 and 87-4-424, MCA

NEW RULE XXIII ELK-RED DEER HYBRIDIZATION (1) Licensees shall test all elk born on or prior to December 31, 1998, for elk-red deer hybridization by January 1, 1999.

(2) Licensees shall test all elk born between January 1, 1999, and December 31, 2000, for elk-red deer hybridization by January 1 of the year following the year of birth or when the animal is sold or transported from the game farm, whichever comes first.

(3) Licensees shall use tests for elk-red deer hybridization that satisfy the standards of the department of livestock in [proposed NEW RULE VIII of the department of livestock, MAR Notice No. 32-3-142 in this issue of the register].

(4) Licensees shall provide for the submission of all test results to the department of livestock and all positive test results to the department.

(5) If the department determines that the test results obtained pursuant to this rule are conflicting, the department may require the licensee to perform further testing.

AUTH: 87-4-422, MCA

IMP: 87-4-407 and 87-4-424, MCA

NEW RULE XXIV CONFISCATION PROCEDURES (1) The department may seize or confiscate any unlawfully possessed game farm animals, including any game farm animals possessed following the expiration of the period prescribed in (2). The department shall provide notice and opportunity for hearing pursuant to Title 2, chapter 4, parts 6 and 7, of the Montana Administrative Procedure Act, provided that such notice and opportunity for hearing may be provided after the seizure or confiscation, when the department determines that immediate action is necessary to protect public health or wildlife.

(2) Upon revocation or the licensee's surrender of a game farm license (including the failure to renew a license), the licensee shall lawfully dispose of all game farm animals on the game farm within 180 days, or such longer period of time as may be approved by the department. Failure to comply with this time limit may result in confiscation of the game farm animals by the department and/or citations for criminal conduct.

(3) The department will conduct a sale of live game farm animals that are seized or confiscated. The department shall publish notice of the time and place of the sale of live game farm animals in a newspaper of general circulation in Helena and in the department administrative region where the sale will be held. The department will also notify all Montana game farmers licensed for that species. A herd may be sold as a unit or individually at the discretion of the department. Animals offered for sale will be sold to the highest bidder. The department reserves the right to dispose of the game farm animals by other means if no offers are received in the course of sale.

(4) Notwithstanding (3) the department may dispose of live game farm animals that are seized or confiscated by means other than a public sale if the animals may not be legally possessed in Montana or if, in the department's discretion, the estimated costs of the sale will exceed the estimated revenues.

(5) Animals not suitable for live sale must be disposed of in accordance with the procedures outlined in (3) and (4), or, if sale is not feasible, by donation to public or charitable institutions. If the meat is unsuitable for human consumption, it may be disposed of by other means.

(6) The costs of any confiscations or seizures of game farm animals, including holding costs and the costs of advertising and conducting sales, may be charged to the licensee or person in possession of the animals at the time of confiscation or seizure in accordance with 87-4-407 and 87-4-423, MCA. The costs may be charged directly to the person or withheld from the proceeds received from disposal of the animals.

AUTH: 87-4-422, MCA

IMP: 87-4-407 and 87-4-423, MCA

NEW RULE XXV WAIVERS (1) The department, in its discretion, may waive any rule if it finds that the rule poses an undue hardship to an individual applicant or licensee and that the waiver will not threaten or adversely affect the health and safety of wildlife, livestock and the public. An applicant or licensee wishing to receive a waiver of a rule must make a written application to the department stating the basis of the request.

AUTH: 87-4-422, MCA

IMP: 87-4-422, MCA

4. These proposed game farm administrative rules implement changes in the game farm statutes and clarification of the regulatory authorities of the department. The 1995 Montana Legislature, Chapter 503, Laws of 1995, directed the agency to conduct negotiated rule making for the purpose of: modifying game farm rules; defining "reasonable time" for recapture of escaped game farm animals; establishing the conditions under which less or more frequent reporting may be provided; establishing criteria for classification of amendments to licenses as major or minor; developing an expedited process for minor license amendments; and clarifying coordination with the Department of Livestock.

A negotiated rule making committee representing the department, Department of Livestock, Montana Alternative Livestock Producers, Montana Wildlife Federation, and Montana Veterinary Medical Association was convened to consider rule changes; the proposed rules are the result of consensus among this group. The Department of Livestock and the department are adopting rules that, when combined, will regulate the game farm industry. The two sets of rules are intended to be considered together as a regulatory framework, and are co-dependent in the scope of their authority.

As proposed, these game farm rules will replace the existing rules in their entirety. The proposed new rules amend and incorporate all of the existing rules that address department authorities but are reorganized by subject to be more straightforward and useful to people using the rules.

Department of Livestock rules address disease, importation, identification, and transportation issues. Notable changes from the former rules include:

- a. Clarifying the process to add or delete species of cloven-hoofed ungulates as game farm animals. A person desiring to make changes must petition the department to initiate a rule making proceeding;
- b. Clarification of the license application and modification requirements, process and applicable fees. The initial license fee shall be included with each application and is based on the peak number of game farm animals anticipated on the facility. For most exotic species to be included on a game farm license, the applicant must provide information to evaluate the potential threat the species may pose to native wildlife or livestock. Minor modifications to a license, including reconstruction of fences, installation and relocation of exterior gates, will be exempt from the requirement for an environmental review unless the modification involves a significant impact on wildlife resources, water quality or any other significant environmental impact. Minor modifications not requiring an environmental review will be processed within 45 days of acceptance of the application as complete. If the department does not prepare an environmental review for a license modification, the application fee will be refunded to the applicant. Renewal fees are based on the number of game farm animals on the facility on December 31 of the year preceding the renewal. A licensee must notify the departments of any changes in lease agreements affecting the game farm facilities;
- c. General revisions to the minimum fencing standards and clarification of game proof requirements. Fences must be constructed of eight-foot, knotted-joint, woven wire mesh rather than six-foot mesh with single strand wire for a height of eight feet. There may be no more than three inches of clearance from the ground. Post and bracing requirements are specified. Some size specifications and general animal welfare considerations have been added to the cage requirements for carnivores and omnivores. The department may modify a license to require further measures to ensure a game proof fence;
- d. Specification of transportation requirements for carnivores and omnivores. A licensee must request an inspection by the department or its designated agent before transporting, selling or disposing of a carnivore or omnivore or its carcass;
- e. Definition of recapture requirements for escaped game farm animals. Any egress or ingress of game animals must be reported to the department immediately, followed by a

written report. No notification is required for ingress of non-game animals. Escaped game farm animals must be recaptured within five days, except that during the breeding season males must be recaptured within 48 hours and quarantined animals must be recaptured within 24 hours. Diseased game farm animals may be destroyed on sight. A licensee may request that the department conduct disease testing on ingressed game animals at the licensee's expense;

- f. Criteria for record keeping and reporting once per year. A licensee shall maintain records and reports, inspection certificates, receipts, invoices, agreements of sale, canceled checks, and bills of sale. Game farm transactions shall be recorded in the license record book within 10 days of their occurrence. Upon license renewal, a licensee may request authorization to submit reports once per year if prior reports have been accurate and timely, the licensee is in compliance with all game farm requirements, and the licensee has reported fewer than 20 transactions within the prior year. A licensee that has no game farm animals and will not have any game farm animals during the license year may also request annual reporting. A game farm animal census may be required when there are discrepancies in the records or reports;
- g. Deletion of restrictions on possession of caribou/reindeer and moose for purposes of game farming. The restriction on possession of caribou/reindeer west of the continental divide is no longer necessary because the re-establishment of woodland caribou in Idaho has not been widely successful and would not be threatened by game farms. Disease testing of imported moose will adequately protect native moose populations;
- h. Elk-red deer hybrid test requirements. All elk born on or prior to December 31, 2000 must be tested for elk-red deer hybridization. All test results must be provided to Department of Livestock and all positive test results must be provided to the department; and
- i. Clarification of confiscation procedures. The department shall provide notice and opportunity for a hearing prior to or, if necessary, after the seizure or confiscation. Confiscated live animals will be sold to the highest bidder following procedures for notice of sale. Animals may be disposed of by other means if the estimated costs of the sale will exceed estimated revenues. The costs of any confiscation or seizure, including holding costs and advertising and conducting sales, may be charged to the owner or person in possession at the time of confiscation.

5. Any person who would like to receive a copy of rules 12.6.1501 through 12.6.1519 as proposed to be repealed may do so

in writing to Karen Zackheim, Department of Fish, Wildlife and Parks, 1420 East Sixth, P.O. Box 200701, Helena, Montana 59620-0701.


6. Interested persons may submit their data, views or arguments, either orally or in writing at the hearings. Written data, views or arguments may also be submitted to Karen Zackheim, Department of Fish, Wildlife and Parks, 1420 East Sixth, P.O. Box 200701, Helena, Montana 59620-0701, no later than November 13, 1998.

7. The Department of Fish, Wildlife and Parks maintains a list of persons interested in both department and commission rulemaking proceedings. Any person wishing to be on the list must make a written request to the department, providing name, address and description of the subject or subjects of interest. Direct the request to Montana Fish, Wildlife and Parks, Legal Unit, PO Box 200701, Helena, MT 59620-0701.

8. Robert N. Lane, Lon Mitchell or another hearing examiner designated by the departments will preside over and conduct the hearings.

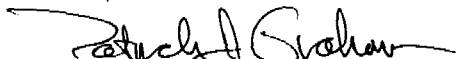
9. The bill sponsor notification requirements of 2-4-302, MCA, do apply and have been met.

RULE REVIEWER



Robert N. Lane

FISH, WILDLIFE AND PARKS



Patrick J. Graham, Director

Certified to the Secretary of State September 28, 1998.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF PUBLIC HEARING
new rules I through III setting) ON PROPOSED ADOPTION
policy for waiver and suspension) OF NEW RULES
of motor fuel penalties)

TO: All Interested Persons.

1. On November 6, 1998, at 10 a.m., a public hearing will be held in the auditorium of the Department of Transportation building at 2701 Prospect Avenue, Helena, Montana, to consider the adoption of new rules I through III.

2. The proposed new rules provide as follows:

RULE I WAIVER OF MOTOR FUEL PENALTIES (1) The department may waive the motor fuel late file and late pay penalties for gasoline, aviation fuel and special fuel if there is "good or reasonable cause." Good or reasonable cause means any late filing and late payment of a motor fuel tax for any of the following reasons:

(a) Inability to file and pay because of an act of God, a natural disaster, or emergency declared by the governor or the president of the United States;

(b) Inability to file and pay because of seizure of property by a foreign government or a court of law;

(c) Inability to file and pay because the distributor's assets are impounded or frozen because of bank failure; or

(d) Inability to file and pay because of a serious medical emergency of the taxpayer.

(2) The failure to file and pay the motor fuel taxes for the foregoing reasons are the only ones that will be accepted as good or reasonable cause that result in a waiver of the statutory penalties.

(3) Interest on any motor fuel taxes that are paid late will not be waived or suspended.

AUTH: 15-70-104, MCA; IMP: 15-70-210 and 15-70-352, MCA

REASON: This rule is necessary to define the terms "good or reasonable cause" for waiving the statutory penalty. This proposed rule reflects the only reasons that the Department of Transportation will accept for a complete waiver of the penalty. The reasons are based upon serious situations that are not the fault of the distributor and over which he has no control. In addition, the proposed rule makes it clear that interest cannot be waived or suspended.

RULE II SUSPENSION OF PENALTIES (1) If a distributor fails to timely file and pay any motor fuel taxes and does not have just or reasonable cause, the following penalty provisions will apply:

(a) A first time offense within a 3-year period of timely

filings will result in a 1% penalty assessment with the remaining 9% suspended;

(b) A second time offense within the same time period will result in a 3% penalty assessment, plus the assessment of the 9% penalty previously suspended;

(c) A third time late offense within the same time period will result in a 6% penalty assessment, plus the assessment of the 7% penalty previously suspended.

(2) A penalty will not be suspended if a distributor files late four or more times in a 3-year period. The penalty assessment will include the 10% penalty, plus the assessment of the 4% previously suspended.

(3) Tax returns received that the department determines are underpaid do not qualify for a suspension of the late file and pay penalty.

AUTH: 15-70-104, MCA; IMP: 15-70-210 and 15-70-352, MCA

REASON: This rule is necessary to explain that late file and payment penalties can be suspended using graduated penalty provisions based upon the distributor's past filing and payment record. In addition, the department wants to make it clear that suspension of the late file and late pay penalties do not apply when a distributor does not fully pay the correct amount of tax due. It is the burden of the distributor to pay the correct amount of the tax due and any error that results in a deficient payment will not be good or reasonable cause for the penalty suspension.

RULE III PRORATION OF INTEREST (1) Interest charged on delinquent gasoline and special fuel taxes is 12% a year or 1% a month.

(2) Interest will be calculated daily using the rate arrived at by dividing 12% interest per year by 365 days.

AUTH: 15-70-104, MCA; IMP: 15-70-210, 15-70-352, and 15-70-353, MCA

REASON: This rule is necessary to explain that interest is calculated on a daily basis and not a monthly basis. This proposed rule changes the present Department of Transportation policy which was to charge 1% interest a month no matter whether the taxpayer was two days or twenty days late in filing the gasoline and special fuels taxes that were due.

3. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written comments, views, or arguments may also be submitted to William G. Salisbury, Administration Division, Montana Department of Transportation, P.O. Box 201001, Helena, MT 59620-1001, and must be received no later than November 6, 1998.

4. Timothy W. Reardon has been designated to preside over and conduct the hearing.

5. The two bill-sponsor-notice requirements of section 2-

4-302, MCA, do not apply.

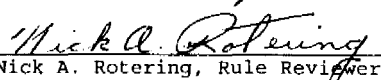
6. MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this document will be provided upon request. For further information call (406) 444-7672 or TTY users can call (406)444-7696 by October 23, 1998.

7. The Department of Transportation maintains a list of interested persons who wish to receive notices of the rulemaking actions it proposes. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies the subject area or areas of interest of the person requesting notice, including, but not limited to, rules proposed by the Administration Division, Aeronautics Division, Highways and Engineering Division, Maintenance Division, Motor Carrier Services Division, and Rail, Transit and Planning Division. Such written request may be mailed or delivered to the Montana Department of Transportation, Legal Services, P.O. Box 201001, Helena, MT 59620-1001, faxed to the office at (406)444-7206, or may be made by completing a request form at any rules hearing held by the Department.

MONTANA DEPARTMENT OF TRANSPORTATION

By:


MARVIN DYE, Director


Nick A. Rotering, Rule Reviewer

Certified to the Secretary of State September 28, 1998.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PUBLIC HEARING
of 18.9.102 concerning the) ON PROPOSED AMENDMENT
bonding requirements for)
gasoline, special fuel or)
aviation fuel distributors)

TO: All Interested Persons.

1. On November 6, 1998, at 2 p.m., a public hearing will be held in the auditorium of the Department of Transportation building at 2701 Prospect Avenue, Helena, Montana, to consider the amendment of rule 18.9.102.

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

18.9.102 DISTRIBUTOR'S BOND (1) Gasoline, special fuel, or aviation fuel distributors must furnish the department of transportation a corporate surety bond executed by the distributor as principal with a corporate surety authorized to transact business in this state or other collateral security or indemnity. The total amount of bond or collateral security or indemnity must be equivalent to twice the distributor's estimated monthly gasoline, special fuel, or aviation fuel tax, in no case ~~greater~~ less than ~~\$100,000~~ \$2,000, except as provided in (3). The department will establish the bond amount on a distributor with less than 12 months prior history.

(2) and (3) remain the same.

AUTH: 15-70-104, MCA; IMP, 15-70-202, 15-70-204, and 15-70-341, MCA

3. The amendment of ARM 18.9.102 is necessary because the Montana Department of Transportation needs to conform to the statute which provides that distributors must have monthly bond amounts in the amount of twice their average estimated monthly fuel tax. The amendment provides for a minimum bond amount to protect the state interests.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written comments, views, or arguments may also be submitted to William G. Salisbury, Administration Division, Montana Department of Transportation, P.O. Box 201001, Helena, MT 59620-1001, and must be received no later than November 6, 1998.

5. Timothy W. Reardon has been designated to preside over and conduct the hearing.

6. The two bill-sponsor-notice requirements of section 2-4-302, MCA, do not apply.

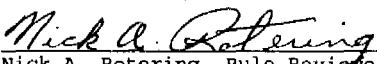
7. MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this document will be provided upon request. For further information call (406) 444-7672 or TTY users can call (406)444-7696 by October 23, 1998.

8. The Department of Transportation maintains a list of interested persons who wish to receive notices of the rulemaking actions it proposes. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies the subject area or areas of interest of the person requesting notice, including, but not limited to, rules proposed by the Administration Division, Aeronautics Division, Highways and Engineering Division, Maintenance Division, Motor Carrier Services Division, and Rail, Transit and Planning Division. Such written request may be mailed or delivered to the Montana Department of Transportation, Legal Services, P.O. Box 201001, Helena, MT 59620-1001, faxed to the office at (406)444-7206, or may be made by completing a request form at any rules hearing held by the Department.

MONTANA DEPARTMENT OF TRANSPORTATION

By: 

MARVIN DYE, Director


Nick A. Rotering, Rule Reviewer

Certified to the Secretary of State September 28, 1998.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of)	NOTICE OF PUBLIC HEARING
new rules I through V setting)	ON THE PROPOSED ADOPTION
forth procedures for Dealers of)	OF NEW RULES
Compressed Natural Gas (CNG) and)	
Liquefied Petroleum Gas (LPG))	

TO: All Interested Persons.

1. On November 6, 1998, at 1 p.m., a public hearing will be held in the auditorium of the Department of Transportation building at 2701 Prospect Avenue, Helena, Montana, to consider the adoption of new rules I through V.

2. The proposed new rules provide as follows:

RULE I CNG AND LPG DEALER LICENSE (1) A person may not act as a compressed natural gas (CNG) or liquified petroleum gas (LPG) dealer in this state unless the person is a holder of a valid fuel dealer's license issued by the department of transportation.

(2) Every dealer must apply for and obtain a CNG or LPG dealer license prior to distributing CNG or LPG directly into the supply tank of a motor vehicle for highway use in this state. Application for the CNG or LPG dealer's license must be made on forms provided by the department and must contain information the department deems necessary. Upon receipt and approval of the application, the license will be issued and must be conspicuously displayed at the dealer's principal place of business at, which the fuel is to be distributed in this state.

(3) Every CNG or LPG dealer who distributes fuel at more than one location in this state must apply for and obtain a CNG or LPG dealer license for each location. The license must be obtained prior to distributing fuel at that location and must be conspicuously displayed at the location for which it is issued.

(4) Upon cancellation or revocation of the license or discontinuance of distributing CNG or LPG, the dealer must return the license to the department. The name and address of the person or firm retaining records for audit purposes and the disposition of all fuel inventories must be provided when the license is returned.

AUTH: 15-70-104, MCA; IMP: 15-70-702, 15-70-703, 15-70-705, 15-70-706 and 15-70-713, MCA

RULE II MONTHLY TAX RETURNS (1) Every CNG or LPG dealer must file a tax return with the department on or before the last day of the month following the month to which it relates on forms supplied by the department. The CNG return must account for all fuel received, sold, distributed, and used, and must include the amount of fuel tax collected during the immediately preceding calendar month, together with any other information the department may require. The LPG tax return must account for

the total taxable gallons of fuel sold, the amount of fuel tax collected during the immediate preceding calendar month, together with any other information the department may require. The tax returns must accompany a tax remittance, if any, payable to the department of transportation for the amount of tax due.

(2) Every dealer must submit the monthly tax return regardless of whether he has distributed fuel during the immediately preceding calendar month. Failure to file the tax return will be considered sufficient cause for revocation of the dealer's license, and the license may be revoked as of that date.

(3) A request for an extension allowed under 15-70-714, MCA, must be received by the department prior to the original due date of the tax return.

(4) The department of transportation may accept CNG and LPG dealer tax returns without requiring a listing of all individual sales made by those dealers.

AUTH: 15-70-104, MCA; IMP: 15-70-706, 15-70-713, and 15-70-714, MCA

RULE III DEALER RECORDS--AUDIT (1) Every dealer shall maintain all records necessary to support their CNG or LPG tax returns. The records must account for all changes to CNG or LPG and must include:

(a) A record of fuel receipts together with invoices, bills of lading, and other documents relative to the acquisition of fuel; and

(b) A record of fuel disbursements together with the invoices, as well as bills of lading and other documents relative to the disbursements of fuel.

AUTH: 15-70-104, MCA; IMP: 15-70-712 and 15-70-713, MCA

RULE IV DEALER INVOICES (1) An original invoice must be issued at the time of each fuel disbursement into the supply tank of a motor vehicle. Each invoice must include a consecutive number, date of sale, and total number of gallons sold.

AUTH: 15-70-104; IMP: 15-70-712 and 15-70-713, MCA

RULE V CNG or LPG DEALER'S BOND (1) CNG or LPG dealers will be required to furnish the department of transportation a corporate surety bond or other collateral security or indemnity equivalent to twice the dealer's estimated monthly CNG or LPG tax if the dealer fails to file timely reports. Failure to timely file as used in 15-70-704, MCA, means:

(a) A dealer has failed to file for more than one reporting period;

(b) A dealer has given the state a non-sufficient fund check or whose non-sufficient fund check was returned as a result of a bank error more than twice; or

(c) A report was returned for inadequate postage more than twice.

(2) In those instances where reports, which have been either solicited or audited, are determined to be inadequate by

the department, the reports will be deemed to have not been timely filed.

AUTH: 15-70-104, MCA; IMP: 15-70-704, MCA

3. The reasons for the proposed new rules are provided as follows:

Rules I and II are necessary to more fully explain the licensing process for CNG and LPG dealers and their requirement to file a monthly tax return and pay any tax owing on the sale of CNG and LPG. The rule also states that sales slips are not required to accompany the dealer tax returns, but are to be maintained by the dealer for audit purposes. The rules are necessary pursuant to Chapter 125, Laws of 1997, effective January 1, 1998.

Rules III and IV are necessary to identify the information that the Department requires for audit purposes of the CNG and LPG dealers.

Rule V is necessary to define the term "failure to file timely reports" and what will happen when a CNG or LPG dealer fails to file timely reports. It implements Chapter 125, Laws of 1997 to include LPG dealers along with CNG dealers throughout Title 15, chapter 70, MCA, effective January 1, 1998.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written comments, views, or arguments may also be submitted to William G. Salisbury, Administration Division, Montana Department of Transportation, P.O. Box 201001, Helena, MT 59620-1001, and must be received no later than November 6, 1998, 5 p.m.

5. Nick A. Rotering has been designated to preside over and conduct the hearing.

6. The two bill-sponsor-notice requirements of section 2-4-302, MCA, apply and have been complied with.

7. MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this document will be provided upon request. For further information call (406) 444-7672 or TTY users can call (406)444-7696 by October 23, 1998.

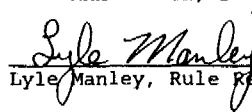
8. The Department of Transportation maintains a list of interested persons who wish to receive notices of the rulemaking actions it proposes. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies the subject area or areas of interest of the person requesting notice, including, but not limited to, rules proposed by the Administration Division, Aeronautics Division, Highways

and Engineering Division, Maintenance Division, Motor Carrier Services Division, and Rail, Transit and Planning Division. Such written request may be mailed or delivered to the Montana Department of Transportation, Legal Services, P.O. Box 201001, Helena, MT 59620-1001, faxed to the office at (406)444-7206, or may be made by completing a request form at any rules hearing held by the Department.

MONTANA DEPARTMENT OF TRANSPORTATION

By:


MARVIN DYE, Director


Lyle Manley, Rule Reviewer

Certified to the Secretary of State September 28, 1998.

BEFORE THE DEPARTMENT OF CORRECTIONS
STATE OF MONTANA

In the matter of the adoption)	NOTICE OF
of new rules I through XI)	PROPOSED ADOPTION
pertaining to the siting,)	
establishment, and expansion)	NO PUBLIC HEARING
of prerelease centers in the)	CONTEMPLATED
State of Montana)	

TO: All Interested Persons

1. On February 12, 1998, the Department of Corrections published a notice at page 428 of the Montana Administrative Register, Issue No. 3, of the public hearing and proposed adoption of new rules pertaining to the siting, establishment, and expansion of prerelease centers or juvenile transition centers in the State of Montana.

2. On March 16, 1998, the Department held a public hearing to consider the adoption of the new rules. Based on comments received, it was determined to not adopt the rules as originally proposed, but instead to draft new rules which pertain only to adult facilities, not juvenile facilities.

3. On November 20, 1998, the Department of Corrections proposes to adopt new rules I through XI pertaining to the siting, establishment, and expansion of prerelease centers in Montana.

4. The proposed rules provide as follows:

RULE I DEFINITIONS For purposes of this chapter, the following definitions apply:

- (1) "Center" means prerelease center.
- (2) "Department" means the department of corrections.
- (3) "Expansion of existing center" means an existing prerelease center intends to go beyond its contracted bed capacity or add square footage for the purpose of housing offenders.
- (4) "Local officials" means elected and appointed city, town, and county persons in leadership positions.
- (5) "Prerelease center" means a residential facility for adult offenders located in a community which offers offenders room and board, supervision, counseling, and treatment.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE II DETERMINATION OF NEED (1) Before proceeding with plans to establish a prerelease center, the department shall make a preliminary determination that there is a need for a center in the city, town, or county being considered. The department shall develop a written rationale which documents the need for a center. The written rationale must include:

(a) demographic and statistical data on the general and offender population of the city, town, or county being considered; and

(b) the proposed prerelease center's relationship to the correctional needs of the state.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE III DETERMINATION OF MINIMUM REQUIREMENTS (1) The department shall determine that within the city, town, or county being considered, there are available to the offenders:

(a) appropriate mental health and chemical dependency services;

(b) adequate job opportunities as determined by appropriate state agencies;

(c) opportunities for basic education, GED, technical training, and post secondary education; and

(d) opportunities for volunteer and community service.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE IV OBTAINING SUPPORT OF LOCAL OFFICIALS FOR A PROPOSED PRERELEASE CENTER (1) The department shall determine if the local officials wish to explore the possibility of establishing a prerelease center in the city, town, or county being considered. The department shall contact the following officials to determine their support for a center in the city, town, or county being considered:

(a) members of city, town, and county governing bodies;

(b) city and county attorney;

(c) chief public defender, if there is one;

(d) mayor or chief executive officer of city or town;

(e) local district judges;

(f) local state legislators;

(g) sheriff; and

(h) if there is one, the chief of police.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE V NOTIFICATION OF MEDIA (1) Once the department determines that local officials are interested in exploring the possibility of establishing a prerelease center, the department shall inform the media of the proposed interest.

(2) The media should receive the following information:

(a) written rationale developed by the department which documents the need for a prerelease center in the city, town, or county being considered, including statistics which demonstrate the need for a center in the proposed city, town, or county;

(b) the proposed process as outlined in these rules; and

(c) the role of the public in the process as outlined in these rules.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE VI WORKING COMMITTEE (1) The department shall meet with local officials to form a working committee.

(2) The goal of the working committee will be to:

- (a) educate the city, town, or county citizens;
 - (b) determine if there is public support for a center;
- and
- (c) if there is support for a center, then to identify and select an appropriate geographical area within the city, town, or county for that center.
 - (3) The working committee should be representative of the diverse interests and areas within the city, town, or county being considered. Working committee members should be appointed by the local governing bodies.
 - (4) The committee shall develop a plan to educate its members and the public, specifically addressing the following:
 - (a) the rationale and need for choosing this city, town, or county;
 - (b) the services that will be provided; and
 - (c) the process the department will use to screen offenders for the center.
 - (5) The working committee and the department shall agree upon time lines for establishing the center and the requisite tasks involved.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE VII PUBLIC INVOLVEMENT PROCESS (1) In order to determine the level of public support for a center and for a specific geographic area within the city, town, or county for the center, the working committee shall develop a process which includes the public in a meaningful way.

- (a) The working committee, with assistance from local officials and the department, shall schedule and participate in an informational public meeting process to determine the level of support for a center.
- (b) If there is sufficient public support, then the committee shall determine the level of support for specific geographic areas which the committee is considering within the city or town.

(2) The public involvement process must also include the following:

- (a) The committee shall involve local organizations such as service groups and local government advisory boards to determine public support for a center, and to assist the committee to select a specific geographic area for the center.

- (b) The committee shall involve the general public in the process to review the proposal and siting criteria.

- (c) A comprehensive, statistically valid and non-biased survey must be conducted to determine the level of support of local officials and the public for a center.

- (3) Should the committee determine there is support for a center, the committee may move forward to determine the specific geographic area within the city, town, or county for the center.

- (4) The specific geographic area within the city, town, or county which the committee chooses must be in compliance with all applicable laws, codes, ordinances, and existing conditions, covenants, restrictions of record, and zoning

regulations.

(5) The specific geographic area within the city, town, or county must have access to:

(a) a law enforcement agency capable of emergency response within 15 minutes; and

(b) 24-hour emergency medical and fire protection services.

(i) Medical transportation services must be available from a licensed ambulance service.

(ii) Fire protection must be available by a professional fire protection service. Appropriate fire protection services and response time must be determined by the state fire marshal or the authority having jurisdiction.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE VIII. COMPREHENSIVE SURVEY (1) A comprehensive, statistically valid, and non-biased survey must be conducted to determine the level of support of local officials and the public for the specific geographic area in which the working committee proposes the center to be located.

(2) The department shall contract with a professional consulting firm to survey the following local officials:

(a) members of city, town, or county governing bodies;

(b) city, town, or county attorney;

(c) chief public defender, if there is one;

(d) mayor or chief executive officer of city or town;

(e) local district judges;

(f) local state legislators who represent any portion of the city, town, or county of the proposed geographic area;

(g) sheriff; and

(h) if there is one, the chief of police.

(3) The department shall contract with a professional consulting firm to survey the general public in the specific geographic area proposed for the center.

(4) The working committee shall approve both surveys.

(5) The department may not site a center in the proposed specific geographic area without official support and support of citizens in that area.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE IX. PUBLIC HEARING (1) The working committee, with the assistance of local officials and the department, shall conduct a public hearing held in conformity with Title 2, chapter 3, MCA.

(2) The department shall publish notice of the hearing in a newspaper of general circulation within the proposed specific geographic area reasonably in advance of the hearing. The department shall also mail notice of the hearing to all interested persons who have expressed to the department an interest concerning department actions and have requested to be placed on the department's list of interested persons.

(3) The department shall allow interested persons the opportunity to submit data, views, or arguments orally or in writing prior to the hearing, at the hearing, and for a

reasonable time after the hearing.

(4) The hearing must be held in an accessible facility in the specific geographic area proposed for the center.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE X REQUEST FOR PROPOSALS (1) After the working committee has approved a specific geographic area of the city, town, or county for the center, the department shall request proposals from vendors to construct or acquire a building and operate the center.

(2) The department shall choose the best proposal consistent with the criteria developed by the department.

(3) Proposers shall submit proposals based on a specific site within the geographic area which the working committee selected and the public approved.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

RULE XI EXPANSION OF EXISTING CENTER (1) If an existing prerelease center wishes to expand, the department shall conduct a public hearing in the neighborhood in which the center is situated. The department shall conduct the hearing in conformity with Title 2, chapter 3, MCA.

(2) The department shall publish notice of the hearing in a newspaper of general circulation within the city, town, or county reasonably in advance of the hearing. The department shall also mail notice of the hearing to all interested persons who have expressed to the department an interest concerning department actions and have requested to be placed on the department's list of interested persons.

(3) The department shall allow interested persons the opportunity to submit data, views, or arguments orally or in writing prior to the hearing, at the hearing, and for a reasonable time after the hearing.

(4) The hearing must be held in an accessible facility in the neighborhood in which the center is situated.

(5) The prerelease center expansion is subject to any existing conditions, covenants, restrictions of record, and zoning regulations.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

5. The adoption of new rules I through XI is reasonably necessary to implement the legislative directive pertaining to the siting, establishment, and expansion of prerelease centers in Montana. Adoption of these rules is necessary to determine if there is a need for a center in a proposed city, town, or county, and to include public participation in the siting process. The adoption is necessary to establish a committee of citizens who will choose a geographic area within the city, town, or county which is appropriate for the center. Adoption of these rules is also necessary so the Department sites prerelease centers only in specific areas of the community for which there is official and public support within the community. Adoption is necessary so companies who wish to propose to operate a prerelease center can look within the

parameters which the working committee has chosen to find a specific location and submit a proposal to the Department based on that location. The Department can choose the proposal which best meets the needs of the State. These rules strive to minimize controversy in the siting process because the Working Committee will exclude any specific geographic area which lacks public support from consideration as a possible site.

6. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to Lois Adams, Rule Reviewer, Montana Department of Corrections, P.O. Box 201301, Helena, MT 59620-1301. Comments must be received no later than November 5, 1998.

7. 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 above.

8. The notice requirements of 2-4-302(2)(d), MCA, have been satisfied.



Rick Day, Director
Department of Corrections



Lois Adams
Rule Reviewer

Certified to the Secretary of State, September 28, 1998.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC
adoption of new rules I)	HEARINGS ON PROPOSED
through XXV for the regulation)	ADOPTION OF RULES
of game farms in the State of)	REGULATING GAME FARMS
Montana)	

TO: All Interested Persons

1. The Department of Livestock (department) will hold public hearings to consider the adoption of new game farm rules. The hearing dates and places are as follows:

November 2, 1998 7:00 p.m.
Billings Hotel and Convention Center (Clarion Hotel)
1123 Malowney Lane
Billings, Montana

November 4, 1998 7:00 p.m.
Heritage Inn, Alberta Room
10th Avenue South
Great Falls, Montana

November 5, 1998 7:00 p.m.
Doubletree Inn
100 Madison
Missoula, Montana

These hearings will be held jointly with the Department of Fish, Wildlife and Parks. Department of Fish, Wildlife and Parks proposed rule changes are published in this issue of the register as MAR Notice No. 12-248. The Department of Livestock is proposing to adopt game farm rules to implement its statutory responsibilities in the regulation of game farms. The proposed rules of both departments have been jointly developed in a public process under the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1, MCA.

2. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS In this subchapter the following terms have the meanings or interpretations indicated below and must be used in conjunction with and supplemental to those definitions contained in 87-4-406, MCA.

(1) "Alternative livestock veterinarian" means a deputy state veterinarian who has been trained and approved by the department to perform regulatory work on game farm animals.

(2) "Bill of sale" means the game farm invoice and bill of sale form utilized by the department of livestock to document the valid transfer of ownership of game farm animals.

(3) "Catch pen" means a fenced enclosure used in conjunction with the handling facility to hold game farm animals for individual inspection, marking or treatment.

(4) "Certificate of veterinary inspection" means the department of livestock inspection certificate form designed to fulfill the requirements of a certificate of inspection under ARM 32.18.201, and conforming to the requirements of the health certificate under ARM 32.3.206, for the inspection of game farm animals. The form must include the number, species, age, sex, individual animal identification, owner, game farm information and the reason for the inspection.

(5) "Confirmation sample" means a second sample taken from the same animal and submitted to a laboratory to confirm the results of the original sample.

(6) "Department" means the department of livestock.

(7) "Department designated agent" means an individual empowered by the department to act on behalf of the department in performing regulatory duties strictly defined by department policy.

(8) "Disease, communicable" means a disease that can spread from one animal to another animal or to humans.

(9) "Disease, quarantinable" means any disease defined under ARM 32.3.104, 32.3.116 or identified by order of the state veterinarian.

(10) "Elk-red deer hybrid" means an animal that is produced by the mating of an elk and red deer (Cervus elaphus) and all subsequent progeny.

(11) "Emergency" means a sudden unexpected medical condition demanding immediate medical care not available on the game farm whereby if medical treatment is not obtained immediately, the animal may die.

(12) "Game farm" means the enclosed land area upon which game farm animals may be kept, as defined by 87-4-406(3) MCA.

(13) "Game farm animal" means the animals defined as game farm animals and cloven hoofed ungulates in 87-4-406, MCA except domestic water buffalo (Bubalus bubalis).

(14) "Game parts" means parts of a game farm animal carcass that may be taken from a game farm in accordance with the provisions of 87-4-415 and 87-4-416, MCA. Game parts does not include the regenerable parts harvested annually from game farm animals.

(15) "H of A tag" means the Canadian equivalent of the United States department of agriculture (USDA) official eartag.

(16) "Handling device" means a mechanical structure or animal restraining device (such as a squeeze chute) that facilitates inspection and handling of individual game farm animals.

(17) "Health certificate" has the meaning defined in ARM 32.3.201.

(18) "Herd plan" means a written disease management plan that is designed by the herd owner and the state veterinarian to eradicate disease from an affected herd while reducing human exposure to the disease. The herd plan will include appropriate herd test frequencies, tests to be employed, and any additional

disease or herd management practices deemed necessary to eradicate a disease from the herd in an efficient and effective manner.

(19) "Herd tattoo" means the recorded whole herd mark or brand required by 81-3-104, MCA for game farm animal identification.

(20) "Hybrid test" means a laboratory test recognized for the identification of elk-red deer hybrid animals.

(21) "Members of the same family" means a group whose membership is determined by including an individual, the individual's spouse, and the individual's parents, children, grandchildren, and the spouses of each.

(22) "Montana official ear tag" means a game farm animal identification tag provided by the department of livestock that meets the requirements of 87-4-414(4), MCA.

(23) "Permit" means an official document issued by the Montana department of livestock after proper application which allows the movement of animals, or biologics into Montana. The permit shall conform to the requirements of ARM 32.3.207.

(24) "Prohibited game farm animals" means animals that are prohibited from importation for purposes of game farming pursuant to 87-4-424, MCA.

(25) "Quarantine facility" means a department approved enclosure, separate from the catch pen and handling device, used to isolate newly acquired or diseased game farm animals.

(26) "Restricted game farm animals" means animal species, subspecies and their hybrids subject to specific importation restrictions.

(27) "Single location" means contiguous parcels of property comprising the game farm under the same ownership or secured lease. Contiguous property may include parcels separated by a legal public or private road or a river or stream.

(28) "Solid wall" means a wall constructed with no visible cracks between construction units or underneath the wall unit.

(29) "State waters" means a body of water so defined by 75-5-103, MCA.

(30) "Transfer" means the movement of any game farm animal to or from a game farm and also includes the change in ownership interest or any part of an ownership interest in a game farm animal.

(31) "Transportation" means the movement of a game farm animal from one licensed game farm to another licensed game farm, a market or any other approved destination.

(32) "USDA official ear tag" means an identification ear tag that provides unique identification for each individual animal by conforming to the alphanumeric national uniform eartagging system.

(33) "Whole herd mark" means an artificial mark or brand recorded by the department for the exclusive sole use of the individual in whose name the mark or brand is recorded. The whole herd mark assigned by the department for game farm animals is the herd tattoo.

AUTH: 87-4-422, MCA; IMP: 87-4-422, MCA

NEW RULE II IDENTIFICATION OF GAME FARM ANIMALS WITH THE EXCLUSION OF OMNIVORES AND CARNIVORES

(1) Game farm animals owned or transferred to any game farm within the state of Montana must be individually identified by the method prescribed by the department.

(2) Every game farm animal must be marked with a whole herd mark (herd tattoo) registered to the game farm animal owner and placed in the location on the animal identified by the department's recorder of marks and brands.

(a) The herd tattoo placed in an animal born on or imported to the game farm shall be that of the owner of the animal and is recognized as the original tattoo.

(b) Retattoo of an illegible tattoo shall be done by a designated agent of the department and shall be the original tattoo (herd of origin) of the animal. When an animal is retattooed, the designated agent of the department shall submit a certificate of veterinary inspection to the department documenting the retattoo of the animal and the complete animal identification, age, sex and species information.

(c) The recorded whole herd mark (herd tattoo) has all of the rights of ownership granted under 81-3-105, MCA.

(3) Under the authority of 87-4-414, MCA, each game farm animal will be marked with a Montana official eartag issued by the department.

(a) Montana official eartags must be applied by a department designated agent.

(b) USDA official eartags and Montana official ear tags are non-transferable and can only be removed from a game farm animal by a department designated agent.

(c) Montana official eartags that are lost from a game farm animal must be surrendered to a department designated agent or the department as soon as possible after the retrieval of the tag.

(d) All animal identification tags retrieved from game farm animals by the department designated agent shall be submitted to the department Helena office.

(4) The unauthorized removal of a Montana official ear tag or USDA official ear tag, or the alteration or reuse of tags shall constitute a violation of this rule.

(5) The alteration of a whole herd mark except as outlined in (2)(b) of this rule shall constitute a violation of this rule and 81-3-221, MCA.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE III IDENTIFICATION OF OMNIVORES AND CARNIVORES

(1) Omnivores and carnivores shall be tattooed as required by 87-1-231, MCA.

(2) Each omnivore and carnivore shall be identified by microchip identification. The department shall specify the brand of microchip. The owner shall provide the department the microchip number/frequency and location of insertion of the microchip for each animal.

(3) If the animal does not qualify for a waiver under [NEW RULE IV]; the animal must be fitted with a collar or other form of identification that meets the requirements of 87-4-414, MCA designated by the department of livestock.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE IV WAIVERS TO IDENTIFICATION (1) Under the authority of 87-4-414(5) MCA, the department may grant a temporary waiver to identification requirements. The licensee may request a temporary waiver if the animal meets the following requirements:

(a) the animal is tattooed in compliance with 81-3-102, MCA, or 87-1-231, MCA;

(b) the animal has been implanted with a form of microchip identification approved and accepted by the department; and

(c) cervidae must be tested annually for TB and brucellosis.

(2) The state veterinarian may require additional tests as necessary.

(3) Temporary waivers expire January 1 of the year following the year of issuance.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE V INSPECTION OF GAME FARM ANIMALS (1) Prior to the sale, transfer of ownership, or transportation of a live animal from a licensed game farm, the animal must be inspected by the department designated agent with the following exceptions:

(a) The department may waive the inspection if the sale or transfer of ownership of the game farm animals is between members of the same family and if no change in location of the animals occurs;

(b) Game farm animals may be moved without inspection between game farm properties under one license;

(c) Animals requiring emergency medical treatment may be transported without prior inspection for veterinary treatment if the following conditions are met:

(i) Prior to the movement of the animal, the owner must call a department designated agent, and file an intent to transport the animal and schedule the inspection of the animal at the destination vet clinic. Prior to movement of the animal, an alternative livestock veterinarian must review the animal's reported condition and determine it to be an "emergency."

(ii) An inspection must be completed by a designated agent of the department prior to movement from the vet clinic and return to the game farm; and

(iii) Any untagged and untattooed game farm animal must be tagged and marked in compliance with 87-4-414, MCA and 81-3-102, MCA prior to return to the game farm; and

(d) Under circumstances of force majeure, the department may grant a waiver to transport an animal without prior inspection.

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(2) For animals that are killed by predators or die of natural causes, the animal death must be reported to the department (Helena office) within 1 working day of the discovery of death.

(a) If the animal has been tagged or marked, a department designated agent must remove the official eartags from the animal and all of the identification tags from the animal must be submitted to the department with a completed certificate of veterinary inspection. The department may allow the animal to be inspected at a location off of the game farm and transported in accordance to the procedures outlined in (3)(a) below.

(b) If the animal has not been tagged and marked, the department may waive the inspection requirement.

(3) Game farm animals that are marketed for hunting purposes or an animal slaughtered on the game farm must be inspected by a department designated agent.

(a) The game farm animal including but not limited to the carcass, parts or meat must be inspected prior to removal from the licensed game farm property unless:

(i) The owner or owner's agent of the animal has called the department (Helena office) and has provided the department the complete identification, age, sex, and species of the animal; the immediate destination of the animal; and the name and address of the consignee if the animal was sold.

(ii) The department (Helena office) must give permission for the owner or owner's agent to move the animal from the game farm. A transport number or certificate of identification number will be given to the game farmer. This number must be listed on the bill of sale for the animal or other department specified form. The valid bill of sale for the animal or department approved form must accompany the animal to its destination.

(iii) Prior to the movement of the animal from the property, a department designated agent must be informed by the game farm licensee of the immediate destination of the animal. The department designated agent shall inspect the animal and retrieve the identification tags from the animal. All identification tags, bill of sale (or other approved form) and completed certificate of veterinary inspection must be submitted to the department within 5 days of completion of the inspection.

(b) If a department designated agent is present on the licensed game farm at the time of the hunt or slaughter, the department will waive the requirement to inform the Helena office and the inspection of the animal pursuant to 87-4-416, MCA, must be completed prior to movement of the animal carcass, meat or parts from the game farm.

(4) A valid bill of sale must accompany any sale, or transfer of ownership of any game farm animal, carcass, meat or parts.

(a) Transfer of ownership of game farm animals must meet all of the requirements of ARM 32.18.106. The valid bill of sale must bear the signature of one of the recorded owner(s) of the recorded whole herd mark or his assigns.

(b) A copy of the bill of sale must be provided to the

department designated agent at the time of inspection, and the agent shall in turn provide the copy to the department (Helena office.)

(c) A copy of the bill of sale must be kept in records maintained by the game farm licensee.

(5) The game farm licensee shall present game farm animals for inspection under conditions where the designated agent for the department can safely read all marks and identification on the animals.

(6) The inspection shall permit the movement of the game farm animals from the place of inspection immediately to the destination shown on the inspection certificate. No diversion or off-loading of the game farm animals will be permitted without approval from the department and further inspection. A certificate of inspection shall permit the movement of the game farm animals identified thereon for no more than 72 hours after time of issue.

(7) Certificates of inspection, bills of sale and identification tags must be mailed to the Helena office within 5 days of completing the inspection.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE VI INSPECTION OF GAME FARM ANIMALS AND INTERNAL FACILITIES (1) An authorized agent of the department may enter the game farm and conduct an inspection of the internal facilities and/or animals under the following conditions:

(a) For routine inspection purposes, after contacting the owner/manager of a licensed game farm, an authorized agent of the department may enter at reasonable times on the game farm to inspect the game farm animals and the internal facilities.

(b) If the department has reasonable cause to believe that a violation of Title 87, chapter 4, Title 81, chapter 3, MCA, or any rule made under the authority of 87-4-422, MCA, has occurred, an unannounced inspection of the game farm internal facilities and/or animals may be conducted.

(c) Upon request, the game farm licensee shall present the game farm animals for inspection under the conditions required by [NEW RULE V].

(d) The game farm licensee is responsible for assembling, handling, and restraining animals and for all subsequent costs incurred to present the animals for inspection.

(2) The department may require the inspection of an escaped, recaptured game farm animal.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE VII CHANGE OF OWNERSHIP TESTING REQUIREMENTS FOR GAME FARM ANIMALS (1) Prior to a change of ownership, movement, transfer, or sale of game farm animals within Montana, the animals must meet all testing requirements mandated by the state veterinarian under ARM Title 32, chapter 3, subchapters 4 and 6.

(2) The department may waive change of ownership and

transportation testing requirements of game farm animals consigned for sale as shooters and/or slaughter on the immediate game farm premises, or consigned to an out-of-state destination with the following conditions:

(a) The waiver from testing does not exempt any requirement for necropsy or post mortem inspection that may be determined to be necessary by the state veterinarian.

(b) No animal consigned to an out-of-state destination may be diverted to an in-state destination if it has not met the test requirements of this rule and without the approval of the department.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE VIII ELK-RED DEER HYBRIDIZATION TESTS (1) All elk imported into Montana must be tested for elk-red deer hybridization. No elk-red deer hybrid may be imported. A copy of the test results must be provided to the department.

(2) The licensee shall test all elk born on or prior to December 31, 1998 for elk-red deer hybridization by January 1, 1999.

(3) The licensee shall test all elk born between January 1, 1999 and December 31, 2000 for elk-red deer hybridization by January 1 of the year following the year of birth or when the animal is sold or transported from the game farm, whichever comes first.

(4) The elk-red deer hybrid test procedures for all game farm elk is as follows:

(a) Blood samples must be drawn and submitted by a designated alternative livestock veterinarian.

(b) The test must be conducted at a department approved laboratory and meet department standards. A copy of all test results must be provided to the department. The licensee shall provide a copy of any positive elk-red deer hybrid results to the department of fish, wildlife and parks.

(c) Animal test results conducted prior to the adoption of these rules may be accepted if the identity of the animal can be documented to the department.

(d) The owner of any animal identified as an elk-red deer hybrid may submit a second confirmation sample to another approved laboratory within 6 months of receiving the results of the first hybrid test.

(5) If an elk-red deer hybrid is detected, the animal must be neutered, slaughtered or sold out of state in accordance with [proposed NEW RULE XXII of the department fish, wildlife and parks, MAR Notice No. 12-248 in this issue of the register]. The identity of any animal identified as an elk-red deer hybrid and proof of neutering must be submitted to the department by the alternative livestock veterinarian. The state veterinarian shall determine what is acceptable as proof of neutering.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE IX REQUIREMENTS FOR GAME FARM ANIMAL GAMETES (OVA

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AND SEMEN) AND EMBRYOS (1) The use of semen within the state of Montana and the import of semen into the state, for artificial insemination of game farm animals must meet all of the requirements of 81-2-403, MCA, rules promulgated under the authority of 81-2-402, MCA and any order of the state veterinarian.

(2) The sale and importation of gametes and embryos in the state of Montana must meet the requirements for the sale and transfer of game farm animals, which include, but are not limited to: (a) the provisions for a bill of sale; (b) a health certificate; and (c) importation permit where applicable.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE X REQUIREMENTS FOR ESCAPED, RECAPTURED GAME FARM ANIMALS (1) The state veterinarian may require disease testing of an escaped, recaptured game farm animal prior to reintroduction to the herd.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XI WAIVER OF TESTING REQUIREMENTS (1) The state veterinarian may waive a disease testing requirement on a case by case basis if granting the waiver does not create a threat of disease to livestock, wildlife or to the public.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XII LABORATORY REQUIREMENTS (1) All tests of animals required by Montana or federal authorities as a condition for entry into or movement within Montana must be made or confirmed in state or federal animal diagnostic laboratories.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XIII POSSESSION OF RESTRICTED OR PROHIBITED GAME FARM ANIMALS (1) Under the authority of 87-4-424, MCA, the department of fish, wildlife and parks has prohibited the possession, purchase, sale or transportation of elk-red deer hybrids.

(2) The transportation or disposition of any restricted or prohibited species must meet all department testing, transportation, sale, slaughter and inspection requirements for game farm animals.

(3) Five days advance notice must be provided to the department and the department of fish, wildlife and parks prior to the transportation or disposition of any illegally possessed animals.

(4) Possession, transport, or sale of any other restricted or prohibited species is subject to the penalties and disposition mandated under 87-4-407, MCA.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XIV IMPORTATION OF RESTRICTED OR PROHIBITED GAME FARM ANIMALS (1) The department has designated the following game farm animals as "restricted species" on the basis of specific animal health risks that they pose to wildlife and/or domestic livestock:

(a) The importation of white-tailed deer (Odocoileus virginianus) and moose (Alces alces) into Montana is restricted until such time the state veterinarian approves a diagnostic technique and test protocols for the detection of meningeal worm parasites and dorsal spined larvae. No animal with positive test results for meningeal worm or dorsal spined larvae may be imported into Montana.

(i) The state veterinarian may approve new technology and test protocols for the detection of meningeal worm parasites and/or larvae as they are developed.

(b) Importation of reindeer (Rangifer sp.) into Montana is restricted except under the following conditions:

(i) All animals in the shipment originate in a herd located south of the Canada/U.S. border that is certified brucellosis (B. suis and B. abortus) and tuberculosis free as determined by whole herd testing; and

(ii) Imports from Canada and Alaska may be imported if they meet testing requirements and have resided in another state for one year and all female animals have had one calf.

(c) Wild or captive elk, mule deer and whitetail deer may not be imported or transported from a geographic area or game farm where chronic wasting disease is endemic or has been diagnosed unless they meet all importation requirements, transportation requirements and any other requirements mandated by statute, rule or order of the state veterinarian under the authority of Title 81, chapter 2, MCA.

(2) In the family Bovidae, the department has designated as prohibited species all members of the following genera and hybrids thereof:

(a) Subfamily Hippotraginae:

(i) Connochaetes (wildebeests);

(ii) Alcelaphus (hartebeests); and

(iii) Damaliscus (sassabies: blesbok, bontebok, topi).

(3) The department shall restrict from importation for purposes of game farming any cloven hoofed ungulate species or subspecies and their hybrids with native species that have been classified by the department of fish, wildlife and parks under the authority of 87-4-424, MCA, as posing a threat to native wildlife or livestock.

(4) Reclassification by the department of any species listed as prohibited or restricted is contingent upon compelling scientific information indicating the risks posed by these species to native wildlife populations and/or domestic livestock can be eliminated or managed effectively through new diagnostic techniques or management technologies.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XV IMPORTATION OF GAME FARM ANIMALS (1) Game farm

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animals imported into Montana must meet all requirements of ARM Title 32, chapter 3, subchapter 2, Title 81, chapter 2, part 7, MCA, and any other orders issued by the department under the authority of 81-2-102, MCA.

(2) All cervid species will be treated with an appropriate anthelmintic as determined by the state veterinarian at least 20 days prior to entry into Montana to reduce the potential of undesirable parasites.

(3) Animals must be consigned to a game farm licensee. The game farm licensee must have a valid license for the species being imported.

(4) Game farm animals shall be accompanied by an official health certificate and a permit, which must be attached to the waybill or be in the possession of the driver of the vehicle or person in charge of the animals. When a single health certificate and/or permit is issued for animals being moved in more than one vehicle, the driver of each vehicle shall have in his/her possession a copy of the health certificate or permit.

(a) The official health certificate must meet all of the requirements of ARM 32.3.206 and the veterinarian issuing the health certificate must certify that the following conditions are true:

(i) All elk in the shipment have been tested for red deer gene markers. No elk-red deer hybrid may be imported. Laboratory test results for each individual animal must be provided to the department within 15 days of shipment of the animals;

(ii) The veterinarian issuing the health certificate shall assess the herd of origin and determine if the game farm animals have been infected by or exposed to Mycobacterium paratuberculosis (Johne's disease). A statement summarizing his findings shall be included on the health certificate. No animal exposed to or infected with M. paratuberculosis may be imported;

(iii) For elk, the herd of origin must be certified as free of central nervous system (CNS) symptoms for the last 5 years; and

(iv) Animals must meet all other importation requirements made by the state veterinarian under ARM Title 32, chapter 3, sub-chapter 2;

(b) The importation permit must meet all of the requirements of ARM 32.3.207, and include the following information:

(i) The permit is valid for no longer than 10 days;

(ii) The person applying for the permit shall provide the following information; and

(A) the names and addresses of the consignor and consignee;

(B) the number and species of animals;

(C) the origin of shipment (ranch where raised and all intermediate stops in the past 6 months);

(D) the final game farm destination; and

(E) purpose of shipment, method of transportation, including the names of transporter, and such information as the state veterinarian may require.

(iii) The permit number may be issued by the department by telephone. The permit number must be listed on the official health certificate.

(5) A valid bill of sale/proof of ownership must accompany the shipment. A copy of the bill of sale must be provided to the department at the time the animal is tagged and marked as required by 87-4-414 and 81-3-102(2), MCA.

(6) Prior to shipment, all game farm animals with the exclusion of omnivores and carnivores must be marked with a USDA official eartag or its Canadian equivalent called an H of A tag.

(7) All game farm animals must be quarantined upon arrival in Montana until all testing requirements have been met and the animal is tagged and marked as required by 87-4-414 and 81-3-102, MCA.

(8) No person consigning, transporting, or receiving game farm animals into Montana may authorize, order or carry out diversion of such animals to a destination or consignee other than set forth on the health certificate or permit without first obtaining written authorization from the state veterinarian of Montana or his designee to make such a diversion.

(9) Importation of gametes shall meet all requirements outlined in [NEW RULE IX].

(10) Importation of game farm animal semen must meet the applicable requirements of ARM 32.2.220.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XVI EXPORTATION OF GAME FARM ANIMALS (1) Any game farm animal exported must be tagged and marked in compliance with 81-3-102(2) and 87-4-414, MCA.

(2) The animal must meet the inspection requirements for change of ownership and movement of game farm animals prior to movement from the game farm in accordance to [NEW RULE V].

(3) The shipment be accompanied by a certificate of inspection and valid bill of sale for animals that have changed ownership.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XVII TRANSPORT WITHIN AND INTO MONTANA (1) Prior to movement of game farm animals within Montana, the animals must be inspected pursuant to 81-3-203(1) through (3), MCA, excluding those exceptions outlined in ARM 32.3.301.

(2) When transporting game farm animals within and into Montana, the animal shipment shall be accompanied by the inspection certificate and if a change of ownership has occurred, a valid bill of sale must accompany the shipment. If the animals are moved in more than one vehicle, the driver of each vehicle shall have in his possession a copy of the inspection certificate and bill of sale.

(3) Imported animals must meet all the requirements of [NEW RULE XV].

(4) Movement of game farm animals must be in a secured and enclosed vehicle.

(5) Movement of game farm animals from game farm property to game farm property under one license must be within a secured and enclosed vehicle unless the following conditions have been met:

(a) the properties are immediately adjacent with no separation distance between the properties; or

(b) the game farm licensee must submit to the department for review and approval a proposed alternative method of transportation or movement of animals between separated properties. This shall include but is not limited to the movement of animals from pasture to pasture across public or private roads, easements and rights of way.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XVIII TRANSPORT THROUGH MONTANA (1) Game farm animals may be transported from out of the state through Montana if:

(a) the animals proceed directly through Montana with no intent to unload;

(b) an official health certificate is obtained from the state of origin to show destination, origin, and proof of ownership of any game farm animals being transported;

(c) animals are not sold, bartered, traded, or otherwise transferred while in the state; and

(d) in emergencies, game farm animals in transit are unloaded and temporarily held with prior approval from the department (Helena office). Animals must be held in compliance with quarantine rules promulgated by the department.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XIX CATCH PEN AND HANDLING DEVICE (1) All game farm licensees must have a catch pen and a handling device that enables the licensee to test, inspect, mark and tag all game farm animals on the premises.

(2) A permanent or portable handling device must be on the game farm at all times. The handling device must be of a size appropriate for the species of animal and must provide for the safety of the animal and the handler.

(3) Each licensed game farm property must have a catch pen within the perimeter fencing to facilitate the confinement, handling and movement of animals. Game farm properties with a physical separation distance between pastures are required to maintain a catch pen in each pasture.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XX QUARANTINE FACILITY (1) Each licensed game farm must have a department approved quarantine facility within its perimeter fence or submit a quarantine action plan to the department that guarantees the licensee unlimited access to an approved quarantine facility on another licensed game farm within the state of Montana.

(2) A game farm license or the approval for expansion of the game farm shall not be granted by the department of fish, wildlife and parks until the license applicant receives department approval of the quarantine facility and handling facilities.

(3) The applicant for a game farm license shall submit the following to the department and department of fish, wildlife and parks at the time the application (or application for an expansion) for the game farm license is submitted to the department of fish, wildlife and parks:

(a) design plans for the applicant's game farm catch pen and handling facilities required under [NEW RULE XIX].

(b) detailed design specifications for a quarantine facility on the property owned or leased by the applicant and identified on the game farm license application; or

(c) a quarantine plan for the quarantine of animals at an approved quarantine facility located on another licensed game farm (host). This plan must include:

(i) recognition that animals must meet all inspection, transportation and testing requirements prior to movement;

(ii) a signed statement from the game farm licensee (host) who is allowing the applicant unrestricted use of his quarantine facility. This statement must define the period of time for which the applicant/licensee has permission to use the quarantine facility; and

(iii) if the game farm licensee (host) revokes the privilege to use his quarantine facility, or if the privilege is consensual for a defined period of time which has expired, the applicant/licensee has 30 days to design his own facilities and submit the plans to the department for approval. The applicant/licensee must construct the facility within 90 days of department approval of the plans.

(4) Design specifications for a quarantine facility shall include all measured dimensions of the proposed facility (heights and perimeters) and shall include the location and materials for fences, location of any shelters, feeding or water sources, location of the quarantine facility within the licensed game farm property, streams, slopes of property, gates, and access to holding facilities. The specifications for a quarantine facility must meet the following:

(a) a requirement for fencing to extend upward 8 feet from the ground level and meet one of the following criteria:

(i) a solid wall; and

(ii) a required separation distance of greater than 14 feet between the animals placed under quarantine and all other animals, including public wildlife. This can be accomplished by:

(A) construction of double fences, greater than 14 feet apart; or

(B) creation of a quarantine pen utilizing vacated surrounding pens to create the separation distance required in (4)(a)(ii). No pen surrounding the quarantine pen may be utilized for any purpose during the quarantine period.

(b) provisions for confined animals that include the

humane holding and care of the quarantined animals for an extended period of time and include provisions for the following:

(i) feeding facilities isolated from contact by any other animals;

(ii) water available at all times and isolated from contact by any other animals; and

(iii) shelter provided for the animals.

(c) the quarantine pen must meet the following:

(i) it must be located on relatively flat ground in order to prevent egress or ingress of animals. If built on a slope, the department may require additional measures be taken to prevent ingress or egress;

(ii) fecal wastes and water must not drain from the quarantine pen to any other pens or area of the game farm, or into an area outside the game farm where wildlife, animals, livestock or people could come into contact with such wastes. The department may require additional measures be implemented to prevent run off from the quarantine pen into state waters; and

(iii) The quarantine pen may not include any surface water body of state waters within its boundary.

(d) The facility shall include a means to move the animals from the quarantine facility to the handling facility.

(5) The state veterinarian may require additional modifications to the quarantine facility as determined necessary.

(6) The department may waive requirements on a site specific basis if it is determined the conditions of quarantine are not compromised by granting the waiver.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XXI MODIFICATION OF INTERNAL FACILITIES (1) Prior to modifying the quarantine facility, the licensee shall submit to the department for approval the plans and specifications for the proposed changes. Modifications include structural changes and/or a change of location of the quarantine facilities.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XXII IMPOSITION OF QUARANTINE (1) Imported game farm animals shall be placed under quarantine until:

(a) all disease testing requirements are met; and

(b) the animals are tagged and marked as required by 87-4-414, MCA.

(2) Any animals placed in quarantine shall be immediately presented by the licensee to the department for testing and/or inspection upon request. Failure to present animals may be interpreted as the negligent or willful misconduct of the game farm operation and also a threat to the public safety.

(3) The state veterinarian under the authority of 81-2-103, MCA and rules promulgated under ARM Title 32, chapter 3 shall outline the establishment and release of quarantine for all quarantinable diseases. This shall include but is not limited

to the following:

(a) the required testing for exposed and infected game farm animals placed under quarantine and any testing required for other animals on the game farm and adjacent properties;

(b) specific confinement requirements and restrictions for the animals placed under quarantine, (this may include construction of additional fences, restrictions or requirements on unquarantined animals regarding sale and transport)

(c) movement of animals from the herd identified under terms of the quarantine;

(d) disposal of animals wastes and carcasses on the game farm property; and

(e) any other measures deemed necessary for the elimination of disease on the game farm.

(4) The disposal of tuberculosis infected game farm animals as determined by physical examination or tuberculin test must meet all requirements of ARM Title 32, chapter 3 and 6 and orders by the state veterinarian.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XXIII BREAKING OF QUARANTINE (1) No person may remove any quarantined animal from a quarantine area or bring any animals into an active quarantine area without the permission of the department.

(2) Violation of the terms of the quarantine is punishable by 81-2-113, MCA, and other applicable provisions of the MCA.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XXIV DUTY TO REPORT CONTAGIOUS DISEASES (1) Any person, including a game farm licensee who has reason to believe that game farm animals have or have been exposed to a dangerous or communicable disease, must give notice to the department immediately.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

NEW RULE XXV DISPOSAL OF CARCASSES (1) Carcasses of animals that have died from causes other than anthrax must be disposed of in a satisfactory manner that meets the residential county solid waste disposal requirements. Carcasses of dead animals may not be disposed of along public highways, streams, lakes or rivers, or allowed to remain on the ground surface so as to become a public nuisance to livestock, wildlife or other animals.

AUTH: 87-4-422, MCA IMP: 87-4-422, MCA

3. These proposed game farm administrative rules implement changes in the game farm statutes and clarification of the regulatory authorities of Montana Department of Livestock.

As directed by the 1995 Montana Legislature, Chapter 503, Laws

of 1995, these proposed game farm administrative rules were drafted to implement changes in the game farm statutes, clarifying the regulatory authorities of the Montana Department of Livestock and coordinate the regulation of game farms with the Department of Fish, Wildlife and Parks.

A negotiated rule making committee representing the department, Department of Fish, Wildlife and Parks, Montana Alternative Livestock Producers, Montana Wildlife Federation, and Montana Veterinary Medical Association was convened to consider rule changes; the proposed rules are the result of consensus among this group. The Department of Livestock and Department of Fish, Wildlife and Parks are adopting rules, that when combined, will regulate the game farm industry. The two sets of rules are intended to be considered together as a regulatory framework and are co-dependent in the scope of their authority. The proposed rules implement the department's authorities and are arranged by subject to provide clarity to the user. Department of Livestock rules address transportation, importation, identification, sale, quarantine, hold orders, interior facilities, health regulations and the care and maintenance of game farm animals.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearings. Written data, views or arguments may also be submitted in writing to Luella Schultz, PO Box 202001, Helena, Montana 59620-2001, by no later than November 13, 1998.

5. Robert Lane, Lon Mitchell or another hearings examiner designated by the departments will preside over and conduct the public hearings.

6. The sponsors of the legislative bill have been notified as required by section 2-4-302, MCA.

7. The Department of Livestock maintains a list of persons interested in rulemaking actions proposed by this agency. Any person wishing to be on the list must make a written request to the department, providing name, address and description of the subject or subjects of interest. Direct the request to Montana Department of Livestock, P.O. Box 202001, Helena, Montana 59620-2001.

MONTANA BOARD OF LIVESTOCK
JOHN PAUGH, CHAIRMAN

BY: 

Laurence Petersen, Executive Officer
to the Board of Livestock

BY: 

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

Certified to the Secretary of State September 28, 1998.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the proposed)	
amendment to ARM 32.8.101)	NOTICE OF PROPOSED
relating to)	AMENDMENT
incorporation by reference of)	
the Procedures Governing the)	NO PUBLIC HEARING
Cooperative State-Public)	CONTEMPLATED
Health Service/Food and Drug)	
Administration Program for)	
Certification of Interstate)	
Milk Shippers)	

TO: All Interested Persons:

1. On November 26, 1998, the board of livestock (board) proposes to amend rule 32.8.101.

2. The proposed amendment provides as follows (new text underlined):

32.8.101 ADOPTION OF GRADE A PASTEURIZED MILK ORDINANCE AND ASSOCIATED DOCUMENTS (1) remains the same

(a) through (e) remain the same

(f) "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers", 1995 Edition.

(2) and (3) remain the same.

AUTH: 81-2-102, MCA IMP: 81-2-102, MCA

3. Rule 32.8.101 is being amended because it will allow the department of livestock to effectuate better control mechanisms involving assuring the public of a safer milk supply.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to the Department of Livestock, 301 N. Roberts St., - RM 307, PO Box 202001, Helena, MT 59620-2001. Any comments must be received no later than November 18, 1998.

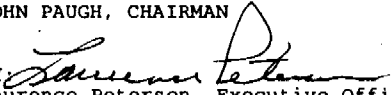
5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Department of Livestock, 301 N. Roberts St., - RM 307, PO Box 202001, Helena, MT 59620-2001. A written request for hearing must be received no later than November 18, 1998.


6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed actions; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be greater than 25 persons based on the number of dairies and milk producers in the State of Montana.

7. The two-bill sponsor notice requirements of section 2-4-302, MCA, do not apply.

8. The board of livestock maintains a list of interested persons who wish to receive notices of rule making actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices. Such written request may be mailed or delivered to the board of livestock office at PO Box 202001, Helena, Montana 59620-2001, or faxed to the office at (406) 444-1929.

MONTANA BOARD OF LIVESTOCK
JOHN PAUGH, CHAIRMAN

BY: 
Laurence Petersen, Executive Officer
to the Board of Livestock

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

Certified to the Secretary of State September 28, 1998

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

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

TO: All Interested Persons.

1. On October 29, 1998, a public hearing will be held at 10:00 a.m. in the Secretary of State's Office Conference Room at room 225 of the Capitol Building at Helena, Montana, to consider the proposed amendment of ARM 1.2.419 regarding the scheduled dates for the Montana Administrative Register.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on October 22, 1998, to advise us the nature of the accommodation that you need. Please contact Kathy Lubke, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-2055; FAX (406) 444-5833.

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

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

1998~~9~~ Schedule

<u>Filing</u>	<u>Compiling</u>	<u>Printer Pickup</u>	<u>Publication</u>
January 54	January 65	January 76	January 1514
January 1615	January 2019	January 2120	January 2928
February 2			
January 29	February 31	February 43	February 1211
February 1712	February 1816	February 1917	February 2625
March 2			
February 26	March 31	March 43	March 1211
March 1612	March 1715	March 1817	March 2625
April 6	April 7	April 8	April 16
MAR Notice No. 44-2-100			19-10/8/98

<u>March 26</u>	<u>March 29</u>	<u>March 31</u>	<u>April 8</u>
<u>April 209</u>	<u>April 212</u>	<u>April 2214</u>	<u>April 3022</u>
<u>April 23</u>	<u>April 26</u>	<u>April 28</u>	<u>May 6</u>
<u>May 47</u>	<u>May 510</u>	<u>May 612</u>	<u>May 1420</u>
<u>May 1021</u>	<u>May 1924</u>	<u>May 2026</u>	<u>May 20June 3</u>
<u>June 14</u>	<u>June 27</u>	<u>June 39</u>	<u>June 1117</u>
<u>June 1518</u>	<u>June 1621</u>	<u>June 1723</u>	<u>June 25July 1</u>
<u>July 612</u>	<u>July 713</u>	<u>July 814</u>	<u>July 1622</u>
<u>July 20</u>	<u>July 21</u>	<u>July 22</u>	<u>July 30</u>
<u>August 32</u>	<u>August 43</u>	<u>August 54</u>	<u>August 1312</u>
<u>August 1716</u>	<u>August 1817</u>	<u>August 1918</u>	<u>August 2726</u>
<u>August 3120</u>	<u>September 1</u>	<u>September 21</u>	<u>September 109</u>
	<u>August 31</u>		
<u>September 1413</u>	<u>September 1514</u>	<u>September 1615</u>	<u>September 2423</u>
<u>September 2027</u>	<u>September 2928</u>	<u>September 3029</u>	<u>October 07</u>
<u>October 1312</u>	<u>October 1413</u>	<u>October 1514</u>	<u>October 2221</u>
<u>October 2625</u>	<u>October 2726</u>	<u>October 2027</u>	<u>November 54</u>
<u>November 98</u>	<u>November 109</u>	<u>November 1210</u>	<u>November 1918</u>
<u>November 2322</u>	<u>November 2423</u>	<u>November 2524</u>	<u>December 32</u>
<u>December 76</u>	<u>December 87</u>	<u>December 98</u>	<u>December 1716</u>

(2) Remains the same.

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

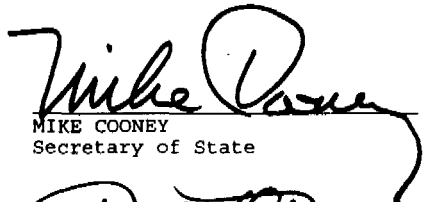
4. The rule is proposed to be amended to set dates pertinent to the publication of the Montana Administrative Register during 1999.


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 Kathy Lubke, Administrative Rules Bureau, Secretary of State's Office, 1236 Sixth Avenue, P.O. Box 202801, Helena, Montana 59620-2801, and must be received no later than November 5, 1998.

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

7. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies whether the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Bureau, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to

the office at (406) 444-5833, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.


MIKE COONEY
Secretary of State


DAN WHYTE
Rule Reviewer

Dated this 28th day of September 1998.

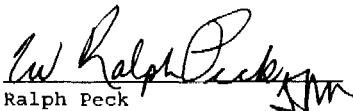
BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

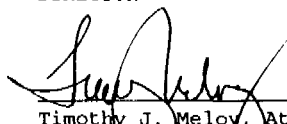
In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 4.3.602, 4.3.603, and)
4.3.604 relating to the Rural)
Assistance Loan Program to)
assist substandard income.)

TO: All Interested Persons

1. On August 27, 1998, the Department of Agriculture published a notice of proposed amendment of rules 4.3.602, 4.3.603, 4.3.604, relating to the Rural Assistance Loan Program to assist substandard income, at page 2188 of the 1998 Montana Administrative Register, Issue No. 16.
2. The department has amended the rules exactly as proposed.
3. No comments or testimony were received.

DEPARTMENT OF AGRICULTURE


Ralph Peck
DIRECTOR


Timothy J. Meloy, Attorney
Rule Reviewer

Certified to the Secretary of State September 28, 1998.

BEFORE THE BOARD OF PRIVATE SECURITY
PATROL OFFICERS AND INVESTIGATORS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT OF ARM
of rules pertaining to)	8.50.428 EXPERIENCE
experience requirements, fees)	REQUIREMENTS, 8.50.437 FEE
and private investigator)	SCHEDULE AND 8.50.438
trainee)	PROBATIONARY PRIVATE
)	INVESTIGATORS

TO: All Interested Persons:

1. On August 27, 1998, the Board of Private Security Patrol Officers and Investigators of the Division of Professional and Occupational Licensing published a notice of public hearing on the proposed amendment of rules pertaining to experience requirements, fees and private investigator trainee, at page 2230, 1998 Montana Administrative Register, issue number 16.

2. The Board has amended ARM 8.50.428, 8.50.437 and 8.50.438 exactly as proposed.

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

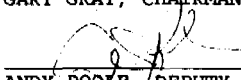
COMMENT NO. 1: The Board received a written comment. The commentors suggested that the fee increase was too substantial.

RESPONSE: The commentors realized that the comment was based on an erroneous reading of the amendment. Therefore, the Board rejects the comment.

COMMENT NO. 2: The Board received a written comment suggesting that it was appropriate for insurance adjusters to utilize employment as such toward the applicable experience requirement for licensure.

RESPONSE: The Board rejects the comment. It is appropriate for the Board to review applications on a case-by-case basis for satisfaction of experience requirements. The Board will, however, address this issue once again at a future Board meeting.

BOARD OF PRIVATE SECURITY
PATROL OFFICERS AND INVESTIGATORS
GARY GRAY, CHAIRMAN

BY: 
ANDY POOLE, DEPUTY DIRECTOR
DEPARTMENT OF COMMERCE


R. PERRY ESKRIDGE, RULE REVIEWER

Certified to the Secretary of State, September 28, 1998.

19-10/8/98

Montana Administrative Register

BEFORE THE STATE BANKING BOARD
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment)
of a rule pertaining to the)
state banking board)

CORRECTED NOTICE OF
AMENDMENT OF ARM 8.80.1001

TO: All Interested Persons:

1. On June 25, 1998, the State Banking Board published a notice of proposed transfer and amendment of the above-stated rule at page 1560, 1998 Montana Administrative Register, issue number 12. On September 10, 1998, the State Banking Board published the adoption notice of the above-stated rule at page 2480, 1998 Montana Administrative Register, issue number 17.

2. The language "nor generally not later than the 15th day" was inadvertently repeated twice in the original proposed notice. Subsection (5) of ARM 8.80.1001 should have read as follows in the original notice:

"8.80.1001. APPLICATION PROCEDURE FOR APPROVAL TO MERGE AFFILIATED BANKS (1) through (4) will remain as adopted.

(5) If an application is incomplete in any respect, or if additional information is required, the applicants will be so notified by the division of banking and financial institutions and allowed up to 30 days in which to perfect the application or provide additional information. An extension of this 30-day period may be obtained from the division of banking and financial institutions by showing good cause why it should be so extended. The division may delay processing, including extending the comment period for good cause. Processing will be completed no earlier than the 15th day nor generally not later than the 45th day following the date of the last required publication.

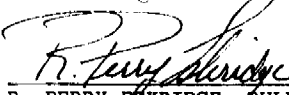
(6) and (7) will remain the same as adopted."

3. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on September 30, 1998.

DIVISION OF BANKING AND
FINANCIAL INSTITUTIONS

BY:


ANDY POOLE, DEPUTY DIRECTOR
DEPARTMENT OF COMMERCE


R. PERRY BEKRIDGE, RULE REVIEWER

Certified to the Secretary of State, September 28, 1998.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of	)	NOTICE OF AMENDMENT
amendment and adoption	)	AND ADOPTION OF RULES
of rules relating to	)	RELATING TO CONTENT AND
content and performance	)	PERFORMANCE STANDARDS FOR
standards for reading	)	READING AND MATHEMATICS.
and mathematics.)	

TO: All interested persons.

1. On May 28, 1998, the Board of Public Education published notice of public hearings on the proposed amendment and adoption of the rules referenced above at page 1358 of the 1998 Montana Administrative Register, Issue No. 10.

2. Opportunity for public hearing was held on June 23, 1998, in Glendive, on June 24, 1998, in Billings, on June 25, 1998, in Great Falls, and on June 29, 1998, in Missoula. The hearings were recorded and the tapes are included in the file on this matter. In addition, written comments were received at the hearings and prior to the closing of the comment period.

3. After consideration of the comments received, the following rules are being amended as proposed: 10.55.605, 10.55.906, 10.55.907 and 10.55.1001.

4. After consideration of the comments received, the following rules are being adopted as proposed and codified as follows: RULE I (10.54.2501), RULE II (10.54.2502), RULE VIII (10.54.3021), RULE XXXVI (10.54.4011), RULE XXXVII (10.54.4012), RULE XXXVIII (10.54.4013), RULE XL (10.54.4021), RULE XLI (10.54.4022), RULE XLII (10.54.4023), RULE XLIV (10.54.4031), RULE XLV (10.54.4032), RULE XLVI (10.54.4033), RULE XLVIII (10.54.4041), RULE XLIX (10.54.4042), RULE L (10.54.4043), RULE LII (10.54.4051), RULE LIII (10.54.4052), RULE LIV (10.54.4053), RULE LVI (10.54.4061), RULE LVII (10.54.4062), RULE LVIII (10.54.4063), RULE LX (10.54.4071), RULE LXI (10.54.4072), and RULE LXII (10.54.4073).

5. After consideration of the comments received, the following rules are being amended with the changes given below, new material underlined, deleted material interlined.

10.55.601 ACCREDITATION STANDARDS: PROCEDURES (1) and (2) remain the same.

(3) (a) Effective on July 1, 1989, schools are required to maintain present programs that meet current standards until such standards are superseded. ~~In addition, schools are~~

expected to maintain current programs that conform to standards which have been adopted but have a delayed effective date. The content and performance standards will supersede model learner goals according to the following schedule:

- (i) Reading -- November 1998.
- (ii) Math -- November 1998.
- (iii) Science -- October 1999.
- (iv) Technology -- October 1999.
- (v) Health Enhancement -- October 1999.
- (vi) Communication Arts aligned to the reading content and performance standards -- October 1999.
- (vii) World Languages -- October 1999.
- (viii) Social Studies -- October 2000.
- (ix) Arts -- October 2000.
- (x) Vocational/Practical Arts -- October 2000.
- (b) A school has until the end of school year 2003-04 (five years) to align its curriculum to the statewide content and performance standards. A school should modify its existing curriculum review schedule to synchronize with the state's schedule for revising standards.

(4) remains the same.

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

COMMENT 1: Mary Sheehy Moe, representing herself, Craig Brewington, representing the Hellgate Elementary School District, and Rick Floren, business manager of the Havre School District, commented that the proposed rules do not explain how the new standards and the existing learner goals can be applied at the same time. The proposal to have new standards completed by 2001 creates a three-year rotation. This conflicts with the six-year plan developed by Missoula area schools and may conflict with many districts' curriculum review plans. The sequence of review of program areas that districts are following varies across the state.

RESPONSE 1: The Board of Public Education (the Board) and the Office of Public Instruction (OPI) agree with these comments and have revised the proposed rules to provide for a five-year, phase-in period. For the next five years, districts can continue to use programs aligned to model learner goals, but any curriculum review during school year 1998-99 or later must align to the content and performance standards, not model learner goals. Prior rules allowed school districts until 1999 to align curriculum to the model learner goals, but also required districts to review curriculum materials every five years. Thus, school districts currently should be reviewing program areas in a five-year cycle. The proposed rules have been rewritten to allow districts to continue their five-year curriculum cycle. All school districts will have up to five years to align a particular program area to the new standards, but as a district revises its curriculum in a program area in the next

five years, the district must use the content and performance standards.

10.55.602 DEFINITIONS For the purpose of this chapter, the following terms apply:

(1) remains the same as proposed.

(2) and (3) remain the same.

(4) remains the same as proposed.

(5) through (9) remain the same.

(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.~~

~~(a) completion of the primary level (typically, at the end of grade 3);~~

~~(b) completion of the intermediate level (typically, at the end of grade 8);~~

~~(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 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, PO Box 202501, Helena, MT 59620-2501.~~

(11) and (12) remain the same as proposed.

(13) remains the same.

COMMENT: See Comment and Response No. 1

10.55.603 CURRICULUM DEVELOPMENT AND ASSESSMENT

(1) Local school districts shall incorporate all learner goals and the content and performance standards into their curriculum, implementing them sequentially and developmentally. Student assessment shall be used to examine the program and ensure its effectiveness based on the learner goals and the content and performance standards.

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

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

(b) and (c) remain the same as proposed.

(3) School districts will continue to follow their established curriculum and assessment development processes until the school year ~~2000-2001~~ 2003-04, when all programs must be in alignment with the content and performance standards.

(4) and (5) remain the same as proposed.

(6) and (7) remain the same.

COMMENT: See Comment and Response No. 1

COMMENT 2: Eric Feaver, representing Montana Education Association, James McGarvey, representing Montana Federation of Teachers, Colleen Mercer, representing the Great Falls PTA, Claudette Morton, representing Montana Small Schools Alliance, Beverly Chin, representing herself, Sue Brown, representing herself, and Mary Sheehy Moe commented that the last sentence deleted from 10.55.603(2)(a) "... 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" should be retained. They believe that a collaborative effort in curriculum and assessment development should be part of the rules. Eric Feaver and James McGarvey also recommend that the personnel referred to in (2)(a) should be endorsed as well as certified in the appropriate program area.

RESPONSE 2: The Board and OPI agree with the comments and have replaced the current proposed language with the original language and added "and endorsed."

COMMENT 3: Mary Sheehy Moe, Claudette Morton, and Beverly Chin commented that the cut of "...used to examine the program and ensure its effectiveness..." in ARM 10.55.603(1) eliminates the rationale for curriculum development and eliminates the use of student assessment data for program evaluation and revision.

RESPONSE 3: The Board and OPI agree with the comments and have made the change.

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, the 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, at a minimum, 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 content and performance 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.

COMMENT 4: Mary Sheehy Moe and Craig Brewington commented that under the current system the accreditation standards can be waived. The proposed rules seem to remove this option and superimpose performance standards on all districts. The existing alternative accreditation standards are needed.

RESPONSE 4: The current administrative rules on alternative accreditation standards (ARM 10.55.604) do not allow districts to waive program area standards. The rule requires that a school "provide the office of public instruction evidence that the opportunity to meet the accreditation standards' learner goals are at the core of its curricula." In keeping with that intent, the current administrative rules on alternative accreditation standards have not been impacted except to incorporate into the text the terms used to identify the revised standards (content and performance standards).

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

COMMENT: See Comment and Response No. 1

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 (5) at the appropriate levels and the 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.

COMMENT: See Comment and Response No. 1

COMMENT 5: Claudette Morton commented that the phrase "at the appropriate levels" was stricken from 10.55.901, while it was left in 10.55.902 and 10.55.903. She thinks this is

inconsistent.

RESPONSE 5: The Board and OPI agree. The phrase "at the appropriate levels" is removed from 10.55.902 and 10.55.903.

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 (2) ~~at the appropriate levels and the 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 as proposed.

COMMENT: See Comment and Response No. 1

COMMENT: See Comment and Response No. 5

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 (2) and ~~the 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 ~~the content and performance standards for reading and mathematics. (At least one component a year beginning 7/1/91, Eff. 7/1/99)~~
(4) remains the same.

COMMENT: See Comment and Response No. 1

10.55.905 GRADUATION REQUIREMENTS (1) remains the same as proposed.
(2) In order to meet the learner goals as defined in ARM 10.55.602 and ~~the content and performance standards for reading and mathematics~~, the following 13 units shall be part of the 20 units required for all students to graduate:
(a) through (g) remain the same as proposed.
(3) and (4) remain the same.

COMMENT: See Comment and Response No. 1

6. After consideration of the comments received, the following rules are being adopted as proposed with those changes given below, new material underlined, deleted material interlined.

RULE III (10.54.3010) READING CONTENT STANDARD 1 (1) *
student To satisfy the requirements of reading content
standard 1, a student must be able to demonstrate that he/she
constructs meaning as he/she comprehends, and interprets, and
responds to what he/she reads.

COMMENT 6: The Administrative Code Committee staff commented that the meaning of the proposed content standards could not be determined out of the context of the proposed benchmarks.

RESPONSE 6: The Board and OPI agree with this comment and have reworded all the proposed content standards to correct the error.

COMMENT 7: Donna Miller, representing Montana Association of Teachers of English Language Arts (MATELA), and Beverly Chin commented that reading content standard 1 should be changed to read, "A student constructs meaning as he/she comprehends, interprets and responds to what he/she reads."

RESPONSE 7: The Board and OPI agree with the comments and have made the changes.

RULE IV (10.54.3011) 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) and (b) remain the same as proposed.

(c) respond personally provide oral, written, and/or
artistic responses to ideas and feelings generated by the
reading material;

(d) and (e) remain the same as proposed.

COMMENT 8: Rich Thompson, representing MATELA and Donna Miller commented that in order to clarify the term "response" in reading content standards, the phrase, "oral, written and artistic expression" should be added.

RESPONSE 8: The Board and OPI agree with the comment and have made the changes.

COMMENT 9: Mary Sheehy Moe, Beverly Chin, and Donna Miller commented that problems with clarity, consistency and parallelism exist in the rules as proposed.

RESPONSE 9: The Board and OPI agree with these individuals and have changed text accordingly.

RULE V (10.54.3012) 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) and (b) remain the same as proposed.
- (c) interpret and respond personally provide oral, written, and/or artistic responses to the ideas and feelings generated by the reading material and compare responses with peers;
- (d) remains the same as proposed.
- (e) accurately summarize provide accurate, detailed summaries using key elements of appropriate reading material with detail.

COMMENT: See Comment and Response No. 8 and Comment and Response No. 9

RULE VI (10.54.3013) 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) remains the same as proposed.
- (c) respond personally and creatively provide oral, written, and/or artistic responses to ideas and feelings generated by the reading material, providing examples of the way these influence the student's one's life and role in society;
- (d) elaborate demonstrate understanding of main ideas and formulate arguments with critical using supporting evidence; and
- (e) accurately paraphrase reading material, reflecting tone and point of view.

COMMENT: See Comment and Response No. 8 and Comment and Response No. 9

RULE VII (10.54.3020) READING CONTENT STANDARD 2 (1) A student To satisfy the requirements of reading content standard 2, a student must be able to demonstrate that he/she applies a range of skills and strategies to read.

COMMENT: See Comment and Response No. 6

RULE IX (10.54.3022) 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) through (c) remain the same as proposed.
- (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) through (h) remain the same as proposed.

COMMENT: See Comment and Response No. 9

RULE X (10.54.3023) 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) remains the same as proposed.
- (b) ~~demonstrate understanding of~~ identify, analyze, and evaluate literary elements (e.g., plot, character, theme, setting, point of view, conflict);
- (c) through (h) remain the same as proposed.

COMMENT: See Comment and Response No. 9

RULE XI (10.54.3030) READING CONTENT STANDARD 3 (1) ~~A student To satisfy the requirements of reading content standard 3, a student must be able to demonstrate that he/she sets goals, monitors, and evaluates his/her progress in reading.~~

COMMENT: See Comment and Response No. 6

COMMENT 10: Beverly Chin commented that the phrase "sets goals" should be added to reading content standard 3.

RESPONSE 10: The Board and OPI agree with the comment and have added the language to the rule.

RULE XII (10.54.3031) 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) and (b) remain the same as proposed.
- (c) select authors, subjects, ~~books~~ print and nonprint material to share with others.

COMMENT: See Comment and Response No. 9

RULE XIII (10.54.3032) 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, overcome reading difficulties, and seek guidance as needed;

(b) remains the same as proposed.

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

COMMENT: See Comment and Response No. 9

RULE XIV (10.54.3033) 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) remains the same as proposed.

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

COMMENT: See Comment and Response No. 9

RULE XV (10.54.3040) READING CONTENT STANDARD 4 (1) A student To satisfy the requirements of reading content standard 4, a student must be able to demonstrate that he/she selects, reads, and responds to different print and nonprint material for a variety of purposes.

COMMENT: See Comment and Response No. 6

COMMENT 11: Donna Miller and Beverly Chin commented that reading content standard 4 should add the language "selects" and "responds" to "print and nonprint" material.

RESPONSE 11: The Board and OPI agree with the comments and have made the changes.

RULE XVI (10.54.3041) 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 identify a variety of purposes for reading, include (e.g., personal satisfaction, and developing lifelong reading habits);~~

(b) ~~read signs, labels, and instructions to solve a problem or answer a question through reading (e.g., signs, labels, instruction);~~

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

(d) ~~read and respond to provide oral, written, and/or artistic responses to diverse perspectives, cultures, and issues in traditional and contemporary literature representing diverse perspectives, cultures, and issues;~~

(e) ~~identify and read material related to careers;~~

(f) ~~(e) read newspapers and other sources of information to learn civic and social responsibility read a variety of sources to demonstrate an understanding of current events (e.g., newspapers, magazines); and~~

(g) remains the same, but is relettered (f).

COMMENT: See Comment and Response No. 8 and Comment and Response No. 9

RULE XVII (10.54.3042) 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 establish and adjust the purposes for reading include (e.g., 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) and (c) remain the same as proposed.

(d) ~~read, respond to, and analyze, and provide oral, written, and/or artistic responses to traditional and contemporary literature;~~

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

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

(g) ~~(f) read, and identify civic and social responsibilities by interpreting, and analyzing social rules, (e.g., handbooks, newspapers, and other information) to learn civic and social responsibilities; and~~

(h) ~~(g) identify, 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).

COMMENT: See Comment and Response No. 8 and Comment and Response No. 9

RULE XVIII (10.54.3043) 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 integrate purposes for reading include into daily life (e.g., personal satisfaction, developing lifelong reading habits, selecting reading as a leisure activity, and sharing and reflecting upon the reading);~~

(b) remains the same as proposed.

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

(d) remains the same as proposed.

(e) ~~read, respond analyze, evaluate, and provide oral, written, and/or artistic responses to, and critically evaluate traditional and contemporary literature;~~

(f) ~~read and analyze works of various authors, (e.g., diverse cultures, perspectives and issues, and recurring themes);~~

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

(h) ~~(g) read, evaluate, and create material and documents related to social and civic responsibilities in order to fully participate in a democratic society (e.g., letters to the editor, posters); and~~

(i) ~~(h) 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).~~

COMMENT: See Comment and Response No. 8 and Comment and Response No. 9

RULE XIX (10.54.3050) READING CONTENT STANDARD 5 (1) ~~A student To satisfy the requirements of reading content standard 5, a student must be able to demonstrate that he/she gathers, analyzes, synthesizes, and critically evaluates information from a variety of sources, and communicates his/her findings in ways appropriate for his/her purpose and audience.~~

COMMENT: See Comment and Response No. 6

COMMENT: See Comment and Response No. 9

COMMENT 12: Donna Miller and Beverly Chin commented that reading content standard 5 should emphasize the purposefulness of reading and the wording should include "and communicates his/her findings in ways appropriate for his/her purpose and audience."

RESPONSE 12: The Board and OPI agree with the comments and have made the changes.

RULE XX (10.54.3051) 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~~ identify and summarize similarities and differences using a single element such as characters within a text and between two sources of information;

(b) ~~draw make~~ connections, and integrate, and organize information from two multiple sources; and

(c) ~~recognize different purposes of authors' points of view; and~~

(d) distinguish fact from opinion in various print and nonprint material.

COMMENT: See Comment and Response No. 9

RULE XXI (10.54.3052) 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 in print and nonprint material;~~

(b) ~~draw make~~ connections, explain relationships among multiple a variety of sources, and integrate similar information; and

(c) ~~recognize authors' points of view and purposes; and~~

(d) recognize authors' use of language and literary devices to influence readers; and

(e) recognize, express, and defend a point of view.

COMMENT: See Comment and Response No. 9

RULE XXII (10.54.3053) 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~~ a variety of information sources;

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

~~(c) apply basic principles of formal logic to print and nonprint material; and~~

(c) remains the same as proposed, but is relettered (d).

COMMENT: See Comment and Response No. 9

RULE XXIII (10.54.3087) 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 ~~He/she:~~

~~(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.~~

(a) demonstrates self-motivation and emerging independence as a learner;

(b) uses a rich and varied reading and listening vocabulary;

(c) critically evaluates reading material and provides thorough and thoughtful responses to the text;

(d) critically judges and provides thorough, effective,

and thoughtful oral, written, and/or artistic responses to reading material;

(e) fluently and effectively applies, articulates, and self-monitors decoding and comprehension strategies;

(f) accurately assesses and makes needed changes in reading strategies;

(g) generalizes topics, concepts, and feelings in reading selections to a variety of situations;

(h) consistently evaluates and monitors reading progress;

(i) eagerly sets and meets personal reading goals;

(j) chooses and successfully reads a variety of material for information and pleasure;

(k) identifies a variety of purposes for reading;

(l) recognizes how authors compose and use literary devices for a variety of purposes;

(m) compares and contrasts information from several sources of reading; and

(n) distinguishes fact from opinion.

COMMENT: See Comment and Response No. 9

COMMENT 13: Elaine Meeks, representing herself, Donna Miller, and Mary Sheehy Moe commented that the level of specificity of ability and skill for each performance standard be consistent throughout the document. The format for the performance standards needs to be the same for all curricular areas.

RESPONSE 13: The Board and OPI agree with the comments and have made the changes.

RULE XXIV (10.54.3088) 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 He/she:

(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.~~

~~(a) uses a substantial reading and listening vocabulary appropriate to fourth-grade level;~~

~~(b) demonstrates an overall understanding of the reading material, providing inferential as well as literal information;~~

~~(c) applies reading strategies and methods when reading content area material;~~

~~(d) effectively applies, articulates, and self-monitors decoding and comprehension strategies with grade-level material;~~

~~(e) identifies a variety of purposes for reading;~~

~~(f) self-selects appropriate reading material to meet a variety of purposes;~~

~~(g) recognizes an author's purpose;~~

~~(h) compares and integrates information from reading sources at grade level;~~

~~(i) extends ideas in the reading material by making inferences, drawing conclusions, and making connections to his/her own experiences; and~~

~~(j) distinguishes fact from opinion.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXV (10.54.3089) 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 He/she:

~~(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;~~

~~(a) articulates the overall meaning of the reading material;~~

~~(b) uses a basic vocabulary to support content area reading material;~~

~~(c) recognizes, applies, and self-monitors strategies to decode and to comprehend at or near grade-level material;~~

~~(d) usually demonstrates an understanding of the elements of fiction and nonfiction;~~

~~(e) makes obvious connections between the reading material and personal experiences, and extends these ideas by making simple inferences;~~

~~(f) self-selects appropriate reading material to meet a specific purpose;~~

~~(g) sometimes recognizes the author's purpose;~~

~~(h) often defines a purpose for reading;~~

~~(i) inconsistently compares and integrates information between sources; and~~

~~(j) sometimes distinguishes fact from opinion.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXVI (10.54.3090) 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 He/she:

~~(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.~~
- ~~(a) shows strength in detail, but not main idea;~~
- ~~(b) randomly applies, articulates, and self-monitors decoding and comprehension strategies, seldom integrating, and using one strategy at a time;~~
- ~~(c) sometimes demonstrates an understanding of the elements of fiction and nonfiction;~~
- ~~(d) often limits reading selections;~~
- ~~(e) sometimes defines a purpose for reading;~~
- ~~(f) recognizes, with coaching, an author's purpose;~~
- ~~(g) compares and integrates, with coaching, information from two sources at his/her reading level; and~~
- ~~(h) distinguishes, with coaching, fact from opinion at his/her reading level.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

- RULE XXVII (10.54.3091) 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 He/she:
- ~~(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;~~

~~(i) 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.~~

~~(a) demonstrates self-motivation and independence as a learner;~~

~~(b) describes abstract themes and ideas of the overall reading selection;~~

~~(c) consistently makes accurate predictions and connections between new material and prior knowledge, interprets stated and inferred main ideas, and identifies important supporting details when reading material beyond the eighth grade;~~

~~(d) flexibly combines and monitors a variety of strategies to fluently and critically read material with comprehension, interpreting complex elements of fiction and nonfiction, literary devices, and vocabulary beyond eighth-grade level;~~

~~(e) articulates and evaluates the strategies used to monitor reading progress;~~

~~(f) sets and meets reading goals;~~

~~(g) consistently self-selects a variety of material, defines purposes for reading them, and provides thorough, thoughtful, and extensive responses;~~

~~(h) analyzes both meaning and form and supports that analysis explicitly with examples from the reading material;~~

~~(i) provides thorough, thoughtful, and extensive responses to the reading material; and~~

~~(j) compares, contrasts, integrates, evaluates, and extends information, language, and point of view from many print or nonprint sources by relating it to his/her experiences and to world events.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXVIII (10.54.3092) 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 He/she:

~~(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.~~

(a) consistently makes predictions and connections between new material and prior knowledge, locates and interprets stated and inferred main ideas, and identifies important supporting details when reading material appropriate to the eighth grade;

(b) combines and monitors a variety of strategies to fluently read material with comprehension, interpreting elements of fiction and nonfiction, literary devices, and vocabulary at the eighth-grade level;

(c) articulates and evaluates the strategies used to monitor reading progress;

(d) sets and meets reading goals;

(e) self-selects appropriate material to meet reading purposes, and defines purposes for reading;

(f) compares, contrasts, and integrates information, language, and points of view from many print and nonprint sources by making clear inferences, drawing conclusions, and making connections to personal experiences, including other reading experiences; and

(g) identifies some literary devices that authors use in composing text.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXIX (10.54.3093) 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 he/she:

- (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:

- (a) demonstrates a literal understanding of the reading material and makes some interpretations;
- (b) makes some predictions and connections between new material and prior knowledge, usually locating main ideas, and identifies some important supporting details when reading material appropriate to the eighth grade;
- (c) sometimes combines strategies to read material with comprehension;
- (d) sometimes interprets elements of fiction and nonfiction, literary devices, and vocabulary at the eighth-grade level;
- (e) sometimes articulates but seldom evaluates the strategies used to monitor reading progress;
- (f) sets reading goals and sometimes meets them;
- (g) sometimes self-selects appropriate material to meet a reading purpose; and
- (h) compares information, language, and points of view between and among print or nonprint sources, but seldom integrates information.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXX (10.54.3094) 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 He/she:

- (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.

(a) demonstrates a literal understanding of the reading material;

- (b) makes few predictions and connections between new material and prior knowledge, usually locating main ideas, but seldom identifies supporting details when reading material appropriate to the eighth grade;
- (c) often relies on one strategy to read material with incomplete comprehension, seldom interpreting elements of fiction and nonfiction and literary devices;
- (d) uses a limited eighth-grade reading vocabulary;
- (e) seldom articulates the strategies used to monitor reading progress;
- (f) rarely sets or meets reading goals; and
- (g) compares information, language, and point of view from two print or nonprint sources.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXXI (10.54.3095) 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 He/she:

- ~~(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.~~

(a) is self-motivated, an independent learner, and extends and connects ideas;

(b) describes abstract themes and ideas in the overall reading material;

(c) consistently makes, confirms, and revises complex predictions, supports inferences, and analyzes and evaluates causal relationships when reading increasingly complex material;

(d) consistently and accurately paraphrases, formulates complex arguments with strong supporting evidence, and responds thoroughly, thoughtfully, and creatively to reading material;

(e) effectively monitors and flexibly uses a variety of strategies to interpret the language, literary characteristics, and overall intent of print and nonprint material;

(f) uses an enriched reading vocabulary beyond the twelfth grade;

(g) successfully monitors his/her own reading progress;

(h) consistently sets ambitious reading goals as he/she selects, analyzes, and evaluates;

(i) self-selects material appropriate to a variety of reading purposes; and

(j) consistently applies complex thinking skills as he/she gathers, uses, and responds to information from a variety of sources.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXXII (10.54.3096) 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 He/she:

~~(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.~~

(a) makes, confirms, and revises predictions, explains inferences, and analyzes causal relationships when reading material appropriate to twelfth grade.

(b) usually paraphrases accurately, formulates arguments with supporting evidence, and responds creatively to reading material.

(c) monitors and uses a variety of strategies to interpret the language, literary characteristics, and overall

intent of print and nonprint material;

(d) uses a substantial reading vocabulary appropriate to twelfth grade;

(e) monitors his/her own reading progress;

(f) sets and consistently meets reading goals;

(g) selects, analyzes, and evaluates material appropriate to a variety of reading purposes;

(h) applies complex thinking skills as he/she gathers, uses, and responds to information from a variety of sources; and

(i) analyzes the author's use of literary devices.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXXIII (10.54.3097) 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 He/she:

(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.

(a) makes predictions, identifies inferences, and describes causal relationships when reading material appropriate to twelfth grade.

(b) frequently paraphrases accurately and formulates arguments with limited supporting evidence;

(c) monitors his/her reading but uses a limited variety of strategies to interpret the language, literary characteristics, and overall intent of print and nonprint material;

(d) uses a limited twelfth-grade reading vocabulary;

(e) monitors his/her own reading progress and often sets reading goals while selecting, analyzing, and evaluating material within a limited range of reading purposes;

(f) identifies elements of an author's style;

(g) responds creatively to reading material; and

(h) occasionally applies complex thinking skills while gathering, using, and responding to information from a variety of sources.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXXIV (10.54.3098) 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 He/she:

(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.~~

~~(a) makes simple predictions and inferences, but often does not grasp the meaning of causal relationships when reading material appropriate to twelfth grade;~~

~~(b) sometimes accurately paraphrases, formulates arguments with limited supporting evidence, and provides simple responses to reading material;~~

~~(c) sometimes monitors his/her use of strategies, but usually relies primarily on a few strategies to interpret the language, literary characteristics, and overall intent of print and nonprint material with limited success;~~

~~(d) uses a reading vocabulary below twelfth-grade level;~~

~~(e) sometimes monitors his/her own reading progress;~~

~~(f) with guidance, sets and meets reading goals while selecting, analyzing, and evaluating material in a limited range of reading purposes; and~~

~~(g) compares and contrasts material, but infrequently analyzes or applies complex thinking skills to gather, use, and respond to information from a limited number of sources.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE XXXV (10.54.4010) MATHEMATICS CONTENT STANDARD 1

~~(1) A student To satisfy the requirements of mathematics content standard 1, a student must be able to demonstrate that he/she will engage in the mathematical processes of problem solving and reasoning, estimation, communication, connections and applications, and use appropriate technology.~~

COMMENT: See Comment and Response No. 6

RULE XXXIX (10.54.4020) MATHEMATICS CONTENT STANDARD 2

~~(1) A student To satisfy the requirements of mathematics content standard 2, a student must be able to demonstrate that he/she will develop has an understanding of and an ability to use numbers and operations.~~

COMMENT: See Comment and Response No. 6

RULE XLIII (10.54.4030) MATHEMATICS CONTENT STANDARD 3

~~(1) A student To satisfy the requirements of mathematics content standard 3, a student must be able to demonstrate that he/she will use algebraic concepts, processes, and language to model and solve a variety of real-world and mathematical~~

problems.

COMMENT: See Comment and Response No. 6

RULE XLVII (10.54.4040) MATHEMATICS CONTENT STANDARD 4

~~(1) A student To satisfy the requirements of mathematics content standard 4, a student must be able to demonstrate that he/she will develop has an understanding of shape and an ability to use geometry.~~

COMMENT: See Comment and Response No. 6

RULE LI (10.54.4050) MATHEMATICS CONTENT STANDARD 5 (1) A

~~student To satisfy the requirements of mathematics content standard 5, a student must be able to demonstrate that he/she will develop has an understanding of measurable attributes and an ability to use measurement processes.~~

COMMENT: See Comment and Response No. 6

RULE LV (10.54.4060) MATHEMATICS CONTENT STANDARD 6 (1) A

~~student To satisfy the requirements of mathematics content standard 6, a student must be able to demonstrate that he/she will demonstrate has an understanding of and an ability to use data analysis, probability, and statistics.~~

COMMENT: See Comment and Response No. 6

RULE LIX (10.54.4070) MATHEMATICS CONTENT STANDARD 7

~~(1) A student To satisfy the requirements of mathematics content standard 7, a student must be able to demonstrate that he/she will demonstrate has an understanding of and an ability to use patterns, relations, and functions.~~

COMMENT: See Comment and Response No. 6

RULE LXIII (10.54.4087) 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 ~~He/she:~~

- ~~(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;~~

~~(a) demonstrates self-motivation and emerging
independence as a learner;~~

~~(b) accurately selects and uses problem-solving
strategies;~~

~~(c) presents well-organized solutions and communicates in
ways that exceed requirements;~~

~~(d) uses whole numbers accurately and fluently to
estimate, compute, and determine whether results are accurate
and reasonable;~~

~~(e) effectively applies basic algebraic concepts and
clearly communicates representations in a variety of ways;~~

~~(f) examines relationships of shapes in the physical
world and makes generalizations;~~

~~(g) selects and accurately uses appropriate tools for
measurement;~~

~~(h) accurately predicts and makes reasonable decisions
based on data; and~~

~~(i) articulately and fluently communicates
representations, analyzes patterns, and clearly describes
relationships, and applies them to varied situations.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXIV (10.54.4088) 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 He/She:

~~(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.~~
- ~~(a) selects and effectively uses appropriate problem-solving strategies;~~
- ~~(b) consistently presents organized solutions;~~
- ~~(c) uses whole numbers to estimate, compute, and determine whether results are accurate;~~
- ~~(d) applies basic algebra concepts and consistently communicates representations in a variety of ways;~~
- ~~(e) consistently examines and accurately uses relationships of shapes in the physical world;~~
- ~~(f) determines measurable attributes of objects and selects appropriate tools for measurement;~~
- ~~(g) consistently predicts and makes reasonable decisions based on data; and~~
- ~~(h) consistently uses a variety of patterns and describes their relationships.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXV (10.54.4089) 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 He/she:

- ~~(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.~~

~~(a) sometimes selects and uses appropriate problem-solving strategies;~~

~~(b) sometimes presents organized solutions, but often with limited supporting information;~~

~~(c) uses whole numbers to estimate and compute, and results are usually reasonable;~~

~~(d) sometimes applies basic algebraic concepts, but seldom communicates representations;~~

~~(e) examines some shapes in the physical world, and sometimes sees relationships;~~

~~(f) determines measurable attributes of objects, but does not always select appropriate tools for measurement;~~

~~(g) often makes inconsistent predictions and inaccurate decisions based on data; and~~

~~(h) uses a limited range of patterns, and sometimes describes relationships within those patterns.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXVI (10.54.4090) 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 He/she:

~~(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.~~
~~(a) selects and uses only a few problem-solving strategies;~~
~~(b) often presents poorly organized solutions, often without supporting information or explanation;~~
~~(c) lacks clarity and coherence when communicating mathematical concepts;~~
~~(d) uses whole numbers to estimate and compute, but is frequently inaccurate;~~
~~(e) sometimes determines whether results are reasonable;~~
~~(f) demonstrates a basic algebraic understanding of concrete and symbolic representations, but often misconceptions are present;~~
~~(g) describes, models, and classifies some shapes;~~
~~(h) determines some measurable attributes of objects, but often does not select appropriate tools for measurement;~~
~~(i) sometimes predicts, but often makes inaccurate decisions based on data; and~~
~~(j) recognizes and represents a limited range of patterns and describes relationships within those patterns, but is frequently inaccurate.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXVII (10.54.4091) 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 He/she:

~~(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;~~

~~(a) demonstrates self-motivation and independence as a learner;~~

~~(b) is accurate and fluent when applying mathematical processes;~~

~~(c) effectively uses multiple strategies and extends concepts to new situations;~~

~~(d) explores hypothetical questions and articulates valid arguments;~~

~~(e) applies and extends rational numbers, proportionality, and algebraic concepts to solve real and theoretical problems;~~

~~(f) applies complex measurement and geometric relationships to hypothetical situations;~~

~~(g) consistently makes accurate predictions and decisions based on basic probability and statistics; and~~

~~(h) recognizes interconnections within and outside mathematics.~~

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXVIII (10.54.4092) 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 He/she:

~~(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.~~

~~(a) effectively applies mathematical processes correctly~~

to solve a variety of problems;

(b) applies mathematics in a variety of contexts;

(c) uses rational numbers, proportionality, and algebraic concepts to represent and accurately solve mathematical problems;

(d) consistently and accurately uses complex measurement, geometric relationships, and properties to describe the physical world;

(e) formulates logical arguments using appropriate mathematical ideas; and

(f) consistently makes reasonable predictions and decisions based on basic probability and statistics.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXIX (10.54.4093) NEARING PROFICIENCY MATHEMATICS PERFORMANCE 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 He/she:

(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.

(a) often uses incomplete and incorrect mathematical processes to solve problems, often inaccurately;

(b) communicates mathematical ideas, but often inaccurately;

(c) makes connections, but does not generalize and often his/her arguments lack appropriate supporting mathematical ideas;

(d) sometimes understands and correctly uses numbers, operations, patterns, relations, and functions;

(e) sometimes uses inaccurate or incomplete representations of rational numbers, proportionality, and algebraic concepts to solve mathematical problems;

(f) sometimes has difficulty recognizing complex measurement and geometric relationships and properties which result in inaccurate solutions; and

(g) makes simple predictions and decisions based on basic probability and statistics.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXX (10.54.4094) 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 He/She:

(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.

(a) demonstrates limited and incomplete use of mathematical processes:

(b) communicates mathematical ideas, but they are often limited and incomplete:

(c) sometimes uses numbers, operations, patterns, relations, and functions accurately:

(d) makes only immediate, concrete, mathematical connections:

(e) seldom uses algebraic concepts to solve problems; and

(f) makes simple and inconsistent predictions and decisions, often inaccurately, based on data, and seldom recognizes complex measurement, geometric relationships, or properties.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXXI (10.54.4095) 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 He/she:

- (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.
- (a) is self-motivated, an independent learner, and extends and connects ideas;
- (b) is accurate, articulate, and effective when applying mathematical processes;
- (c) effectively uses multiple strategies, extends concepts to new situations, and skillfully communicates the results;
- (d) explores hypothetical questions, uses complex reasoning to articulate valid arguments, and constructs proofs;
- (e) uses appropriate technology to apply functions, graphs, and algebraic concepts to solve real and theoretical problems;
- (f) applies complex measurement and geometric and algebraic relationships to model a variety of problems and situations;
- (g) consistently makes accurate and reasonable predictions and decisions based on data, probability, and statistics; and
- (h) recognizes interconnections within and outside

mathematics.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXXII (10.54.4096) 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 He/she:

- ~~(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.~~
- (a) consistently applies mathematical processes correctly to solve a variety of problems and communicate the results;
- (b) applies mathematics in a variety of contexts;
- (c) consistently uses appropriate technology to apply functions, graphs, and algebraic concepts to solve real and theoretical problems;
- (d) uses complex reasoning to formulate logical arguments and proofs using appropriate mathematical ideas;
- (e) consistently applies complex measurement and geometric and algebraic relationships to model a variety of problems and situations;
- (f) makes reasonable predictions and decisions based on data, probability, and statistics; and
- (g) recognizes interconnections within and outside mathematics.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXXIII (10.54.4097) NEARING PROFICIENCY MATHEMATICS PERFORMANCE STANDARDS UPON GRADUATION (1) A graduating student at the nearing proficiency level in mathematics demonstrates partial mastery in of the prerequisite knowledge and skills fundamental for proficient-level mathematics, including, but not limited to, the ability to He/she:

(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.

(a) applies incomplete and incorrect mathematical processes to solve problems, often inaccurately;

(b) communicates mathematical ideas and sometimes extends them, but often inaccurately;

(c) sometimes understands and uses appropriate technology to apply functions, graphs, and algebraic concepts to solve real and theoretical problems;

(d) sometimes demonstrates difficulty recognizing complex measurement and geometric and algebraic relationships which result in inaccuracies;

(e) sometimes makes predictions and decisions based on data, probability, and statistics, often inaccurately; and

(f) makes connections, but does not generalize or prove them and often his/her arguments lack appropriate supporting

mathematical ideas and careful reasoning.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

RULE LXXIV (10.54.4098) 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 He/she:

- ~~(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.~~

(a) demonstrates limited and incomplete use of mathematical processes and problem-solving strategies;

(b) often uses limited and incomplete reasoning to formulate logical arguments and communicate mathematical ideas;

(c) makes only concrete, mathematical connections;

(d) seldom uses appropriate technology to apply functions, graphs, and algebraic concepts to solve problems;

(e) recognizes, on a limited basis, complex measurement, geometric relationships, and properties; and

(f) makes some predictions and decisions, on a limited basis, based on data, but seldom recognizes statistical or probability concepts.

COMMENT: See Comment and Response No. 9

COMMENT: See Comment and Response No. 13

7. The Board of Public Education and the Office of Public Instruction have thoroughly considered the comments and testimony received on the proposed rules. The following is a summary of the comments received and the responses that do not change the wording of the proposed rules.

General Comments Regarding Assessment

COMMENT: David Davidson, representing MSU Billings, generally approves of the proposed rules, but is concerned about the assessment. Testing materials should measure whether students meet the new standards, but he does not have confidence that a national testing company will develop appropriate testing materials based on Montana's standards. The proposed rules will only improve district accountability if the assessment is accurate.

COMMENT: Al McMillin, representing the Laurel School District, generally approves of the proposed rules but the rules are unclear regarding how the state and the districts determine if the benchmarks and standards are met. The content and performance standards go beyond the existing model learner goals, but do not address assessment, which is the most critical issue for school districts. The standards and benchmarks are not controversial, but assessment and accountability will be. Smaller districts fear the change from model learner goals to the content and performance standards because, while it appears the state is moving toward a competency test of districts, the proposed rules do not state how districts will be measured or what the penalty will be for a district that does not meet the benchmarks and standards.

COMMENT: Don Bidwell, representing the Belfry School District and the Carbon County Superintendent of Schools, commented that the public wants accountability from school districts for student performance. His district welcomes accountability, but wants it to be fair and accurate.

COMMENT: Eric Fever commented that he is a proponent of the standards, but the Board of Public Education and the Office of Public Instruction must come to grips with the issue of assessment. For example, there is incongruity in norm-reference examinations at grades four, eight and eleven, and standards of performance that will be measured at grades four, eight and twelve.

COMMENT: Lonnie Yingst, Assistant Superintendent representing the Great Falls Public Schools, grades K-5, supports the rules. He commented that the real questions and the public's interest will be in how the state assesses and measures student performance.

COMMENT: Rick Floren generally supports the proposed rules. The Board should not wait to adopt standards, and he recommended that a system of continual review of standards be established, particularly in mathematics. The Board should not separate the standards from assessment. The rules identify levels of proficiency, but the Board has not created a tool to assess the achievement of the standards.

COMMENT: Allan Bloom, representing himself, is opposed to the proposed rules for many reasons. He commented that he believes the proposed standards will have no effect and will not be used for any purpose. The proposed standards do not state how measurement of results will be accomplished. He believes districts will use existing assessment methodology that will not align to the independently developed standards.

COMMENT: Ray Sonsini, representing himself, commented that he believes testing methods for school children are oppressive. Tests are a joke because a mature individual can assess abilities by listening and speaking to other people, but we do not assess children in school like that. Tests are not an accurate measure of ability.

COMMENT: Mary Sheehy Moe has reservations about the proposed rules. One concern is that in the future the state could enforce the proposed rules through unfair assessment practices. Standard-based reform involves the creation of standards and a quality check. Content standards cannot be meaningfully separated from the context of their measurement. The creation of this document was hurried, which results in problems and errors. Standards should be developed in a deliberate process with the context of assessment. Performance standards cannot be created before the test is created. She cannot determine from this document what is going to be tested.

COMMENT: Susan Brown commented that the proposed rules properly do not address testing and the Board should not develop a specific assessment system. An overly specific assessment system may drive both standards and curriculum. Money should be spent on teaching not testing. The fact that Montana does not have a record of poor performance on tests bolsters this position. Why spend money to develop elaborate testing systems when that money is needed in the classroom and there is no problem with performance measured by current

assessment techniques?

RESPONSE: The Board and OPI fully recognize the importance of the alignment of assessment with the proposed content and performance standards. The Board has begun a thoughtful process to review their assessment procedures with the understanding that statewide testing must be aligned with the standards and must support and complement classroom and local assessment. As with the standards revision, the public will be involved with the Board and OPI in reviewing and revising the statewide assessment process, including involvement in recommending criteria for reviewing assessment instruments.

Measurable standards are a base for student learning. The curriculum of a district should align to the standards, not to the assessment goals. The standards need to be in place in order to design assessment both locally and statewide to measure what students should know and be able to do.

General Comments Regarding Accountability

COMMENT: Allan Bloom commented that there is no statement of what happens if the standards are ineffectual. Who is to be held responsible for failure? In the absence of mechanisms of accountability, the proposed standards are simply words conveying wishful thinking.

COMMENT: Marian McKenna, representing herself, commented that she strongly supports the proposed rules. The proposed standards recognize that education is delivered by professionals working in classrooms. The proposed rules respect the role of the teacher in the education system.

COMMENT: Doug Reisig, representing the Anaconda Public Schools, commented that his district does not oppose the proposed rules, but the Anaconda School District has many concerns. The Anaconda Trustees are confused about what their District did wrong that necessitates the state mandating performance standards for the children of Anaconda. The District is opposed to a mandated statewide assessment test that will require the district to align its curriculum to the goals of the statewide test. The District is opposed to publishing scores in newspapers because this has a significant impact on how the public views a school district and creates pressure to teach to the test. The District also questions whether the state plans to take over the school districts that are not ranked near the top.

COMMENT: Al McMillin commented that the standards and benchmarks are not controversial, but assessment and accountability will be. Smaller districts fear the change

from model learner goals to the content and performance standards. It appears the state is moving toward a competency test of districts, but the proposed rules do not state how districts will be measured or what the penalty will be for a district that does not meet the benchmarks and standards.

COMMENT: Rick Floren commented that he was concerned about the reporting method for norm-reference tests. The reports should be made by school districts and not by individual schools within the district. Reporting the performance of students in individual schools creates unnecessary divisiveness in a community.

COMMENT: Mary Sheehy Moe is concerned that the proposed rules could be enforced in a manner that takes away from local control by districts and teachers. In the future, the state could enforce the proposed rules through unfair assessment practices.

RESPONSE: Montana statutes require statewide standards (§ 20-7-111, MCA). Montana's current accreditation standards were reviewed and revised through the Project Excellence process and adopted in 1989. In partnership with the Governor's Office, the Board and OPI recommended to the Montana Legislature that the 10-year-old standards be reviewed and revised. The 1997 Montana Legislature directed the Board and OPI, in HB 2, to "review the 1989 program area standards and recommend revisions to the model learner goals associated with the Montana accreditation standards."

In 1997, the Montana Legislature, through HB 28, in their attempt to produce accountability, directed OPI to release to the public the school-level assessment data gathered under the authority of the Board's assessment rule. The data that was released was not rank ordered. The format of the reporting and rank ordering of schools was produced by the individual reporters receiving the data.

The Board and OPI recognize that test results are not the only indicators of quality schools. In addition to recommending the review of the standards, the Governor's Office and OPI also recommended to the Montana Legislature that the public be provided with a means of assessing the quality and achievements of the K-12 education system in Montana. The Legislature, in HB 2, directed OPI to develop and disseminate, by February 1999, a Montana statewide education profile that would "be developed with assistance and advice from educators, parents, and the public, and will contain indicators and measures of the effectiveness of Montana's K-12 system." Superintendent Keenan and OPI staff this year conducted 15 statewide town meetings to identify those indicators that Montanans believe will improve their understanding of the quality and achievement of the K-12

education system in Montana. The OPI staff, with assistance and advice, is currently identifying the data that will respond to the indicators of highest interest and improve the public understanding of the quality and achievement of Montana schools. The State Superintendent has consistently held that test scores are only one indicator of quality education and should never be used in isolation in measuring school success.

General Comments Regarding Detail

COMMENT: Allan Bloom commented that the proposed standards emphasize higher-order thinking at the expense of basic learning. The standards do not take into account Benjamin Bloom's Taxonomy.

COMMENT: Jerry Kogan, representing himself, commented that the proposed rules are drafted in general terms similar to other states. The standards must be more detailed and specific if they are to be used to determine if a particular student is meeting the standards. The rules should state what will be measured and should be enforced by testing the students and publishing the results by district. The New York Regent's exam is an example that Montana could adopt. The last two weeks of school could be spent reviewing material and taking a statewide test.

COMMENT: Georgia Cobb, representing herself, commented that she supports the proposed rules. Standards should be written in general terms to provide guidance, not restrictions, to districts and teachers. Some states' standards are too specific and petty. That type of standard becomes a floor below which education is not supposed to fall, rather than a goal to work toward.

COMMENT: Jerry Pauli, representing the Thompson Falls School District, commented that given the premises of limited funding, staffing and maintaining local control, he thinks the proposed rules have merit. From the perspective of Class B and C school districts, however, the standards and benchmarks should be more specific. Smaller districts do not want the state to dictate how to teach subjects or how to test, but want guidance on curriculum development. The small districts do not have the staffing to develop curriculum and want detailed standards at every grade-level. The state needs to give more help to small districts to develop curriculum.

COMMENT: Susan Brown commented that she supports the proposed rules as drafted. Curriculum development should occur at the local, not state level. The proposed rules' use of general concepts rather than specific detail is correct. Standards should not be written in detailed, prescriptive

language and there should not be detailed performance standards for every grade. Too much detail restricts the teaching options at the local level and defeats innovative teaching methods. Too much detail will take away flexibility. Grade specific content standards and benchmarks could prevent innovations such as ungraded primary or greater flexibility in course work at the high school level.

RESPONSE: The standards are drafted without excessive detail in order to allow teachers maximum flexibility in meeting the needs of their students and to continue Montana's tradition of local control of school districts by locally elected community members. The school districts, not the state, have the power and responsibility to develop curriculum. Avoiding excess detail avoids excessive centralization of power over the curriculum at the state level.

General Comments Regarding Local Control

COMMENT: Susan Brown commented that Montana has a diverse population and diverse school districts. The proposed standards are based on compromise to meet the diverse needs of Montana's school districts. It is critical that these standards remain in a general nature that raises the bar for content standards.

COMMENT: Beverly Chin commented that the Board should base Montana's communication arts standards on model national standards.

COMMENT: Mary Sheehy Moe commented that local control will be affected significantly if these standards set the parameters for what students are expected to know, understand and do. Depending on how assessment and accountability are addressed, this type of state action can significantly interfere with local school district control. Also, the proposed rules do not advance the Constitutional requirement to recognize and preserve the Indian culture. The model learner goals left more discretion with the districts than the proposed rules. This may result in mainstream values being imposed in place of local values and Indian culture in school districts on and near reservations.

RESPONSE: The proposed rules do not limit or control a district's choices in curriculum development. The content and performance standards are intended to harmonize with the principle of local control and do not impede the Constitutional requirement to recognize and preserve the Indian culture. The standards are drafted to provide statewide guidance to school districts, but the districts

remain responsible for developing education programs that are locally meaningful. The proposed rules are intended to give citizens living anywhere in Montana assurance that a district following the standards is providing a quality education program consistent with other districts.

8. Based on the foregoing, the Board of Public Education hereby amends and adopts the rules as proposed, with changes noted above.


Geraldyn Driscoll
Rule Reviewer


Storrs Bishop
Chairperson

Certified to the Secretary of State September 28, 1998.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	CORRECTED NOTICE OF AMENDMENT
amendment of Teacher	)	TO ARM 10.57.220 REGENCY
Certification	)	OF CREDIT

To: All Interested Persons

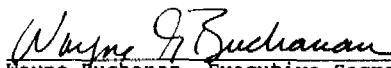
1. On July 16, 1998, the Board of Public Education published a notice of amendment concerning ARM 10.57.220 Recency of Credit on page 1920 of the 1998 Montana Administrative Register, Issue No. 13.

2. Several subsections were inadvertently omitted from the notice of amendment. ARM 10.57.220 Recency of Credit was amended as follows:

10.57.220 REGENCY OF CREDIT

- (1) through (1)(c) remain the same.
- (d) remains as amended.
- (2) and (3) remain as amended.
- (4) remains the same as proposed.
- (5) remains the same.

3. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on September 30, 1998.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 9/28/98

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

In the matter of the transfer	)	NOTICE OF TRANSFER
of rules 17.36.1101 through	)	OF RULES
17.36.1103, 17.36.1106 and)	
17.36.1107 pertaining to)	
administrative enforcement)	
procedures under the public)	
water supply act	)	(Water Quality)

TO: All Interested Persons

1. The Department of Environmental Quality and the Board of Environmental Review have determined that Chapter 36, subchapter 11 has been placed incorrectly in the Administrative Rules. The rules as codified were placed in Chapter 36 when they should have been placed in Chapter 38. In order to place the rules in the correct chapter, rules 17.36.1101, 17.36.1102, 17.36.1103, 17.36.1106 and 17.36.1107 shall be transferred to Chapter 38, subchapter 6.

2. The Department and the Board have determined that the transferred rules shall be numbered as follows:

OLD	NEW	
17.36.1101	17.38.601	Purpose
17.36.1102	17.38.602	Definitions
17.36.1103	17.38.603	Enforcement Procedures
17.36.1106	17.38.606	Administrative Penalties
17.36.1107	17.38.607	Suspended Penalties

3. This transfer is necessary because Chapter 36, pertains to Subdivision/On-Site Subsurface Wastewater Treatment. Subchapter 11 of that chapter describes administrative enforcement procedures for the Public Water Supply Act, and therefore should be placed in Chapter 38 which pertains to Public Water and Sewage System Requirements.

DEPARTMENT OF ENVIRONMENTAL
QUALITY

BOARD OF ENVIRONMENTAL
REVIEW

by Mark A. Simonich
Mark A. Simonich
Director

by Cindy E. YOUNKIN
CINDY E. YOUNKIN
Chairperson

Reviewed by:

John F. North
John F. North
Rule Reviewer

Certified to the Secretary of State September 28, 1998.

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

In the matter of the amendment) CORRECTED NOTICE OF AMENDMENT
of ARM 24.16.9003,) OF PREVAILING WAGE RULES
ARM 24.16.9004 and)
ARM 24.16.9007, related)
to Montana's prevailing wage)
rates)

TO ALL INTERESTED PERSONS:


1. On September 24, 1998, the Department published notice at pages 2585 through 2593 of the 1998 Montana Administrative Register, Issue No. 18, regarding the amendment of the above-captioned rules.

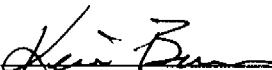
2. The Department has discovered a computational error made in the wage rate for the occupation of "Heat and frost insulator" in District 6, as published in the document entitled "State of Montana Prevailing Wage Rates-Building Construction" for building construction, dated September 15, 1998. The correct wage rate for the occupation "Heat and frost insulator" for District 6 is as follows:

Prevailing wage rate	\$18.94
Health/welfare	2.97
Pension	3.16
Vacation	0.00
Training	0.12

3. This Corrected Notice of Amendment applies only to the amendment of ARM 24.16.9007. The corrected rate identified herein is applicable to public works contracts entered into on or after September 15, 1998.

4. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on September 30, 1998.


Kevin Braun
Rule Reviewer


Kevin Braun, Chief Legal Counsel
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: September 28, 1998.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION
of new rules I through VIII) OF RULES
as they relate to scrapie)

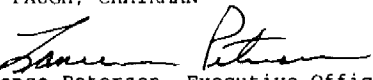
TO: All Interested Persons:


1. On June 25, 1998, the Board published notice of the above stated rules at page 1589 of the 1998 Montana Administrative Register, issue number 12.

2. No comments were received regarding the adoption of these rules and, as a result, the Board has adopted the rules exactly as proposed and numbered as follows:

Rule I 32.3.1301 QUARANTINE
Rule II 32.3.1302 REPORTING REQUIREMENT
Rule III 32.3.1303 IDENTIFICATION
Rule IV 32.3.1304 RETENTION OF IDENTIFICATION
Rule V 32.3.1305 DISCLOSURE OF INFORMATION
Rule VI 32.3.1306 AVAILABILITY FOR INSPECTION
Rule VII 32.3.1307 SAMPLE COLLECTION
Rule VIII 32.3.1308 IDENTIFICATION METHODOLOGY

MONTANA BOARD OF LIVESTOCK
JOHN PAUGH, CHAIRMAN

BY: 
Laurence Petersen, Executive Officer
to the Board of Livestock

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

Certified to the Secretary of State September 28, 1998.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of adoption of)	
new rules I through VI as)	NOTICE OF ADOPTION
they relate to equine)	AND AMENDMENT OF RULES
infectious anemia and amend-)	
ment of rule 32.3.216 as it)	
relates to importation of)	
animals into Montana)	

TO: All Interested Persons:

1. On April 30, 1998, the Board published notice of the above stated rules at pages 1090 of the 1998 Montana Administrative Register, issue number 8.

2. No public comments were received regarding the adoption of the new rules. They will be numbered as follows:

Rule I	32.3.1401	DEFINITIONS
Rule II	32.3.1402	BLOOD TESTING PROCEDURES
Rule III	32.3.1403	A REPORTABLE DISEASE
Rule IV	32.3.1404	RETESTING OF REACTOR HORSES
Rule V	32.3.1405	DISPOSITION OF REACTOR HORSES
Rule VI	32.3.1406	TESTING OF EXPOSED EQUIDS

3. The State Veterinarian made the following comments:
(a) that the amendment of 32.3.216 would be most appropriate and correct for intention purposes if under subsection (1) after "32.3.201 through 32.3.211." "such animals 6 months of age and over" ... be amended to state "All animals must be tested negative for EIA" within the previous 12 months as a condition for obtaining the permit required by ARM 32.3.204.

(b) 32.3.216 at subsection (4) should be amended to state: "A nursing foal under 6 months of age accompanied by the EIA negative dam is exempt from the test requirement."

(c) 32.3.216 at subsection (8) should state: "Provided there is a written agreement between the department of livestock and the chief livestock sanitary official of the state of destination. Montana origin equids may be moved from Montana to other states or from other states to Montana for show rides or other equine events and return on an equine passport certification under a state system of equine certification acceptable to the cooperating states."

4. The Board accepts these comments and will incorporate them as shown. The Board amended rule 32.3.216 exactly as proposed, but with the following changes:

"32.3.216 HORSES, MULES AND ASSES (1) Horses, mules and asses and other equidae may enter the state of Montana provided

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they are transported or moved in conformity with ARM 32.3.201 through 32.3.211. ~~All animals~~ ~~Such animals 6 months of age and over~~ must be tested negative for EIA within the previous 12 months as a condition for obtaining the permit required by ARM 32.3.204.

(2) Unless otherwise specifically provided in this rule all horses, asses and other equidae that are moved into the state of Montana shall be accompanied by an official certificate of veterinary inspection or equine passport certificate from the state of origin stating that the equidae are free from evidence of any communicable disease and have completed EIA test and identification requirements as defined in new Rule I using procedures outlined in new Rule II.

(3) Entry of equidae into Montana shall not be allowed until the EIA test has been completed and reported negative. Equidae with tests pending are not acceptable. Equidae that test positive to EIA test shall be not permitted entry into Montana except by special written permission from the state veterinarian and must be branded and moved in conformity with the USDA EIA movement regulations.

(4) A nursing foal under 6 months of age accompanied by the EIA negative dam is exempt from the test requirements.

(5) Working equids used for seasonal ranching purposes may be exempt from the requirements of this rule if the animals have been included on a current grazing herd plan that has received prior approval from the department of livestock and the chief livestock sanitary official in a western state that reciprocates with Montana in honoring grazing herd plans.

(6) Equids being moved directly to a USDA approved equine slaughter establishment may be exempted from EIA test requirements.

(7) The department of livestock may develop cooperative reciprocal agreements with neighboring states that exempt EIA cooperating states.

(8) Provided there is a written agreement between the department of livestock and the chief livestock sanitary official of the state of destination, Montana origin equids may be moved from Montana to other states or from other states to Montana for shows, rides or other equine events and return on an equine passport certification under a state system of equine certification acceptable to the cooperating states.

(a) Equine passport certificates cannot be used when equids are moved for the purposes of sale or change of ownership of the equid, animal breeding activities, or movements that involve stays of longer than 90 days. Equids moved for these purposes must be accompanied by a certificate of veterinary inspection.

(b) Equine passport movement must involve short term travel to or from the state of Montana for participation in equine activities including but not limited to participation in equine events, shows, rodeos, roping, trail rides and search and rescue activities.

(c) Equine passport certificates shall be valid for only

one animal and shall contain the following information:

- (i) the name and address of the owner;
- (ii) the location at which the animal is stabled, housed, pastured or kept, if different from that of the owner;
- (iii) an accurate description and identification of the animal as defined in new Rule 1;
- (iv) the date of veterinary inspection;
- (v) the date and results of the EIA or other required tests or vaccinations; and
- (vi) the signature of the inspecting veterinarian.

(d) No certificate or veterinary inspection or equine passport certificate shall be issued for equine to enter Montana unless it is complete in all respects with requirements of the state of Montana.

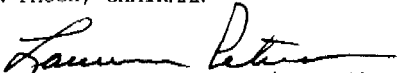
(e) Equine passport certificates must be properly completed with the required tests and certifications recorded on the certificate and a copy of the completed certificate must be submitted to and approved by the department of livestock.


(f) Equine passport certificates shall be valid for no longer than 6 months from the date the EIA sample is collected if an EIA test is required, or 6 months from the date of inspection if no EIA test is required.

(g) The recipients of equine passport certificates shall be required to submit a travel itinerary to the state veterinarian's office within 10 working days following the date of expiration of the certificate. The travel itinerary shall include a listing of all travel that the equid made into and out of the state of Montana during the validity of the certificate.

(h) The department of livestock may cancel any equine passport certificate in the event of serious or emergency disease situations or for certificate holder's failure to comply with the rules that apply to such certificates. Cancellation of the certificate may be accomplished by written or verbal notice to the certificate holder. Verbal notice shall be confirmed by written notice. The canceled certificate will become invalid on the date and at the time of notification."

MONTANA BOARD OF LIVESTOCK
JOHN PAUGH, CHAIRMAN

BY: 
Laurence Petersen, Executive Officer
to the Board of Livestock

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

Certified to the Secretary of State September 28, 1998.

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In the matter of the) NOTICE OF AMENDMENT
amendment of rule 32.24.301)
as it pertains to the butter)
component used in the)
pricing structure of milk to)
establish the class I, II and)
III producer prices.) DOCKET #1-98

1. On August 27, 1998, the Montana board of milk control published notice of the proposed amendments to rule 32.24.301 concerning pricing rules. Notice was published at page 2255 of the 1998 Administrative Register, issue no. 16, as MAR No. 32-3-141.

2. The board has amended rule 32.24.301 as proposed.
AUTH: 81-23-104, MCA
IMP: 81-23-103, MCA

3. No comments or testimony were received.

By: Laurence Petersen
Laurence Petersen, Exec.
Officer, Board of Livestock
Department of Livestock

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

Certified to the Secretary of State September 28, 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 June 30, 1998. This table includes those rules adopted during the period July 1, 1998 through September 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 June 30, 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.

ADMINISTRATION, Department of, Title 2

- 2.21.812 and other rules - Sick Leave Fund, p. 2133
- 2.21.6401 and other rules - Performance Appraisal, p. 1452, 2258

(Public Employees' Retirement Board)

- 2.43.302 and other rules - Definitions used in Rules and Statutes - Actuarial Data - Mailing for Non-profit Groups, p. 376, 920

(State Compensation Insurance Fund)

- I & II Individual Loss Sensitive Dividend Distribution Plan, p. 695, 1273

AGRICULTURE, Department of, Title 4

- I Weed District Supervisor Training, p. 811, 1913
- 4.3.602 and other rules - Rural Assistance Loan Program to Assist Substandard Income, p. 2188
- 4.5.102 and other rules - Ranking of Weed Grant Projects - Identifying New Noxious Weeds, p. 1986, 2472
- 4.5.203 Category 2 Noxious Weeds, p. 809, 1912
- 4.5.302 and other rules - Certification of Noxious Weed Seed Free Forage, p. 1546, 1827, 2260
- 4.9.401 Wheat and Barley Assessment - Refunds, p. 807, 1696

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4.13.1001A Grain Fee Schedule, p. 698, 1276

STATE AUDITOR, Title 6

- I-XV Annuity Disclosure and Sales Illustrations, p. 382, 2012
- 6.6.503 and other rules - Medicare Supplement Insurance, p. 2325
- 6.6.2503 and other rules - Group Health Insurance in the Large and Small Group Markets - Individual Health Insurance, p. 1, 1698, 2020
- 6.6.3101 and other rules - Long-term Care, p. 2193
- 6.6.4001 Valuation of Securities other than those Specifically Referred to in Statutes, p. 47, 528
- 6.6.5101 Plan of Operation for the Small Employer Health Reinsurance Program, p. 814, 1406
- 6.10.101 and other rules - Registration - Unethical Practices - Financial Requirements - Bonding - Books and Records Requirements in the Business of Securities, p. 2527

(Classification Review Committee)

- 6.6.8301 Updating References to the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 1996 Edition, p. 599, 1407

COMMERCE, Department of, Title 8

- 8.63.101 and other rules - Passenger Tramways, p. 1960, 643

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